

NORTHERN TERRITORY OF AUSTRALIA
JUVENILE JUSTICE AMENDMENT ACT 1996

No.23 of 1996

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NORTHERN TERRITORY OF AUSTRALIA

No. 23 of 1996

AN ACT

to amend the *Juvenile Justice Act*

[Assented to 25 June 1996]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Juvenile Justice Amendment Act 1996*.

2. PRINCIPAL ACT

The *Juvenile Justice Act* is in this Act referred to as the Principal Act.

3. INTERPRETATION

Section 3 of the Principal Act is amended -

- (a) by inserting before the definition of "authorized person" in subsection (1) the following:

"'approved project', means a rehabilitation program or work, or both, approved under subsection (3);";

- (b) by inserting after the definition of "Board" in subsection (1) the following:

"'community service order' means an order made under section 53(1)(e);";

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(c) by omitting from the definition of "official visitor" in subsection (1) "section 71." and substituting "section 71;"

(d) by adding at the end of subsection (1) the following:

"'probation officer' means a parole officer appointed under the *Parole of Prisoners Act*;

'supervising officer' means a supervising officer appointed under the *Prisons (Correctional Services) Act.*"; and

(e) by inserting after subsection (2) the following:

"(3) A community service advisory committee established under the *Prisons (Correctional Services) Act*, may approve a rehabilitation program or work, or both, as a project to be participated in under a community service order."

4. DISPOSITION BY COURT

Section 53 of the Principal Act is amended -

(a) by omitting subsection (1)(e) and substituting the following:

"(e) order in accordance with section 53AA that the juvenile participate, within such time as the Court orders, in an approved project for such number of hours, not exceeding 480, as are specified in the order;"

(b) by omitting subsection (4) and substituting the following:

"(4) Where the Court -

(a) makes an order under subsection (1)(d), (h) or (j);

(b) under subsection (1)(f) places the juvenile under probation subject to conditions; or

(c) under subsection (3) suspends all or part of a sentence subject to conditions,

the Court may, on the application of the juvenile, the Director or a prosecutor, vary or revoke the order, probation or suspension (if it is still in force) and whether or not it is still in force, subject to subsection

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(4D), deal with the juvenile for the offence or offences with respect to which it was made or imposed in any manner in which the Court could deal with the juvenile if it had just found the juvenile guilty of the offence or those offences.

"(4A) The Court shall not vary or revoke the order, probation or suspension under subsection (4) unless the Court is satisfied that -

- (a) circumstances, including those of the juvenile, have materially altered since the order, probation or suspension was made or imposed and, as a result, the juvenile will not be able to comply with the order or a condition of the probation or suspension; or
- (b) the juvenile is no longer complying with, or is no longer willing to comply with, the order or a condition of the probation or suspension.

"(4B) Where the Court -

- (a) makes an order under subsection (1)(d), (h) or (j);
- (b) under subsection (1)(f) places the juvenile under probation subject to conditions; or
- (c) under subsection (3) suspends all or part of a sentence subject to conditions,

the Court may, on the application, in the prescribed form, if any, of the Director or a prosecutor -

- (d) confirm the order, probation or suspension (if it is still in force);
- (e) vary the order, probation or suspension (if it is still in force); or
- (f) revoke the order, probation or suspension (if it is still in force) and, whether or not the order, probation or suspension is still in force, subject to subsection (4D), deal with the juvenile for the offence or offences with respect to which it was made or imposed in any manner in which the Court could deal with the juvenile if it had just found the juvenile guilty of the offence or those offences.

"(4C) The Court shall not vary or revoke an order, probation or suspension under subsection (4B) unless the Court is satisfied, by evidence on oath or by affidavit, or by the admission of the juvenile, that the juvenile has failed without reasonable excuse to comply with the order or a condition of the probation or suspension.

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"(4D) The Court -

- (a) shall, in determining how to deal with the juvenile under subsection (4) or (4B), take into account the extent to which the juvenile had complied with the order or conditions of the probation or suspension before the revocation or expiration of the order, probation or suspension; and
- (b) shall not under subsection (4) or (4B) impose on the juvenile, as a result of his so breaching the order or condition, or the revocation of the order, probation or suspension, a penalty greater than the maximum penalty it could have imposed on him in respect of the original offence.

"(4E) Where an application is made under subsection (4) or (4B), the Court may -

- (a) issue a summons directing the juvenile to appear before the Court on a date and at a time specified in the summons; or
- (b) where it is satisfied the juvenile may not appear, or having been served with a summons issued under paragraph (a), has failed to attend before the Court, issue a warrant for the arrest of the juvenile."; and
- (c) by omitting subsections (9) and (9A).

5. NEW SECTIONS

The Principal Act is amended by inserting after section 53 the following:

"53AA. COMMUNITY SERVICE ORDERS

"(1) The Court shall not make a community service order unless the juvenile consents to the making of the order and to the terms of the order and the Court is -

- (a) notified by a probation officer that arrangements have been or will be made for the juvenile to participate in an approved project under the order; and
- (b) satisfied, after considering a report from a probation officer about the juvenile and his circumstances, and if the Court thinks necessary, hearing a probation officer, that -
 - (i) the juvenile is a suitable person to participate in the approved project; and

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- (ii) the project is approved and can be provided under the arrangements referred to in paragraph (a) for the juvenile to carry out.

"(2) A community service order may require the juvenile to present himself -

- (a) at a place and to a person and within a time, specified in the order; or
- (b) at a place and to a person and within the time and by the means as directed by the Director in writing.

"(3) Where the Court makes a community service order, the juvenile shall not leave the precincts of the Court until he signs the order.

"(4) Where the Court makes a community service order, it shall ensure that a copy of the order is -

- (a) given to the juvenile; and
- (b) sent to the Director.

"(5) Where a community service order contains a requirement in accordance with subsection (2)(b), the Director shall cause written notice of the direction to be given to the juvenile as soon as practicable after the order is made.

"(6) Where the Court makes a community service order in respect of 2 or more offences, the Court shall not order the juvenile to participate in an approved project under the order for a number of hours that exceeds 480.

"(7) Where the Court makes a community service order and there is in force one or more other community service orders in respect of the juvenile, the Court shall not order the juvenile to participate in an approved project for a number of hours that would require the juvenile, after the making of the first-mentioned order, to participate in the project under the order and the previous order or orders for a number of hours that, in the aggregate, exceeds 480.

"53AB. DUTIES OF JUVENILE IN CARRYING OUT COMMUNITY SERVICE ORDER

"(1) A juvenile in respect of whom a community service order is in force -

- (a) shall participate, for the number of hours specified in the order, in such approved project as a probation officer directs;

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- (b) shall participate in the project in a satisfactory manner;
- (c) shall, while participating in the project, comply with any reasonable direction of a probation officer or supervising officer; and
- (d) shall inform a probation officer of a change in his residential address not later than 48 hours after the change.

"(2) Except where the juvenile consents, a juvenile shall not be required to participate in an approved project under a community service order for more than 8 hours (exclusive of time allowed for meals) in any one day.

"53AC. REVIEW OF COMMUNITY SERVICE ORDER

"(1) The Court, on the application of the Director or the juvenile, may -

- (a) discharge a community service order;
- (b) revoke a community service order and deal with the juvenile as if the juvenile had come before the Court for sentence for the offence in respect of which the order was made;
- (c) reduce the number of hours the juvenile is required to participate in an approved project under the order; or
- (d) vary the time within which the juvenile is to complete his participation in the approved project.

"(2) Where the Director makes an application under subsection (1), the Court shall summons the juvenile to appear before it on the hearing of the application and, if the juvenile does not appear in answer to the summons, may order that a warrant to arrest the juvenile be issued.

"(3) Where the juvenile makes an application under subsection (1), the Court shall cause notice of the application and of the time and place fixed for the hearing to be served on the Director.

"(4) Without limiting the matters that the Court may take into consideration in reviewing a community service order, the grounds for reviewing such an order include the fact -

- (a) that the juvenile is in custody on a charge for another offence;
- (b) that the juvenile's behaviour is such that the carrying out of the terms of the order is impracticable; or

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- (c) that the operation of the order offends other persons.

"53AD. BREACH OF COMMUNITY SERVICE ORDER

"(1) A juvenile is in breach of a community service order if he -

- (a) fails to comply with a term or condition of the order;
- (b) fails to carry out his obligations under section 53AB;
- (c) disturbs or interferes with any other person participating in or doing anything under a community service order;
- (d) assaults, threatens, insults or uses abusive language to a probation officer or supervising officer;
- (e) changes his address for the purposes of evading the execution of this Act; or
- (f) commits an offence against a law in force in the Territory during a time when he is participating in an approved project under the order.

"(2) Where the Court is satisfied that a juvenile is in breach of a community service order, it may -

- (a) issue a summons directing the juvenile to appear before the Court on a date and at a time specified in the summons; or
- (b) where it is satisfied the juvenile may not appear, issue a warrant for the arrest of the juvenile.

"(3) Where a juvenile served with a summons issued under subsection (2)(a) fails to attend before the Court, the Court may issue a warrant for the arrest of the juvenile.

"(4) Where the Court is satisfied, by evidence on oath or by affidavit, or by the admission of the juvenile, that a juvenile is in breach of a community service order, the Court may revoke the order (if it is still in force) and, whether or not it is still in force, subject to subsection (5), deal with the juvenile for the offence or offences with respect to which the order was made in any manner in which the Court could deal with the juvenile if it had just found him guilty of the offence or those offences.

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"(5) The Court -

- (a) shall, in determining how to deal with the juvenile under subsection (4), take into account the extent to which the juvenile had complied with the order before the revocation or expiration of the order; and
- (b) shall not under subsection (4) impose on the juvenile, as a result of his so breaching the order or the revocation of the order, a penalty greater than the maximum penalty it could have imposed on him in respect of the original offence.

"(6) Where the Court is satisfied that a juvenile is in breach of a community service order and there is more than one community service order in force in respect of the juvenile, the juvenile shall, for the purposes of this section, be deemed -

- (a) to be in breach of all the orders; and
- (b) in respect of the juvenile's participation in the approved projects under the orders, to have participated in the projects in the order in which the orders were made.

"(7) Where a community service order is made in respect of more than one offence and the Court is satisfied that the juvenile is in breach of the order, the Court shall deal with the juvenile under this section for all the offences in respect of which the order was made."

6. NEW SECTION

The Principal Act is amended by inserting after section 88, in Part XI, the following:

"89. ARREST WITHOUT WARRANT OF JUVENILE IN BREACH OF CONDITION

"Where a member of the Police Force has reason to believe that a juvenile has breached a condition imposed on the juvenile under section 53(1)(d), (f), (h) or (j) or (3), the member may, without warrant, arrest the juvenile and shall, as soon as practicable, bring him before the Court."

7. SAVINGS AND TRANSITIONAL

- (1) Where, before the commencement of this Act -
 - (a) an order was made under section 53(1)(d), (h) or (j) of the Principal Act;
 - (b) a juvenile was on probation under section 53(1)(f) of the Principal Act; or

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- (c) a sentence had been suspended under section 53(3) of the Principal Act,

then, on and from the commencement of this Act -

- (d) the order, probation or suspension may be confirmed, varied or revoked (if it is still in force); and
- (e) whether or not the order, probation or suspension is still in force, any failure to comply with the order, probation or suspension during the period of the order, probation or suspension shall be dealt with,

under the Principal Act as amended by this Act, as if, at the time the order, probation or suspension was made or imposed, it was made or imposed under section 53 of the Principal Act as amended by this Act.

(2) Where, before the commencement of this Act, an order was made under section 53(1)(e) of the Principal Act, then, on and from the commencement of this Act, notwithstanding the repeal of the *Criminal Law (Conditional Release of Offenders) Act* by section 129 of the *Sentencing Act, Part V of the Criminal Law (Conditional Release of Offenders) Act* continues to apply to the order to the extent that it would have applied if that Act had not been repealed and this Act had not commenced.

(3) An order referred to in subsection (2) may be confirmed, varied or revoked under the Principal Act as amended by this Act, and any failure to comply with the order may be dealt with under the Principal Act as amended by this Act, as if, at the time the order was made, it were made under section 53 of the Principal Act as amended by this Act.

(4) Where, before the commencement of this Act -

- (a) an order was made under section 53(1)(d), (e), (h) or (j) of the Principal Act;
- (b) a juvenile was on probation under section 53(1)(f) of the Principal Act; or
- (c) a sentence was suspended under section 53(3) of the Principal Act,

and, before the commencement of this Act, the order, probation or suspension was revoked, cancelled or varied, the revocation, cancellation or variation, or a subsequent action taken by the Court, including the imposition of a

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penalty, shall not be invalid by reason only that the amendments effected by this Act were not in force at the time the order, probation or suspension was made or imposed, revoked, cancelled or varied or the action was taken.
