

Serial 135
Juvenile Justice
Amendment (No. 4)
Mr Poole

NORTHERN TERRITORY OF AUSTRALIA
JUVENILE JUSTICE AMENDMENT BILL (No. 4) 1998

TABLE OF PROVISIONS

Clause

1. Short title
2. Commencement
3. Principal Act
4. Powers of Court in respect of reports
5. Repeal and substitution:

"52. JUVENILE IN NEED OF CARE"

6. New Part:

"PART VIA — ALTERNATIVE FINE AND PENALTY
PAYMENT PROCEDURES

"Division 1 — Definitions and Application

"58A. DEFINITIONS

"58B. APPLICATION OF PART

*"Division 2 — Juveniles' Infringement
Notices Enforcement Scheme*

"Subdivision 1 — First Stage: Warning Letters

"58C. JUVENILE MAY BE SENT WARNING LETTER FOR
INFRINGEMENT OFFENCE

"58D. JUVENILE WHO RECEIVES WARNING LETTER MAY
CHOOSE TO HAVE THE MATTER DEALT WITH BY
COURT

*"Subdivision 2 — Second Stage: Registration of
Certificates*

"58E. ENFORCEMENT AGENCY MAY LODGE CERTIFICATE

"58F. IF CERTIFICATE LODGED INFRINGEMENT
PENALTY AND OTHER COSTS MAY BE
REGISTERED

"58G. WITHDRAWAL OF CERTIFICATE

"Subdivision 3 — Third Stage: Enforcement Orders

- "58H. IF INFRINGEMENT PENALTY IS REGISTERED
ENFORCEMENT ORDER WILL BE MADE
- "58J. ENFORCEMENT ORDER NOTICES
- "58K. EFFECT OF ENFORCEMENT ORDER
- "58L. JUVENILE MAY APPLY FOR EXTENSION OF TIME
TO PAY, &c.
- "58M. JUVENILE MAY APPLY FOR COMMUNITY SERVICE
ORDER TO SATISFY J.I.N.E.S. PENALTY

*"Subdivision 4 — Fourth Stage: Detention of Juvenile or
Matter referred to Court for Hearing*

- "58N. JUVENILE MAY BE SENT TO DETENTION CENTRE
IF NO COMMUNITY SERVICE ORDER IS MADE
AND PENALTY IS NOT PAID
- "58P. PERSONS CAN SEEK TO HAVE MATTER DEALT WITH
BY COURT BY HAVING ENFORCEMENT ORDER
REVOKED
- "58Q. CLERK MAY REVOKE ENFORCEMENT ORDER
- "58R. NOTICE OF HEARING TO BE GIVEN
- "58S. COURT TO HEAR MATTER
- "58T. JUVENILE MAY BE ARRESTED FOR FAILING TO
APPEAR IN COURT

*"Division 3 — Detention of Juvenile
for Failing to Pay Fine*

- "58U. JUVENILE WHO FAILS TO PAY FINE MAY BE
SENT TO DETENTION CENTRE
- "58V. FINES AND PENALTIES MAY BE SATISFIED BY
WAY OF COMMUNITY SERVICE ORDER
- "58W. APPLICATION FOR COMMUNITY SERVICE ORDER

*"Division 4 — Community Service Orders in
Respect of Fines and Penalties*

*"Subdivision 1 — Making of
Community Service Orders*

- "58X. DIRECTOR MAY MAKE COMMUNITY SERVICE
ORDER
- "58Y. NOTICE OF ORDER OR VARIATION OF ORDER TO
BE GIVEN
- "58Z. EFFECT OF NOTICE UNDER SECTION 58Y

*"Subdivision 2 — Paying of Fines and Penalties if
Community Service Order Made*

- "58ZA. PAYMENT OF FINE OR PENALTY AFTER
COMMUNITY SERVICE ORDER IS MADE

- "58ZB. COMPLETION OF PROJECT UNDER COMMUNITY SERVICE ORDER
- "58ZC. DUTIES OF JUVENILE IN CARRYING OUT COMMUNITY SERVICE ORDER
- "58ZD. BREACH OF COMMUNITY SERVICE ORDER

"Subdivision 3 — Court to Hear Matter if Community Service Order Revoked

- "58ZE. REVOCATION OF COMMUNITY SERVICE ORDER
- "58ZF. EFFECT OF REVOCATION OF ORDER IF JUVENILE WAS DETAINED OR WAS GOING TO BE DETAINED
- "58ZG. EFFECT OF REVOCATION OF ORDER IF ORDER RELATES TO INFRINGEMENT ORDER

"Division 5 — Miscellaneous

- "58ZH. WARRANTS OF COMMITMENT UNDER THIS PART
- "58ZI. DETENTION AND IMPRISONMENT UNDER THIS PART
- "58ZJ. SERVICE OF DOCUMENTS"

- 7. Review of community service order
- 8. Reconsideration of sentence by Juvenile Court
- 9. New section:

"66A. RESTRAINT DEVICES MAY BE USED TO ESCORT CERTAIN JUVENILES"

- 10. Arrest without warrant if condition breached
- 11. Offences and penalties
- 12. Regulations





NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Juvenile Justice Act*

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 (No. 4) 1998*.

2. COMMENCEMENT

The provisions of this Act come into operation on the date or dates fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

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

4. POWERS OF COURT IN RESPECT OF REPORTS

Section 44 of the Principal Act is amended by omitting subsection (1) and substituting the following:

"(1) If the Court dealing under this Act with a juvenile finds a charge proven against the juvenile and is considering imposing a sentence of detention or imprisonment in respect of the offence charged, the Court must require the Minister or such other person as it thinks fit to provide to it a report on the circumstances of the juvenile."

5. REPEAL AND SUBSTITUTION

Section 52 of the Principal Act is repealed and the following substituted:

"52. JUVENILE IN NEED OF CARE

"(1) If the Court believes, on reasonable grounds, that —

- (a) a juvenile against whom proceedings for an offence are brought is, or may be, a child in need of care within the meaning of section 4(2) of the *Community Welfare Act*; or
- (b) the welfare of a juvenile against whom proceedings for an offence are brought is endangered in any way,

it may require the Minister responsible for the administration of the *Community Welfare Act* —

- (c) to make an investigation of the circumstances of the juvenile; and
- (d) to take appropriate action to secure the proper care of and attention to the juvenile's welfare.

"(2) If the Court requires the Minister responsible for the administration of the *Community Welfare Act* to make an investigation under subsection (1), that Minister is, as soon as practicable, to cause to be provided to the Court a report on —

- (a) the circumstances of the juvenile (including whether or not the juvenile is a child in need of care); and
- (b) the action, if any, that has been taken."

6. NEW PART

The Principal Act is amended by inserting before Part VII the following:

"PART VIA — ALTERNATIVE FINE AND PENALTY
PAYMENT PROCEDURES

"Division 1 — Definitions and Application

"58A. DEFINITIONS

"In this Part, unless the contrary intention appears —

'certificate' means a certificate referred to in section 58E;

'certificate costs' means the costs prescribed for the purposes of section 58F(e);

'community service order' means a community service order made under section 58X;

'enforcement agency', in relation to an infringement notice, means —

(a) a person or body authorised by or under another Act to take proceedings against a person for the offence for which the infringement notice was served or issued; or

(b) a prescribed person or body;

'enforcement order' means an order made under section 58H;

'enforcement order costs' means costs prescribed for the purposes of section 58H(2)(c);

'enforcement order notice' means a notice in the prescribed form served under section 58J;

'fine' includes costs payable under this Part in relation to a fine;

'infringement notice' means —

(a) a traffic infringement notice served under regulation 87 of the Traffic Regulations;

(b) a parking notice served under regulation 65 of the Traffic Regulations;

(c) a traffic infringement notice or parking notice issued under the by-laws of a council made under, or continued in force by, the *Local Government Act*; or

(d) a notice served or issued under a prescribed provision of an Act, regulations or by-laws;

'infringement notice costs' means —

- (a) costs prescribed for the purposes of section 58C(1)(a)(ii); and
- (b) in the case of an infringement notice issued under the *Traffic Act* or the *Local Government Act* — includes any costs incurred in obtaining proof of the ownership of a motor vehicle under the *Motor Vehicles Act*;

'infringement officer' means —

- (a) a prescribed person or a person authorised by or under an Act to serve or issue an infringement notice; or
- (b) the holder of a prescribed office;

'infringement penalty' means the amount specified in an infringement notice as payable for the offence for which it was served or issued;

'penalty' means the amount payable under an enforcement order, including for costs;

'warning letter' means a letter served under section 58C;

'warrant costs' means costs prescribed under this Part for the execution of a warrant.

"58B. APPLICATION OF PART

"(1) An infringement notice may be issued to a juvenile who has attained the age of 14 years although the Act under which it may be issued does not specifically state that an infringement notice may be issued to a juvenile.

"(2) The procedures set out in this Part may be used to enforce an infringement notice in relation to a juvenile in substitution for any other procedure under a law of the Territory.

"(3) Despite any other section, the procedures set out in this Part may be used —

- (a) in relation to a fine payable by a person; and
- (b) to enforce an infringement notice in relation to a person,

who has attained the age of 17 years but has not attained the age of 18 years, if the offence or alleged offence to

Juvenile Justice Amendment (No. 4)

which the fine or infringement notice relates was allegedly committed before he or she attained the age of 17 years.

"(4) If subsection (3) applies to a person, a reference in this Part to —

- (a) a juvenile — includes a reference to the person; and
- (b) detaining a juvenile — is to be taken to be a reference to imprisoning the person.

*"Division 2 — Juveniles' Infringement
Notices Enforcement Scheme*

"Subdivision 1 — First Stage: Warning Letters

"58C. JUVENILE MAY BE SENT WARNING LETTER FOR INFRINGEMENT OFFENCE

"(1) If it appears to an infringement officer that an infringement penalty specified in an infringement notice served on a juvenile has not been paid within the time for payment specified in the notice, he or she may serve on the juvenile a warning letter stating —

- (a) that the juvenile has a further 28 days after the date of the letter in which to pay —
 - (i) the infringement penalty; and
 - (ii) the prescribed infringement notice costs specified in the warning letter;
- (b) that if the infringement penalty and infringement notice costs specified in the warning letter are not paid, the juvenile may be dealt with under this Part;
- (c) the terms of section 58D; and
- (d) other prescribed information, if any.

"(2) If a warning letter is served on a juvenile under subsection (1), an infringement officer must take reasonable steps to ensure that a copy of the letter is delivered or sent to a parent, guardian or person having the custody of the juvenile.

"(3) If a warning letter is served on a juvenile, the infringement penalty and the infringement notice costs specified in the letter may be paid to the Court within 28 days after the date of the letter.

"(4) If a warning letter is served on a juvenile, the law under which the infringement notice was served is to be taken to have also required the payment of the infringement notice costs specified in the letter.

"58D. JUVENILE WHO RECEIVES WARNING LETTER MAY CHOOSE TO HAVE THE MATTER DEALT WITH BY COURT

"(1) A juvenile served with a warning letter may, within 28 days after the date of the letter, serve on the relevant enforcement agency a written statement stating that he or she does not want to have the offence to which the warning letter relates dealt with under this Division.

"(2) If a juvenile serves a statement on the relevant enforcement agency under subsection (1), this Division ceases to apply to the offence to which the warning letter relates.

"(3) A statement under subsection (1) may be served by —

- (a) posting it to the address of the enforcement agency specified in the warning letter; or
- (b) leaving it at the enforcement agency's office or place of business with a person apparently employed at that office or place who has apparently attained the age of 16 years.

*"Subdivision 2 — Second Stage: Registration of
Certificates*

"58E. ENFORCEMENT AGENCY MAY LODGE CERTIFICATE

"(1) If a juvenile is served with a warning letter and within 28 days from the date of the letter —

- (a) the infringement penalty and the infringement notice costs specified in the letter have not been paid; or
- (b) a written statement has not been served on the enforcement agency under section 58D,

an infringement officer may lodge a certificate with a Clerk of the Court.

"(2) The certificate under subsection (1) is to state that —

- (a) an infringement notice has been served on the juvenile or otherwise as permitted by law in relation to an offence referred to in the certificate;

Juvenile Justice Amendment (No. 4)

- (b) a warning letter has been served on the juvenile after the expiry of the time specified in the infringement notice for payment of the infringement penalty and the infringement notice costs;
- (c) at least 28 days have elapsed from the date of the warning letter;
- (d) the full amount of the infringement penalty and the infringement notice costs specified in the warning letter have not been paid by the date of the certificate;
- (e) a written statement, stating that he or she does not want to have the offence to which the warning letter relates dealt with under Division 3, has not been received from the juvenile;
- (f) a complaint in relation to the offence has not been laid and the time within which a complaint in relation to the offence may be laid has not expired;
- (g) a statement as to the steps taken by an infringement officer to deliver or send a copy of the warning letter to a parent, guardian or person having the custody of the juvenile; and
- (h) in the case of an infringement notice served under the *Local Government Act* in relation to a traffic or parking infringement or under regulation 65 of the Traffic Regulations, the juvenile named in the certificate —
 - (i) was the juvenile on whom the infringement notice was served;
 - (ii) was, at the time of the alleged offence, the owner of the motor vehicle within the meaning of the *Motor Vehicles Act*; or
 - (iii) was, at the time of the alleged offence, in control of the motor vehicle as shown in a statutory declaration provided pursuant to regulation 64(3)(b) of the Traffic Regulations or a by-law made in pursuance of section 212(c) of the *Local Government Act*.

"(3) The certificate may contain other prescribed particulars.

"(4) The certificate is to be —

- (a) in the prescribed form; and
- (b) signed by the infringement officer or affixed with a facsimile of his or her signature by or at his or her direction.

"58F. IF CERTIFICATE LODGED INFRINGEMENT PENALTY AND OTHER COSTS MAY BE REGISTERED

"If a Clerk of the Court is satisfied that —

- (a) the facts alleged in a certificate lodged under section 58E constitute the offence specified in the certificate; and
- (b) sufficient particulars of those facts are set out in the certificate,

he or she may, for the purpose of enforcement under this Division, register —

- (c) the infringement penalty specified in the certificate;
- (d) the infringement notice costs, if any, specified in the certificate; and
- (e) the prescribed certificate costs.

"58G. WITHDRAWAL OF CERTIFICATE

"(1) An enforcement agency may, by notice in the prescribed form to a Clerk of the Court, request the Clerk to withdraw a certificate lodged under section 58E.

"(2) If a notice under subsection (1) is received before the certificate is referred to the Court under section 58Q(5), the Clerk must —

- (a) withdraw the certificate; and
- (b) notify the relevant enforcement agency and the juvenile of that fact.

"(3) If the Clerk —

- (a) withdraws the certificate; and
- (b) notifies the relevant enforcement agency and the juvenile of that fact,

the Clerk must take reasonable steps to ensure that a copy of the notice given to the juvenile is delivered or sent to

Juvenile Justice Amendment (No. 4)

a parent, guardian or person having the custody of the juvenile.

"(4) A certificate that is withdrawn under this section has no further effect under this Division.

"Subdivision 3 — Third Stage: Enforcement Orders

"58H. IF INFRINGEMENT PENALTY IS REGISTERED ENFORCEMENT ORDER WILL BE MADE

"(1) If a Clerk of the Court registers an infringement penalty under section 58F, the Clerk must make an enforcement order in accordance with this section.

"(2) The enforcement order is to specify that the juvenile must pay to the Court, within 28 days after the date of the relevant enforcement order notice, the amount of —

- (a) the infringement penalty;
- (b) the costs referred to in section 58F(c), (d) and (e);
- (c) the prescribed enforcement order costs; and
- (d) any other costs required to be charged in relation to the enforcement order under this or any other Act.

"(3) The enforcement order is to specify that —

- (a) if the amounts specified in the order under subsection (2) are not paid within 28 days after the date of the enforcement order notice; and
- (b) if a community service order in respect of the enforcement order is not made in relation to the juvenile or is revoked,

the juvenile will be detained for a period determined in accordance with the prescribed ratio and specified in the order.

"(4) An enforcement order is to be taken to be an order of the Court.

"58J. ENFORCEMENT ORDER NOTICES

"(1) On making an enforcement order, the Clerk must issue a notice of the enforcement order and cause —

- (a) the notice; and

- (b) a statement in writing, in the prescribed form, setting out a summary of the provisions of this Division and the Regulations relating to –
 - (i) time allowed to pay and paying by instalment;
 - (ii) applications for revoking enforcement orders; and
 - (iii) the right of the juvenile to apply for a community service order under section 58M,

to be served on the juvenile against whom the enforcement order is made.

"(2) If an enforcement order notice and a statement in writing are served on a juvenile under subsection (1) –

- (a) the Clerk must notify the enforcement agency that the notice has been served; and
- (b) the enforcement agency must take reasonable steps to ensure that a copy of the notice and the statement are delivered or sent to a parent, guardian or person having the custody of the juvenile.

"58K. EFFECT OF ENFORCEMENT ORDER

"(1) Subject to sections 58G and 58Q, if an enforcement order is made in relation to an offence alleged to have been committed by a juvenile –

- (a) the matter of the alleged offence is to be taken to have been heard and determined according to law;
- (b) the juvenile is not for that reason to be taken to have been found guilty of the offence;
- (c) the juvenile is not to be proceeded against (except in respect of the enforcement order or a community service order issued in relation to the order) for the alleged offence;
- (d) the making of the order does not affect or prejudice a civil claim, action or proceeding arising out of the same occurrence; and
- (e) payment pursuant to the enforcement order is not an admission of liability for the purpose of, and does not affect or prejudice, a civil claim, action or proceeding arising out of the same occurrence.

Juvenile Justice Amendment (No. 4)

"(2) An amount recovered as a result of the making of an enforcement order is to be dealt with in the same way as an amount recovered as a result of a finding of guilt.

"58L. JUVENILE MAY APPLY FOR EXTENSION OF TIME TO PAY, &c.

"(1) A juvenile against whom an enforcement order is made may apply to a Clerk of the Court, personally or in writing, or in any other manner approved by the Clerk, for an order that —

- (a) the time within which the penalty is to be paid be extended; or
- (b) the penalty be paid by instalments.

"(2) On receiving an application, the Clerk may, by order —

- (a) allow the juvenile additional time to pay the penalty or the balance of the penalty; or
- (b) direct the juvenile to pay the penalty by instalments at specified times.

"(3) The order of the Clerk is to be taken to be an order of the Court.

"58M. JUVENILE MAY APPLY FOR COMMUNITY SERVICE ORDER TO SATISFY J.I.N.E.S. PENALTY

"A juvenile against whom an enforcement order is made in relation to a penalty may apply to the Director to participate in an approved project under Division 3 to satisfy the penalty or the part remaining unpaid.

"Subdivision 4 — Fourth Stage: Detention of Juvenile or Matter referred to Court for Hearing

"58N. JUVENILE MAY BE SENT TO DETENTION CENTRE IF NO COMMUNITY SERVICE ORDER IS MADE AND PENALTY IS NOT PAID

"(1) If within the time specified in an enforcement order notice or an order under section 58L —

- (a) the full amount of a penalty or a part of a penalty, as required by the notice or order, is not paid; and
- (b) a community service order has not been issued under section 58X in relation to the infringement order,

a Clerk of the Court must issue a warrant of commitment against the juvenile.

"(2) A warrant of commitment issued under subsection (1) authorises the detention of the juvenile in a detention centre for the period determined under subsection (3) and specified in the warrant.

"(3) The period of detention is —

- (a) the period specified in the enforcement order to which the warrant relates; and
- (b) the period determined in accordance with the prescribed ratio for detention in respect of the costs payable under section 58ZJ in relation to the warrant.

"58P. PERSONS CAN SEEK TO HAVE MATTER DEALT WITH BY COURT BY HAVING ENFORCEMENT ORDER REVOKED

"(1) An application to revoke an enforcement order may be made by —

- (a) the relevant enforcement agency;
- (b) the juvenile against whom the enforcement order is made; or
- (c) a parent, guardian or person having the custody of the juvenile.

"(2) The application is to be —

- (a) in writing in the prescribed form; and
- (b) given to a Clerk of the Court.

"(3) An application may not be made if —

- (a) a warrant of commitment has been executed to enforce the order; or
- (b) a community service order has been made in relation to the enforcement order.

"58Q. CLERK MAY REVOKE ENFORCEMENT ORDER

"(1) On receiving an application under section 58P, a Clerk of the Court must notify the Director.

"(2) If the Clerk is notified in writing that an authorized person has consented to the certificate to which the application relates being taken to be a complaint, he or she must revoke the relevant enforcement order.

Juvenile Justice Amendment (No. 4)

"(3) An enforcement order that is revoked under subsection (2) ceases to have effect.

"(4) If an enforcement order is revoked under subsection (2), the Clerk must —

- (a) cause notice of the revocation to be delivered or sent to the enforcement agency and to the juvenile against whom the enforcement order was made; and
- (b) take reasonable steps to ensure that a copy of the notice of revocation is delivered or sent to a parent, guardian or person having the custody of the juvenile.

"(5) If an enforcement order is revoked under subsection (2), the Clerk must, before 14 days after it is revoked, refer the relevant certificate to the Court for hearing of the offence (unless a notice of withdrawal under section 58G has been received by the Clerk).

"(6) If —

- (a) a certificate is referred under subsection (5) to the Court; and
- (b) an authorized person has consented to the certificate being taken to be a complaint,

the certificate is to be taken to be a complaint in relation to the alleged offence, laid at the time the certificate was lodged under section 58E with the Clerk, by the infringement officer whose signature, or a facsimile of whose signature, appears on the certificate.

"(7) A statutory declaration made by an authorized person —

- (a) stating that he or she has consented to a specified certificate being taken to be a complaint; and
- (b) naming the officer who is purported to be the authorized person,

is prima facie evidence that the authorized person named is an authorized person and that he or she has consented to the certificate being taken to be a complaint under subsection (1).

"(8) Section 28 does not apply in relation to a matter to be dealt with under this Division.

"(9) Nothing in this section affects a requirement under any other law to obtain consent to a prosecution.

"58R. NOTICE OF HEARING TO BE GIVEN

"(1) A Clerk of the Court must, as soon as practicable after referring a certificate to the Court under section 58Q(5), serve on —

- (a) the relevant enforcement agency; and
- (b) the juvenile to whom the certificate relates,

notice of the time and place of the hearing relating to the alleged offence specified in the certificate.

"(2) If notice is served on a juvenile under subsection (1), the Clerk must take reasonable steps to ensure that —

- (a) a copy of the notice; and
- (b) a notice specifying the obligations under section 42 of the parents, guardian or a person having the custody of the juvenile,

are delivered or sent to a parent, guardian or person having the custody of the juvenile.

"58S. COURT TO HEAR MATTER

"(1) If a certificate is to be taken under section 58Q(6) to be a complaint in relation to the alleged offence specified in the certificate, the Court may hear and determine the matter of the alleged offence.

"(2) The hearing relating to the alleged offence must not proceed in the absence of the juvenile.

"(3) The Court may only hear and determine a matter under subsection (1) if a copy of the certificate has been served on the juvenile to whom the certificate relates.

"58T. JUVENILE MAY BE ARRESTED FOR FAILING TO APPEAR IN COURT

"(1) If a juvenile who has been served with a notice of hearing under section 58R fails to appear at the time and place specified in the notice, a warrant may be issued for his or her arrest.

"(2) The prescribed costs for executing the warrant are to be paid by the juvenile to whom the warrant relates.

Juvenile Justice Amendment (No. 4)

*"Division 3 - Detention of Juvenile
for Failing to Pay Fine*

"58U. JUVENILE WHO FAILS TO PAY FINE MAY BE SENT TO
DETENTION CENTRE

"(1) If a juvenile defaults in paying a fine and a community service order has not been made in relation to the alleged offence to which the fine relates, the Court or a Clerk of the Court may issue a warrant of commitment against the juvenile.

"(2) A warrant of commitment issued under subsection (1) authorises the detention of the juvenile in a detention centre for the period determined under subsection (3) and specified in the warrant.

"(3) The period of detention is to be calculated in accordance with the prescribed ratio in respect of the amount of the fine remaining unpaid.

"58V. FINES AND PENALTIES MAY BE SATISFIED BY WAY OF
COMMUNITY SERVICE ORDER

"(1) If a warrant of commitment has been issued or executed under section 58U, the Director may, subject to this Part, by making a community service order under section 58X, order that the juvenile satisfy the fine or the part remaining unpaid by participating in an approved project.

"(2) If an application is made under section 58M, the Director may, subject to this Part, by making a community service order, order that the juvenile satisfy the payment of the penalty or the part remaining unpaid by participating in an approved project.

"58W. APPLICATION FOR COMMUNITY SERVICE ORDER

"A juvenile in respect of whom a warrant of commitment has been issued or executed under section 55U may apply to the Director to participate in an approved project to satisfy the fine or the part remaining unpaid.

*"Division 4 - Community Service
Orders in Respect of Fines and Penalties*

*"Subdivision 1 - Making of
Community Service Orders*

"58X. DIRECTOR MAY MAKE COMMUNITY SERVICE ORDER

"(1) On receiving an application under section 58M or 58W, the Director may make a community service order.

"(2) The Director may only make a community service order under subsection (1) if —

(a) he or she is satisfied —

- (i) the juvenile is a suitable person to participate in an approved project; and
- (ii) arrangements have been or will be made for the juvenile to participate in the approved project; and

(b) the juvenile consents to the terms and conditions of the order.

"(3) A community service order may require the juvenile to present himself or herself —

- (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.

"(4) The Director must, before making a community service order, explain or cause to be explained to the juvenile, in language likely to be readily understood by the juvenile —

- (a) the purpose and effect of the order;
- (b) the consequences that may follow if the juvenile fails to comply with the order; and
- (c) the juvenile's rights under section 58ZA.

"(5) Subject to subsection (6), a community service order may be made in respect of —

- (a) any number of penalties; or
- (b) any number of fines for which warrants of commitment against a juvenile have been issued or executed.

"(6) A community service order is not to be made if —

- (a) the number of hours of participation in the approved project under the order exceeds 480; or
- (b) there is or are in force one or more other community service orders (including community

Juvenile Justice Amendment (No. 4)

service orders made under Part VI) and the number of hours of participation in the approved project, together with the number of hours of participation remaining in the approved program or programs under the previous order or orders, exceeds 480.

"(7) The Director may, on the application of a juvenile -

- (a) reduce the number of hours the juvenile is required to participate in an approved project under the order; or
- (b) vary the time within which the juvenile is to complete the juvenile's participation in an approved project.

"(8) Subject to this Part, if a community service order is made, the juvenile must satisfy the payment of the fine or penalty or the part of the fine or penalty remaining unpaid by participating in the approved project for one hour for each \$12.50 remaining unpaid with a minimum of 8 hours and a maximum of 480 hours.

"(9) In order to prevent, as far as is practicable, the making of multiple community service orders in relation to a juvenile, the Director must, before making a community service order in relation to a juvenile, be satisfied that there are no other warrants of commitment outstanding for which the juvenile may participate in an approved project.

"58Y. NOTICE OF ORDER OR VARIATION OF ORDER TO BE GIVEN

"(1) If the Director makes a community service order or a variation of the order under section 58X, he or she must notify the juvenile about the order or the variation.

"(2) If the Director makes a community service order or a variation of the order under section 58X, he or she must take reasonable steps to ensure that a copy of the order or variation is delivered or sent to a parent, guardian or person having the custody of the juvenile.

"(3) The Director, on making a community service order pursuant to an application under section 58M, must immediately notify -

- (a) the Clerk of the Court who made the enforcement order to which the order relates; and
- (b) the relevant enforcement agency,

of the making of the order.

"(4) The Director, on making a community service order pursuant to an application under section 58W, must immediately notify —

- (a) the Court at the place where the warrant of commitment was issued;
- (b) a Clerk of the Court; and
- (c) the person in whose possession the warrant is, of the making of the order.

"(5) The person with possession of the warrant of commitment, on being notified under subsection (4), must immediately return the warrant to the Court at the place where it was issued.

"58Z. EFFECT OF NOTICE UNDER SECTION 58Y

"(1) If the Court or a Clerk of the Court is notified under section 58Y(3) or (4), the Clerk or the Court must take no further action to enforce payment of the fine or penalty to which the order relates.

"(2) If a community service order is made and the juvenile is in custody —

- (a) the juvenile is to be released from custody unless the juvenile is in custody for another offence other than that in respect of which the order is made; and
- (b) the amount of the fine or penalty to which the order relates that is to be paid is to reduce by the prescribed amount for each day the juvenile is in custody under the warrant.

*"Subdivision 2 — Paying of Fines and Penalties if
Community Service Order Made*

"58ZA. PAYMENT OF FINE OR PENALTY AFTER COMMUNITY
SERVICE ORDER IS MADE

"(1) Subject to this section, if a community service order is in force, the outstanding balance of the fine or penalty to which it relates may be paid to the Court at the place where the fine or penalty is to be paid.

"(2) Before making a payment under subsection (1), the juvenile must notify the Director of his or her intention and the Director must —

- (a) provide the juvenile with a written statement —

Juvenile Justice Amendment (No. 4)

- (i) detailing the hours the juvenile participated in the approved project under the community service order; and
- (ii) specifying the time within which the outstanding balance of the fine or penalty is to be paid; and
- (b) forward a copy of the written statement referred to in paragraph (a) to the Court at the place where the juvenile is to pay the outstanding balance of the fine or penalty.

"(3) If a payment under subsection (1) is received, a Clerk of the Court must reduce the amount of the fine or penalty to be paid by —

- (a) the amount of the payment; and
- (b) \$12.50 for each hour the juvenile participated in the approved project under the community service order.

"58ZB. COMPLETION OF PROJECT UNDER COMMUNITY SERVICE ORDER

"(1) A juvenile against whom a community service order is made who —

- (a) participates in an approved project for the number of hours required under the community service order; and
- (b) complies with the conditions of the order,

is to be taken to have paid the fine or penalty.

"(2) If a juvenile is to be taken to have paid a fine or penalty under subsection (1) —

- (a) the Director must, by notice in writing, advise a Clerk of the Court at the place where the fine was imposed or who made the enforcement order to which the penalty relates that the juvenile has complied with the order; and
- (b) the Clerk must note that fact on the court record.

"58ZC. DUTIES OF JUVENILE IN CARRYING OUT COMMUNITY SERVICE ORDER

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

- (a) must participate, for the number of hours specified in the order, in an approved project that a probation officer directs him or her to participate in;
- (b) must participate in the project in a satisfactory manner;
- (c) must, while participating in the project, comply with any reasonable direction of a probation officer or supervising officer; and
- (d) must inform a probation officer or a supervising officer of a change in his or her residential address not later than 48 hours after the change.

"(2) Except if the juvenile consents, a juvenile must 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.

"58ZD. BREACH OF COMMUNITY SERVICE ORDER

"A juvenile is in breach of a community service order if he or she —

- (a) fails to comply with a term or condition of the order;
- (b) fails to carry out his or her obligations under section 53ZC;
- (c) disturbs or interferes with any other person participating in or doing anything under a community service order, including a community service order under Part VI;
- (d) assaults, threatens, insults or uses abusive language to a probation officer or supervising officer;
- (e) changes his or her address for the purposes of evading the execution of this Act;
- (f) fails to pay the outstanding balance of a fine or penalty within the time specified in a written statement under section 58ZA(2); or
- (g) commits an offence against a law in force in the Territory during a time when he or she is participating in an approved project under the order.

Juvenile Justice Amendment (No. 4)

*"Subdivision 3 - Court to Hear Matter if Community
Service Order Revoked*

"58ZE. REVOCATION OF COMMUNITY SERVICE ORDER

"(1) The Director may revoke a community service order made under this Part if he or she is satisfied, on reasonable grounds, that the juvenile is in breach of the order as specified in section 58ZD.

"(2) If the Director 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 is, for the purposes of this section, to be taken -

- (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.

"(3) The Director must -

- (a) serve notice of the revocation on the juvenile;
- (b) immediately notify in writing a Clerk of the Court at the place where the fine or penalty was imposed of the revocation; and
- (c) take reasonable steps to ensure that a copy of the notice of revocation is delivered or sent to a parent, guardian or person having the custody of the juvenile.

"(4) A notice under subsection (3)(a) may be served on a juvenile -

- (a) personally;
- (b) by posting it to the juvenile at the juvenile's last-known or most usual place of residence or business; or
- (c) by leaving it for the juvenile at the juvenile's last-known or most usual place of residence or business with some other person apparently resident or employed there and who is apparently over the age of 16 years.

"58ZF. EFFECT OF REVOCATION OF ORDER IF JUVENILE WAS
DETAINED OR WAS GOING TO BE DETAINED

"(1) If the Director revokes a community service order (other than an order relating to an infringement order) the order is to be taken, for the purposes of the enforcement of the payment of the fine or the amount unpaid, to have never been made.

"(2) If the Director revokes a community service order and the juvenile was released from detention or imprisonment on the making of the order, the juvenile may be arrested under the warrant of commitment under which authority the juvenile was previously detained or imprisoned.

"(3) A juvenile arrested under subsection (2) is to be detained for the term specified in the warrant, less —

- (a) the period that the juvenile had previously spent in imprisonment or detention under the warrant;
- (b) if part of the fine has been paid — the period of detention that is to be calculated, in accordance with the prescribed ratio, in respect of the part paid; and
- (c) if the juvenile participated in an approved project under the community service order for an hour or more — a period determined in accordance with the prescribed ratio for participation in a program.

"58ZG. EFFECT OF REVOCATION OF ORDER IF ORDER RELATES
TO INFRINGEMENT ORDER

"(1) If the Director revokes under section 58ZE(1) a community service order relating to an infringement order —

- (a) the community service order is, subject to this section, to be taken, for the purposes of the enforcement of the payment of the fine or penalty or the amount unpaid, to have never been made; and
- (b) the infringement order to which the community service order relates is automatically revoked and, subject to this section, is to be taken, for the purposes of the enforcement of the payment of the penalty or the amount unpaid, to have never been made.

Juvenile Justice Amendment (No. 4)

"(2) If the Director revokes under section 58ZE(1) a community service order relating to an infringement order, the Director must notify a Clerk of the Court of —

- (a) the revocation of the order and the automatic revocation of the infringement order; and
- (b) the number of hours that the juvenile to whom the community service order related has participated in an approved project under the community service order.

"(3) If a Clerk of the Court is notified under subsection (2) in relation to a juvenile, he or she must issue a warrant of commitment against the juvenile.

"(4) A warrant of commitment issued under subsection (3) authorises the detention of the juvenile in a detention centre for the period, determined under subsection (5), specified in the warrant.

"(5) A period of detention for the purposes of subsection (4) is to be calculated in accordance with the prescribed ratio in respect of the amount of the penalty remaining unpaid, less, if the juvenile participated in the approved project under the community service order for an hour or more, a period determined in accordance with the prescribed ratio.

"Division 5 — Miscellaneous

"58ZH. WARRANTS OF COMMITMENT UNDER THIS PART

"(1) A warrant of commitment issued under this Part is to be in the prescribed form.

"(2) The prescribed costs for executing a warrant of commitment are to be paid by the juvenile to whom the warrant relates.

"(3) A warrant of commitment issued under this Part —

- (a) is not required to be returnable at any particular time;
- (b) subject to paragraph (c), remains in force until it is executed;
- (c) is null and void if it is not executed within 10 years after the date on which it is issued;
- (d) may be directed to a particular member of the Police Force or to members of the Police Force generally but in either case may be executed by any member of the Police Force; and

- (e) may be executed by apprehending the juvenile to whom it relates at any place within the Territory.

"(4) A warrant of commitment issued under this Part is to be taken to be lawfully executed if the juvenile is taken and kept at a detention centre or a prison, even if the detention centre or prison is a different detention centre or prison than the detention centre or prison, respectively, specified in the warrant.

"(5) In a case referred to in subsection (4) —

- (a) the superintendent of the detention centre; or
- (b) the officer in charge of the prison,

at which the juvenile is kept has the same power and authority as if he or she were the superintendent or officer in charge specified in the warrant.

"(6) An accidental slip, error, omission or miscalculation in a warrant of commitment issued under this Part may be corrected by the person who issued it or a person who, at the time it was issued, was authorised under this Part to issue the warrant.

"58ZI. DETENTION AND IMPRISONMENT UNDER THIS PART

"(1) A term of detention or imprisonment imposed on a juvenile in default of payment of a fine or sum of money (including a penalty) must, unless otherwise directed by the Court, be served —

- (a) cumulatively on any one or more incomplete orders or sentences of detention or imprisonment imposed on the juvenile for the default of a payment of a fine or sum of money (including a penalty); and
- (b) concurrently with any one or more incomplete orders or sentences of detention or imprisonment imposed on the juvenile, whether the other orders or sentences were imposed before or at the same time as that term.

"(2) If a juvenile who is serving a term of detention or imprisonment because he or she has not paid a fine, penalty or sum of money, pays all or part of the fine, penalty or sum of money —

- (a) the term of detention or imprisonment is to be reduced by a number of days bearing, as nearly as possible, the same proportion to the total number

Juvenile Justice Amendment (No. 4)

of days in the term as the sum paid bears to the sum that is to be paid; and

- (b) the warrant of commitment is to be amended accordingly.

"(3) Payment under subsection (2) may be made to —

- (a) a Clerk of the Court; or
- (b) the superintendent of the detention centre, or the person in charge of the jail, in which the juvenile is detained or imprisoned,

who must issue a receipt to the juvenile accordingly.

"(4) If a juvenile is ordered under this Part to a period of detention in a detention centre during which period the juvenile will attain the age of 17 years, the juvenile is, not later than 28 days after attaining the age of 17 years, to be transferred from the detention centre to a prison, within the meaning of the *Prisons (Correctional Services) Act*, to serve the remainder of the sentence.

"(5) If a detainee is transferred to a prison under subsection (4), the order sentencing the juvenile to a period of detention in a detention centre is, despite anything to the contrary in this Act, to be taken to be an order of the Court sentencing the juvenile to a term of imprisonment for the period remaining to be served under the order.

"(6) Subject to subsection (4), an order made under this Part in respect of a juvenile remains in force, provided that the juvenile complies with this Act and the order, although the juvenile has attained the age of 17 years.

"58ZJ. SERVICE OF DOCUMENTS

"(1) Except if another method of delivery or service is provided for in this Part in relation to a notice or document, all notices or documents authorised or required under this Part to be delivered or served may be delivered or served personally or by post or in any other prescribed manner.

"(2) If a warning letter is served by post, it is to be addressed —

- (a) if served in relation to an infringement notice served under the *Local Government Act* in relation to a traffic or parking infringement or regulation 65 of the Traffic Regulations —

- (i) to the last known residential or postal address of the owner of the motor vehicle within the meaning of the *Motor Vehicles Act*; or
 - (ii) if a statutory declaration has been furnished by the owner of the vehicle pursuant to regulation 64(3)(b) of the Traffic Regulations — to the last known residential or postal address of the juvenile alleged in the declaration to have been in charge of the vehicle; or
- (b) in any other case — to the last known residential or postal address of the juvenile alleged to have committed the offence.

"(3) Service of a warning letter under this Division is to be taken to have been effected —

- (a) if the address to which it was sent is within a municipality — at the time it was posted by pre-paid post; and
- (b) if the address to which it was sent is not within a municipality — at the time it would be delivered in the ordinary course of post.

"(4) A notice or document, other than a warning letter, served by post under this Division on a juvenile is to be addressed —

- (a) to the address given by the juvenile on whom the notice or document is required to be served; or
- (b) if no such address has been given — to the address shown in the certificate lodged under section 58E."

7. REVIEW OF COMMUNITY SERVICE ORDER

Section 53AC of the Principal Act is amended by adding at the end the following:

"(4) This section does not apply to a community service order made by the Director under this Act."

8. RECONSIDERATION OF SENTENCE BY JUVENILE COURT

Section 61 of the Principal Act is amended —

- (a) by omitting subsection (2) and substituting the following:

Juvenile Justice Amendment (No. 4)

"(2) An application referred to in subsection (1) may be made, at any time, in accordance with the rules of court under this Act, by —

- (a) the juvenile;
- (b) the parent or parents of the juvenile; or
- (c) the Minister, on behalf of the juvenile.";
- (b) by omitting subsections (5), (6) and (7); and
- (c) by adding at the end the following:

"(9) The making of an application under this section does not prevent a person referred to in subsection (2) making any other application under this section.".

9. NEW SECTION

The Principal Act is amended by inserting after section 66 the following:

"66A. RESTRAINT DEVICES MAY BE USED TO ESCORT CERTAIN JUVENILES

"The superintendent or the officer in charge of a detention centre may approve handcuffs or a similar device to restrain normal movement to be used when escorting a juvenile outside the detention centre.".

10. ARREST WITHOUT WARRANT IF CONDITION BREACHED

Section 89 of the Principal Act is amended —

- (a) omitting "Where" and substituting "(1) If"; and
- (b) by adding at the end the following:

"(2) If a member of the Police Force has reason to believe that a juvenile has breached a condition of an order imposed on the juvenile under Part VIA, the member —

- (a) may, without warrant, arrest the juvenile; and
- (b) must, as soon as practicable, notify the Director.".

11. OFFENCES AND PENALTIES

Section 96 of the Principal Act is amended by omitting from subsections (1) and (2) "and IX" and substituting ", VIA and IX".

12. REGULATIONS

Section 98 of the Principal Act is amended —

- (a) by omitting "The Administrator" and substituting "(1) The Administrator";
- (b) by omitting "and in particular for prescribing" and substituting ", and in particular providing for";
- (c) by omitting paragraph (d) and substituting the following:
 - "(d) the operation and management of detention centres;"
- (d) by omitting paragraph (f) and substituting the following:
 - "(f) the maintaining of order within a detention centre, including the conduct of searches, and the manner of dealing with the misconduct of detainees and any grievances or complaints of detainees;
- (fa) the health, welfare, safe custody and protection of detainees;"
- (e) by omitting from paragraph (g) "\$1,000" and substituting "\$2,000"; and
- (f) by adding at the end the following:

"(2) The Regulations may authorise the Director or a superintendent of a detention centre to make a determination in relation to —

- (a) the management and operation of a detention centre;
 - (b) the maintaining of order within a detention centre;
 - (c) a grievance or complaint of a detainee; and
 - (d) the health, welfare, safe custody and protection of a detainee."
-
-