

NORTHERN TERRITORY OF AUSTRALIA
JUVENILE JUSTICE AMENDMENT ACT 1987

No. 58 of 1987

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NORTHERN TERRITORY OF AUSTRALIA

No. 58 of 1987

AN ACT

to amend the *Juvenile Justice Act*

[Assented to 18 December, 1987]

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 1987*.

2. COMMENCEMENT

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

(2) Section 16 shall come into operation on the commencement of the *Traffic Act 1987* (other than sections 1 and 2 of that Act).

3. PRINCIPAL ACT

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

4. INTERPRETATION

Section 3 of the Principal Act is amended -

(a) by omitting the definition of "Committee" and substituting the following:

"Board" means a Board of Management established under section 6;"

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- (b) by adding after the definition of "detention centre" the following:

"'Director' means the Director of Correctional Services appointed under the *Prisons (Correctional Services) Act*"; and

- (c) by omitting from the definition of "member" the words "of the Committee" and substituting "of a Board".

5. PART III

The heading to Part III of the Principal Act is omitted and the following substituted:

"BOARDS OF MANAGEMENT".

6. REPEAL AND SUBSTITUTION

Section 6 of the Principal Act is repealed and the following substituted:

"6. BOARDS OF MANAGEMENT

"(1) The Minister may by notice in writing establish Boards of Management for such places or areas of the Territory as the Minister thinks fit.

"(2) A Board shall be constituted by -

- (a) an employee, within the meaning of the *Public Service Act*, employed in the department for the time being principally responsible under the Minister for the administration of this Act; and

- (b) not more than 4 other members,

appointed by the Minister.

"(3) A member shall not be appointed under subsection (2)(b) unless that member has -

- (a) an interest in the needs of young persons, particularly those young persons likely to be or who have been affected by the juvenile justice system; or

- (b) special skills or experience in the needs and treatment of juvenile offenders.

"(4) The Minister shall appoint a member to be the Chairman of a Board.

"(5) A member appointed under subsection (2)(b) holds office, subject to this Act, for 3 years from the date of appointment, but is eligible for re-appointment."

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7. RESIGNATION OF MEMBERS

Section 7 of the Principal Act is amended by omitting "section 6(1)(f)" and substituting "section 6(2)(b)".

8. DISMISSAL OF MEMBERS

Section 8 of the Principal Act is amended -

- (a) by omitting from subsection (1) "section 6(1)(f)" and substituting "section 6(2)(b)"; and
- (b) by omitting subsections (2) and (3).

9. MEETING OF BOARDS

Section 9 of the Principal Act is amended -

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

"(1) The Chairman of a Board shall call such meetings of the Board as are necessary for the exercise of its powers and the performance of its functions.";

- (b) by omitting from subsections (2) and (3) "the Committee" and substituting "the Board";

- (c) by omitting from subsection (4) -

- (i) "the Committee" (twice occurring) and substituting "a Board"; and

- (ii) "6 members" and substituting "3 members";

- (d) by omitting from subsection (5) "The Committee" and substituting "A Board"; and

- (e) by adding at the end the following:

"(6) Where a member appointed under section 6(2)(a) is, for any reason, unable to attend a meeting of a Board that member may appoint a person to attend the meeting in the absence of that member.

"(7) A person appointed under subsection (6) shall, when attending a meeting, be deemed to be the member.

10. REPEAL AND SUBSTITUTION

Section 10 of the Principal Act is repealed and the following substituted:

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"10. FUNCTION OF BOARDS

"The functions of a Board are, in respect of the place or area of the Territory for which it is established, to -

- (a) examine and evaluate juvenile justice programmes;
- (b) examine and evaluate new or proposed juvenile justice programmes including diversionary programmes;
- (c) observe and report to the Minister on programmes within detention centres; and
- (d) do such other things in relation to this Act as the Minister, from time to time, directs."

11. POWERS OF BOARDS

Section 11 of the Principal Act is amended by omitting "The Committee" and substituting "A Board".

12. MINISTER TO PROVIDE INFORMATION, &c.

Section 12(1) of the Principal Act is amended by omitting "the Committee" (twice occurring) and substituting "a Board" and "the Board" respectively.

13. REPORTS OF BOARDS

Section 13(1) of the Principal Act is amended -

- (a) by omitting "The Committee" and substituting "A Board"; and
- (b) by omitting "the Committee" and substituting "the Board".

14. WHERE JUVENILE COURTS MAY BE HELD

Section 21 of the Principal Act is amended -

- (a) by omitting from subsection (1) "(1) Subject to this section, the Court" and substituting "The Court"; and
- (b) by omitting subsections (2) and (3).

15. INTERPRETATION

The definition of "authorized officer" in section 24 of the Principal Act is omitted and the following substituted:

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"'authorized officer' means -

- (a) the Commissioner of Police or a Deputy or Assistant Commissioner of Police appointed under the *Police Administration Act*; or
- (b) a member of the Police Force -
 - (i) of or above the rank of Senior Sergeant; or
 - (ii) who is in charge of a police station, authorized by an officer referred to in paragraph (a) to act under this Part;"

16. JUVENILES NOT TO BE INTERVIEWED IN CERTAIN CIRCUMSTANCES

Section 25(4) of the Principal Act is amended by omitting "sections 8A to 8N, inclusive, of the *Traffic Act*" and substituting "sections 20 to 29 inclusive of the *Traffic Act* and Part XVIII of the *Traffic Regulations*".

17. IDENTIFYING MATERIAL

Section 31 of the Principal Act is amended -

- (a) by omitting from subsection (2) "Subject to section 25" and substituting "Subject to section 25 and to subsection (2A)";
- (b) by omitting from subsection (2) paragraph (a) and substituting the following:

"(a) the juvenile is in lawful custody in respect of an offence; and";

- (c) by inserting after subsection (2) the following:

"(2A) Notwithstanding subsection (2), an authorized officer or a member of the Police Force for the time being in charge of a police station may take, or cause to be taken -

- (a) prints of the hands, fingers, feet or toes; or
- (b) photographs,

of a juvenile if the juvenile appears to the authorized officer or member to have attained the age of 14 years and is in lawful custody in respect of an offence."; and

- (d) by omitting from subsection (4) "may, if he thinks fit," and substituting "may, if he thinks fit, after hearing the authorized officer or member of the Police Force who made the

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application and the juvenile to whom the application relates,".

18. DETENTION OF JUVENILES

Section 32 of the Principal Act is amended -

- (a) by omitting from subsection (1) "shall be detained there" and substituting "shall be detained there on the superintendent of the detention centre or the person in charge of the place being provided with written authority by the Court or a magistrate to detain the juvenile in that centre or place"; and
- (b) by omitting from subsection (2) all words after "the meaning of" and substituting "the *Medical Services Act* or a private hospital within the meaning of the *Private Hospitals and Nursing Homes Act* and, if the person in charge of the hospital or private hospital consents, be detained there."

19. POWERS OF COURT ON REMAND

Section 46(1)(c) of the Principal Act is amended by omitting "into the custody of" and substituting "into the care and supervision of".

20. DISPOSITION BY COURT

Section 53 of the Principal Act is amended -

- (a) by omitting from subsection (1) "but subject to subsection (2)" and substituting "but subject to subsection (2), do one or more of the following";
- (b) by omitting from subsection (1) paragraphs (a) and (b) and substituting the following:
 - "(a) discharge the juvenile without penalty;
 - (b) adjourn the matter for a period not exceeding 6 months and, if during that period the juvenile does not commit a further offence, may discharge the juvenile without penalty;"
- (c) by omitting from subsection (1)(d) "as it thinks fit" and substituting "as it thinks fit, and subject to one or more of the conditions -
 - (i) that the juvenile reside with the person or at the place specified in the order;
 - (ii) that the juvenile obey the reasonable directions of a person specified in the order under subparagraph (i);

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- (iii) that the juvenile refrain from the activities, or from associating with persons, specified in the order; or
- (iv) any other condition the Court thinks fit";
- (d) by omitting subsection (1)(e) and substituting the following:
 - "(e) order that the juvenile perform unpaid community work";
- (e) by omitting from subsection (1)(f)(iii) "specified in the order" and substituting "as determined by that person";
- (f) by omitting from subsection (1) all words after paragraph (f)(iv) and substituting the following:
 - "or
 - (v) any other condition the Court thinks fit";
- (g) subject to subsection (10), order that the juvenile be detained at a detention centre or imprisoned for a period not exceeding the maximum period that may be imposed under the relevant law in relation to the offence or 12 months, whichever is the lesser;
- (h) order the juvenile to participate in a project or programme provided or approved by the Minister as specified in the order; or
- (j) make such other order in respect of the juvenile under the relevant law that it could make if the juvenile were an adult convicted of that offence under that law.";
- (g) by omitting from subsection (2) "subsection (1)(a)" and substituting "subsection (1)(b)";
- (h) by omitting from subsection (4) "subsection (1)(d) or (e)," and substituting "subsection (1)(d), (e), (h) or (j) and";
- (j) by omitting from subsection (6) "the Court may order that the juvenile continue his sentence in a detention centre notwithstanding that he has attained that age" and substituting "unless the Court orders otherwise, the juvenile shall continue his sentence in a detention centre notwithstanding that he has attained that age"; and
- (k) by adding at the end the following:

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"(8) Subject to subsection (6), where the Court makes an order under subsection (1) in respect of a juvenile that order shall remain in force, provided that the juvenile complies with the Act and the order, notwithstanding that the juvenile has attained the age of 17 years.

"(9) Where the Court makes an order under subsection (1)(e), Part V of the *Criminal Law (Conditional Release of Offenders)* Act shall be deemed to apply, with the necessary changes, to and in relation to that order as if it were a community service order made under section 20 of that Act.

"(10) The Court shall not make an order under subsection (1)(g) ordering the imprisonment of a juvenile unless the juvenile has attained the age of 15 years."

21. NEW SECTION

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

"53A. POWER OF COURT TO DISQUALIFY JUVENILE FROM HOLDING DRIVER'S LICENCE

"(1) In addition to the powers given a court under the *Traffic Act* or any other Act to make an order disqualifying a person from holding a licence to drive a motor vehicle, the Court may, in addition to any other order it may make on a charge for any offence being proved against a juvenile, make an order disqualifying the juvenile from holding a licence to drive a motor vehicle -

- (a) as from a day or time specified in the order; and
- (b) either for a period specified in the order or until further order,

if the Court is satisfied, having regard to all the facts and circumstances before it, that the juvenile is not a fit and proper person to hold such a licence.

"(2) The powers of the Court under subsection (1) may be exercised on the charge being proved and with or without a conviction being recorded.

"(3) An order made under this section shall have the same force and effect as if it were an order made by a court under the *Traffic Act*.

"(4) Where the Court is satisfied that it is just and expedient to do so, it may, at any time on application by or on behalf of a juvenile disqualified from holding a licence under this section, vary or revoke an order made under this section."

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22. NEW SECTIONS

The Principal Act is amended by inserting after section 57 the following:

"57A. PROCEDURE WHERE JUVENILE BEFORE WRONG COURT

"(1) Notwithstanding this Act, where, in the course of any proceedings before a court, other than the Court, it appears to the court that the proceeding should have been instituted in the Court, the court may desist from further proceeding with the hearing of the proceedings, or it may, subject to this Act, proceed with the hearing and determination of those proceedings or, as the case requires, with the preliminary examination, as if it were the Court.

"(2) Where a court desists under subsection (1), it shall by memorandum refer the proceedings for hearing and determination by the Court on a date and time which shall be specified in the memorandum and notified to the parties to the proceedings.

"(3) On referring the proceedings under subsection (2), a court may allow the juvenile to go at large or remand him in custody in a detention centre or other suitable place (not being a prison) or release the juvenile into the care and supervision of a suitable person or discharge him on his entering into a recognizance with or without sureties to appear before the Court on the date and at the time and place so specified.

"57B. PROCEDURE WHERE ADULT BEFORE JUVENILE COURT

"(1) Notwithstanding this Act, where, in the course of any proceedings before the Court, it appears to the Court that the proceedings should have been instituted in the Court of Summary Jurisdiction, the Court may desist from further proceeding with the hearing of the proceedings, or it may proceed with the hearing and determination of those proceedings or, as the case requires, with the preliminary examination as if the Court were the Court of Summary Jurisdiction.

"(2) Where the Court desists under subsection (1), it shall by memorandum refer the proceedings for hearing and determination by the Court of Summary Jurisdiction on a date and time which shall be specified in the memorandum and notified to the parties to the proceedings.

"(3) On referring the proceedings under subsection (2), the Court may allow the defendant to go at large or remand him into suitable custody or discharge him on his entering into a recognizance with or without sureties to appear before the Court of Summary Jurisdiction on the date and at the time and place so specified.

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"57C. COURT HAS JURISDICTION

"A court to which proceedings are referred under section 57A or 57B shall have jurisdiction to hear and determine the proceedings.

"57D. REFERRED PROCEEDINGS NOT TO BE RENDERED INVALID

"(1) Where proceedings are referred back to the Court pursuant to section 57A, such proceedings shall, from the date of referral, be dealt with as proceedings before the Court, notwithstanding that prior to the date of referral, the proceedings or any part of those proceedings did not comply with this Act or that a requirement of this Act had not been complied with.

"(2) In addition to subsection (1), it is expressly declared that no proceedings referred to the Court under section 57A shall be declared invalid by reason that prior to the date of the referral those proceedings did not comply with this Act or that a requirement of this Act had not been complied with."

23. POWERS OF SUPERINTENDENT OF DETENTION CENTRE

Section 65(2)(b) of the Principal Act is amended by inserting after "of the detention centre" the words "or a person authorized by the Director".

24. DELEGATION BY SUPERINTENDENT

Section 67(1) of the Principal Act is amended by inserting after "the staff of the detention centre" the words "or a person authorized by the Director under section 65(2)(b)".

25. REPEAL AND SUBSTITUTION

Section 71 of the Principal Act is repealed and the following substituted:

"71. OFFICIAL VISITORS

"(1) The members of a Board appointed under section 6(2)(b) are, by virtue of their appointment, official visitors for the purposes of this Act.

"(2) A member referred to in subsection (1) ceases to be an official visitor on that member ceasing to be a member of the Board.

"(3) An official visitor shall visit such detention centres as the Minister directs."

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26. FUNCTIONS OF OFFICIAL VISITORS

Section 72 of the Principal Act is amended -

- (a) by omitting "appointed under section 71"; and
- (b) by omitting from paragraph (a) "in the detention centre in respect of which he is appointed" and substituting "in a detention centre which he is directed under section 71(3) to visit".

27. FREQUENCY OF VISITS

Section 73 of the Principal Act is amended by omitting "appointed under section 71 for that centre".

28. OFFICIAL VISITORS NOT TO INTERFERE

Section 74 of the Principal Act is amended -

- (a) by omitting "appointed under section 71"; and
- (b) by omitting "in respect of which he is so appointed".

29. NEW PART

The Principal Act is amended by inserting after Part IX the following:

"PART IXA - MEDICAL TREATMENT

"74A. ACCESS TO MEDICAL PRACTITIONER

"A juvenile detained at a detention centre shall, on request to the superintendent of the centre, be given access to a medical practitioner for the purpose of medical consultation and treatment.

"74B. DIRECTION OF MEDICAL PRACTITIONER

"The superintendent of a detention centre shall comply with the directions of a medical practitioner relating to the maintenance of the health of a juvenile detained at the centre.

"74C. REMOVAL TO HOSPITAL

"The superintendent of a detention centre shall move to a hospital a juvenile detained at that centre in the event of the illness of the juvenile on the order of -

- (a) the Director;
- (b) a medical practitioner; or
- (c) the Court.

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"74D. CUSTODY OF JUVENILES IN HOSPITAL

"(1) Where a juvenile is moved to a hospital in pursuance of section 74C, the superintendent of the detention centre from which the juvenile was moved shall make such arrangements with the person in charge of the hospital as are necessary to ensure the security and good order of the juvenile while he is in hospital.

"(2) A juvenile who is in hospital in accordance with an arrangement made under subsection (1) shall be deemed to be lawfully detained for the purposes of this Act.

"(3) If, on discharge from the hospital, the sentence of detention of a juvenile moved to a hospital under section 74C has not expired, the juvenile shall be returned to the detention centre from which he was removed, to serve the remainder of his sentence.

"74E. JUVENILE MAY BE REQUIRED TO BE EXAMINED

"(1) Where, in the opinion of a medical practitioner, the life or health of a juvenile detained in a detention centre is likely to be endangered or seriously affected by the refusal of the juvenile to undergo a medical examination or to submit to medical treatment, or any other juvenile or person is likely to be endangered or seriously affected by that juvenile's refusal, that juvenile shall submit, provided where practicable he has the right to a second medical opinion, to such medical examination or treatment as may be ordered by the Director, after the Director has consulted with the medical practitioner.

"(2) As soon as practicable after his reception into a detention centre, and at such other times as the Director after consultation with a medical practitioner directs, a juvenile shall submit to the taking of such quantity of his blood or bodily secretion or excretion by a person qualified to take it as is reasonably necessary for the purpose of determining the medical condition of the juvenile.

"(3) For the purposes of subsection (2), a person who is permitted under that subsection to take the blood or bodily secretion or excretion of a juvenile may use such force on the juvenile as is reasonably necessary to ensure that the blood or bodily secretion or excretion is taken and no action, civil or criminal, shall be commenced or lie against the person in relation to his exercising that power.

"74F. NOTIFICATION OF ILLNESS

"The Director shall, where a juvenile is detained at a detention centre, notify the next of kin, a close relative or legal representative of the juvenile, or such

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other person as requested by the juvenile to be notified, when the juvenile is seriously ill or dies.

"74G. NOTIFICATION OF DEATH

"(1) The superintendent of a detention centre shall, immediately on the death of a juvenile detained at that centre, notify the Director of the death.

"(2) The Director shall, after receiving notification under subsection (1), immediately notify the coroner of the death of the juvenile."

30. NEW SECTION

The Principal Act is amended by inserting after section 90 the following:

"90A. TAKING OTHER OFFENCES INTO ACCOUNT

"Section 396 of the *Criminal Code* applies to and in relation to proceedings under this Act as if a reference in that section to -

- (a) a court were a reference to the Court;
- (b) a person included a juvenile; and
- (c) a court of summary jurisdiction in subsection (3) were a reference to the Juvenile Court established under section 14."

31. OFFENCE

Section 91(2) of the Principal Act is amended -

- (a) by omitting "28 days' detention at a detention centre or imprisonment" and substituting "up to 90 days detention at a detention centre or imprisonment as may be ordered by the Court"; and
 - (b) by omitting "ordered by the Court" and substituting "originally ordered by the Court".
-