

NORTHERN TERRITORY OF AUSTRALIA
POLICE ADMINISTRATION AMENDMENT ACT 2000

No. 63 of 2000

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NORTHERN TERRITORY OF AUSTRALIA

No. 63 of 2000

AN ACT

to amend the *Police Administration Act*

[Assented to 14 November 2000]

[Second reading 11 October 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Police Administration Amendment Act 2000*.

2. Principal Act

The *Police Administration Act* is in this Act referred to as the Principal Act.

3. General orders

Section 14A of the Principal Act is amended –

- (a) by omitting from subsection (1) all words after "instructions" and substituting "as are necessary –
 - (a) to secure the good government and efficient working of the Police Force; and
 - (b) to provide for the diversion of juveniles under Division 2B of Part VII."; and
- (b) by omitting subsection (2) and substituting the following:

Police Administration Amendment Act 2000

- "(2) Without limiting subsection (1), general orders may –
- (a) include a code of conduct to be observed in the Police Force; and
 - (b) provide for the diversionary programs that a juvenile can be referred to under section 120H."

4. New Division

The Principal Act is amended by inserting after section 120E the following:

"Division 2B – Diversion of juvenile offenders

"120F. Definitions

"In this Division –

'divert', in relation to a juvenile, means to take an action under section 120H;

'juvenile' means a person who is less than 18 years of age;

'parent' means a parent, guardian or other person who is responsible for the care and custody of a juvenile.

"120G. Purpose and application of Division

"(1) The purpose of this Division is to provide a means of diverting juveniles who are believed on reasonable grounds to have committed offences.

"(2) Except as provided by section 120K, nothing in this Division affects the application in respect of a juvenile of any law relating to –

- (a) investigating and collecting evidence of criminal activities and the commission of offences;
- (b) questioning, apprehending, detaining, arresting, charging and bailing a suspected offender; and
- (c) prosecuting an offence.

"120H. Diversion of juvenile

"If a member of the Police Force believes, on reasonable grounds, that –

- (a) a person has committed an offence; and
- (b) the person was a juvenile when the offence was committed,

the member may instead of charging the juvenile with the offence do one or more of the following:

- (c) give the juvenile a verbal warning;
- (d) give the juvenile a written warning;
- (e) give the juvenile a formal caution;
- (f) refer the juvenile to a diversionary program.

"120J. Juvenile and parent must consent to diversion

"(1) Subject to subsection (3), a member of the Police Force must not divert a juvenile unless the juvenile and a parent of the juvenile consent to the juvenile being diverted.

"(2) If the juvenile or a parent of the juvenile does not consent to the juvenile being diverted, the member of the Police Force may charge the juvenile with the offence that the juvenile is believed on reasonable grounds to have committed and the juvenile may be prosecuted for the offence.

"(3) If it is not possible or practicable for a member of the Police Force to obtain a parent's consent to a juvenile being diverted, the member may give the juvenile a verbal warning despite that the consent of a parent has not been obtained.

"120K. Effect of diverting juvenile

"If a juvenile is diverted and the diversion is completed to the satisfaction of a member of the Police Force, no criminal investigation or criminal legal proceedings may be commenced or continued against the juvenile in respect of the act or omission that constituted the offence in respect of which the diversion was made.

"120M. Reporting on diversion of juvenile for sentencing purposes

"(1) If a person is found guilty of an offence, information concerning the diversion of the person as a juvenile for that or any other offence may be produced in court for the purpose of determining the sentence to be imposed on the person for the offence.

"(2) In subsection (1), a reference to the diversion of a juvenile includes dealing with the juvenile under a scheme for the diversion of juveniles operating in a State or another Territory of the Commonwealth that is similar to the scheme operating under this Division.

"120N. Protection of members of Police Force acting in good faith

"A member of the Police Force who, in good faith and in the course of his or her duty, decides to divert or not to divert a juvenile is not liable in any civil action arising out of the decision.

"120P. No review or appeal except under Act

"A decision to divert or not to divert a juvenile or that a juvenile did or did not complete a diversion satisfactorily cannot be reviewed or appealed against except as provided under this Act and is not to be subject to prohibition, mandamus or injunction on any ground in any court or tribunal."
