

GUARDIANSHIP AMENDMENT BILL

EXPLANATORY NOTE

Clause 2 of this Bill alters the powers of the Supreme Court in respect of wards of Court.

Subclause (1) removes a limitation on the Court's powers whereby the Court may not direct any child of or over the age of 16 years to live with any person unless the circumstances are exceptional.

Subclauses (2) and (3) confer on the Supreme Court, in addition to its existing powers to punish any person for contempt of Court (which include power to commit to prison), power to impose on any child, who has acted in contravention of an order under section 9 of the Guardianship Act 1968, any penalty, other than a sentence of imprisonment or of borstal training, which might have been imposed on that child if he had been convicted of an offence punishable by imprisonment. The Court's inherent power to commit to prison for contempt of Court is rarely exercised.

The penalties now authorised to be imposed include—

- (a) Probation for a period specified by the Court, being a period of not less than 1 year nor more than 3 years:
- (b) If the person is not less than 16 years of age, detention in a detention centre for 3 months:
- (c) If the person is not less than 15 years of age, periodic detention for such term as the Court thinks fit, not exceeding in any case 12 months:
- (d) A fine.

The existing restriction on the Court's power to commit a ward or his or her spouse for marrying without the Court's consent is retained.

Hon. Mr Riddiford

GUARDIANSHIP AMENDMENT

ANALYSIS

Title
1. Short Title

2. Wards of Court

A BILL INTITULED

An Act to amend the Guardianship Act 1968

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

1. Short Title—This Act may be cited as the Guardianship
Amendment Act 1971, and shall be read together with and
deemed part of the Guardianship Act 1968* (hereinafter
referred to as the principal Act).

- 10 **2. Wards of Court**—(1) Section 9 of the principal Act is
hereby amended by repealing the proviso to subsection (3).
(2) Section 9 of the principal Act is hereby further amended
by inserting, after subsection (3), the following subsections:
“(3A) Where the Court is satisfied that a child has acted in
15 contravention of an order made under this section, the Court
may, after giving the child an opportunity to be heard,

*1968, No. 63

Amendments: 1969, No. 80; 1970, No. 67

release him on probation under Part I of the Criminal Justice Act 1954 or impose on him any sentence, other than a sentence of imprisonment or of borstal training, which might have been imposed on him, or make any order that might have been made, if he had been convicted of an offence punishable by imprisonment. 5

“(3B) Where the Court exercises any of the powers conferred by subsection (3A) of this section, the person in respect of whom those powers are exercised shall have the same rights of appeal as he would have had if he had been convicted on indictment, and Part XIII of the Crimes Act 1961 shall apply accordingly with all necessary modifications. 10

“(3C) The powers conferred by subsection (3A) of this section shall be in addition to the Court’s power to punish any person for contempt of Court. 15

“(3D) Notwithstanding anything in subsections (1) to (3A) of this section or in any rule of law, where any child under the guardianship of the Court marries without the Court’s consent the Court shall not have power to impose any form of detention on that child or his or her spouse for contempt of Court for so marrying.” 20

(3) Section 9 of the principal Act is hereby further amended by inserting in subsection (3), after the word “shall”, the words “, subject to subsection (3D) of this section,”. 25