

## CHILD WELFARE AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Child Welfare Act 1925.

*Clause 1* relates to the Short Title and commencement.

*Clause 2* enables an order committing a child to the care of the Superintendent to be reviewed by a Children's Court on the application of certain persons after the expiration of 12 months from the date of the making of the order.

*Clause 3* enables an order placing a child under the supervision of a Child Welfare Officer to be reviewed by the Children's Court on the application of certain persons.

*Clause 4* provides that where a Children's Court, after finding a charge of any offence proved against a child, or where a Judge of the Supreme Court, acting under section 25 of the Child Welfare Amendment Act 1927, places a child under the supervision of a Child Welfare Officer, the Court or Judge may at the same time order that when the child attains the age of 17 years he shall cease to be under the supervision of a Child Welfare Officer and shall thenceforth be on probation for a specified period, being not less than one year nor more than two years.

*Clause 5* provides that where a Children's Court or a Judge of the Supreme Court has placed a child under the supervision of a Child Welfare Officer, and the Court or Judge acted under the authority mentioned in *clause 4*, the Child Welfare Officer who has the child under his supervision for the time being may apply to a Children's Court for the cancellation of the order and the substitution therefor of an order placing the person concerned on probation for a specified period, being not less than one year nor more than two years. On any such application the Court must have regard to the behaviour of the person while he has been under supervision and any other circumstances of the case.

*Clause 6* sets out the conditions which apply when a person is placed on probation. They are almost identical with those which apply under the Criminal Justice Act 1954.

*Clause 7* provides for the imposition of certain additional conditions.

*Clause 8* applies certain provisions of the Criminal Justice Act 1954.

*Clause 9* provides for notice of applications made under *clause 2, clause 3, or clause 5* of this Bill to be given to certain persons. Those persons to whom notice is given shall be entitled to appear, either in person or by counsel, and to be heard, and to tender evidence on any matter relevant to the application.

*Clause 10* makes certain consequential amendments.

*Clause 11* provides that charges for traffic offences shall not be heard in the Children's Court unless the offence is punishable by imprisonment.

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*Hon. Mr Shelton*

## CHILD WELFARE AMENDMENT

### ANALYSIS

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### A BILL INTITULED

#### An Act to amend the Child Welfare Act 1925

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title and commencement**—(1) This Act may be cited as the Child Welfare Amendment Act 1961, and shall be read together with and deemed part of the Child Welfare Act 1925\* (hereinafter referred to as the principal Act).
- 10 (2) This Act shall come into force on the first day of December, nineteen hundred and sixty-one.

\*1957 Reprint, Vol. 2, p. 1  
Amendments: 1958, No. 52; 1960, No. 39

**2. Review of committal orders**—Where an order has been made under the principal Act committing any child to the care of the Superintendent, the child or a parent of that child or the person who would be his guardian if he were not under the care of the Superintendent or the person who had the custody or control of the child immediately before the order was made may, at any time after the expiration of twelve months from the date of the making of the order, request the Superintendent in writing to discharge the inmate under section 23 of the principal Act and, if that request is refused, may then apply to a Children's Court for a review of the committal order, and on any such application the Court may, as it thinks proper, having regard to the reasons for committal, the environment in which it is proposed that the child shall live, and any other circumstances of the case, either:

- (a) Cancel the order as from such date as it thinks fit; or
- (b) Refuse the application:

Provided that where an application under this section is refused a further application for a review of the order shall not be entertained unless twelve months have elapsed since the date of the refusal and unless the application has been preceded by a further request to the Superintendent to discharge the inmate under section 23 of the principal Act.

**3. Review of supervision orders**—Where an order has been made under the principal Act placing a child under the supervision of a Child Welfare Officer for a fixed period, the Child Welfare Officer who has that child under his supervision for the time being or the child or a parent of the child or his guardian or the person who had custody or control of the child immediately before the order was made, may apply to a Children's Court for the review of that order, and on any such application the Court may, as it thinks proper:

- (a) If twelve months have elapsed since the date when the order was made, cancel the order as from such date as it thinks fit and subject to such conditions precedent (if any) as it thinks fit to impose;
- (b) If the order provides that for the whole or any part of the said period the child shall be detained in an institution under this Act and three months have elapsed since the date when the order was made, cancel the said provision as from such date as it thinks fit and subject to such conditions precedent (if any) as it thinks fit to impose;
- (c) Refuse the application:

Provided that, where any application made under this section by a person other than a Child Welfare Officer is refused, a further application under this section shall not be entertained from a person other than a Child Welfare Officer if  
5 made within six months after the date of the refusal.

**4. Probation may follow supervision**—(1) Where a Children's Court, acting under section 31 of the principal Act, or a Judge of the Supreme Court, acting under section 25 of the Child Welfare Amendment Act 1927, places any child under  
10 the supervision of a Child Welfare Officer, the Court or Judge may at the same time order that when the child attains the age of seventeen years he shall cease to be under the supervision of a Child Welfare Officer and shall thenceforth be on probation for a period specified by the Court, being a period  
15 of not less than one year nor more than two years.

(2) Where a Court or Judge has ordered, under subsection (1) of this section, that any person shall be on probation,—

(a) The Registrar of the Court shall notify the Secretary for Justice and the probation officer in whose district  
20 the Court office is situated; and

(b) The Child Welfare Officer who has that person under his supervision when he attains the age of seventeen years shall notify the probation officer in whose district that person then resides.

(3) The making of an order under subsection (1) of this section in respect of any child shall not prevent the supervision order relating to that child being reviewed under section 3 of this Act while that child is still under the supervision of  
25 a Child Welfare Officer, and, if on any such review that supervision order is cancelled, then the order made under  
30 subsection (1) of this section shall be deemed to be cancelled.

**5. Probation may be substituted for supervision**—(1) Where a Children's Court, acting under section 31 of the principal Act, or a Judge of the Supreme Court, acting under  
35 section 25 of the Child Welfare Amendment Act 1927, has placed a child under the supervision of a Child Welfare Officer, the Child Welfare Officer who has that child under his supervision for the time being may apply to a Children's Court for the cancellation of the supervision order and the substitution therefor of an order placing the person on probation for  
40 a period specified by the Court, being a period of not less than one year nor more than two years, and on any such application

the Court may, as it thinks proper, having regard to the behaviour of the person while he has been under the supervision of a Child Welfare Officer and any other circumstances of the case, either grant or refuse the application.

(2) Every order under this section cancelling a supervision order and placing a person on probation shall take effect on the day on which it is made. 5

(3) Where any order is made under this section, the Registrar of the Court shall notify the Secretary for Justice and the probation officer in whose district the Court office is situated. 10

**6. Conditions of probation—**(1) Whenever any person is ordered to be on probation under this Act, the conditions set out in section 7 of the Criminal Justice Act 1954, except paragraph (a) of that section, shall apply, in addition to any special conditions imposed under section 7 of this Act. 15

(2) In addition to the conditions specified in subsection (1) of this section, any person on probation under this Act shall be subject to the condition that he shall report to a probation officer in the district in which he resides within forty-eight hours after the commencement of his term of probation. 20

(3) Every person on probation under this Act shall be under the supervision of a probation officer in whose district he resides for the time being, or such other probation officer as the Secretary for Justice may direct. 25

(4) The probation officer shall issue to every person on probation under this Act a probationary licence setting out the conditions which he is required to observe during the term of his probation.

**7. Power to impose additional conditions—**Where the Court orders that any person be on probation under this Act, the Court may in its discretion impose all or any of the conditions specified in paragraphs (e) to (i) of subsection (1) of section 8 of the Criminal Justice Act 1954. 30

**8. Application of provisions of the Criminal Justice Act 1954—**Sections 9, 10, 12, and 13 of the Criminal Justice Act 1954 shall apply to every person on probation under this Act with all necessary modifications as if he had been released on probation on the day on which the term of his probation began, including the following specific modifications, namely, that every application under the said section 9 as applied by this section shall be made to a Magistrate's Court or a Children's Court, as the age of the person may 35 40

require, and that the term of probation of every such person shall not be extended beyond the end of two years from the date on which the term began.

5 **9. Notice of applications**—(1) Where any application is made under section 2 or section 3 of this Act by a person other than a Child Welfare Officer, the person making the application shall give written notice of the application to the Superintendent:

10 Provided that the Court may at any time require the person making the application to give written notice of the application to such other persons as it thinks fit.

(2) Where any application is made under section 3 or section 5 of this Act by a Child Welfare Officer, he shall give written notice of the application to such of the following persons as he thinks fit:

(a) The person to whom the application relates:

(b) The parents of that person or his guardian:

20 (c) The person who has the custody or control of the child or the person who had that custody or control immediately before the supervision order was made:

Provided that the Court may at any time require the Child Welfare Officer to give written notice of the application to such of those persons as it thinks fit:

25 Provided also that, in the case of an application under section 5 of this Act, written notice of the application shall be given in every such case to the person to whom the application relates.

30 (3) Every person who is given notice of any application under section 2 or section 3 or section 5 of this Act pursuant to the provisions of subsection (1) or subsection (2) of this section shall be entitled to appear, either in person or by counsel, and to be heard and to tender evidence on any matter relevant to the application.

35 **10. Consequential amendments**—The principal Act is hereby consequentially amended in the manner indicated in the Schedule to this Act.

40 **11. Traffic offences**—(1) Notwithstanding anything to the contrary in section 29 of the principal Act, no proceedings relating to a charge for any traffic offence brought against a child or any other person shall be heard in a Children's Court unless the offence is punishable by imprisonment, but all such proceedings shall be taken and heard as if a Children's Court had not been established.

(2) In this section the term “traffic offence” means any offence against the Transport Act 1961 or against any regulation or bylaw made under that Act and any offence against any regulation or bylaw made under any other enactment, if, in this latter case, the offence relates to the use of vehicles or parking places or transport stations.

Section 10SCHEDULE

## CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT

Section Affected	Amendment
Section 2	By inserting after the definition of the word “Minister”, the following definition: “‘Probation officer’ means a probation officer appointed under Part I of the Criminal Justice Act 1954.”.
Section 34A (as inserted by section 2 of the Child Welfare Amendment Act 1960)	By adding the words “or under <u>section 5</u> of the Child Welfare Amendment Act 1961 whether or not he is over the age of seventeen years”.
Section 34B (as inserted by section 2 of the Child Welfare Amendment Act 1960)	By adding the following subsection: “(4) Where an order is made by a Children’s Court under <u>section 5</u> of the Child Welfare Amendment Act 1961 placing a child on probation, the child may appeal to the Supreme Court against the order.”