

1998

**THE LEGISLATIVE ASSEMBLY OF
THE AUSTRALIAN CAPITAL TERRITORY**

CHILDREN'S SERVICES (AMENDMENT) BILL (No.2) 1998

EXPLANATORY MEMORANDUM

Circulated by the authority of the Attorney General

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Children's Services (Amendment) Bill 1998

Explanatory Memorandum

Outline

The Children's Services (Amendment) Bill (No.2) 1998 (the Bill) amends the *Children's Services Act 1986* (the Act) so that fines imposed on children may be recovered under the new fine recovery scheme proposed by the Magistrates Court (Amendment) Bill 1998

Financial implications

Nil

Notes on Clauses

Formal provisions

Clauses 1, 2 and 3 are formal clauses setting out the short title of the Act, providing for the commencement of its provisions and providing that references in the Act to "the Principal Act" are references to the *Children's Services Act 1986*.

Commencement

Subclause 2(2) provides that the substantive provisions of the Bill will commence on the day on which the substantive provisions of the Magistrates Court (Amendment) Act 1998 commence.

Fines and like orders

Clause 4 amends section 52 of the Act, which deals with the making of orders imposing a fine on a child, so that the current definition of "fine" is replaced by a definition to the effect that "fine" has the same meaning as "fine" in Division 2 of Part IX of the *Magistrates Court Act 1930*.

Paragraph 4(b) amends subsection 52(3) of the Act to remove the capacity of the Children's Court to direct payment of a fine be made in instalments. The Court will still be able to allow time for payment of a fine. However, arrangements for payment by instalments should be made with the Registrar, as is the case for fines which are imposed on adults.

Breach of certain orders for reparation or compensation

Clause 5 amends section 53 of the Act, which provides the Court may where a child is in default of payment of a fine or reparation or compensation, at any time, by order served on the child or on a parent of the child, direct that the child appear before the Court at the time and place specified in the order. Section 53(2) provides that if the child does not appear before the Court as directed, the Court may issue a warrant for the apprehension of the child.

Section 53 has been amended to apply only when an order is made under paragraph 47(1)(f) in favour of a person other than the Territory and the child in respect of whom the order is made fails to obey the order.

In all other instances the procedure for dealing with fine defaulters (including children) is now set out in the provisions of Part IX of the *Magistrates Court Act* and section 54 of the Act as amended by Clause 6.

Enforcement of payment of fines

Clause 6 amends section 54 of the Act which sets out the mechanism for enforcing payment of a fine by a child. Subsection 54(1) is amended, by **paragraph 6(a)** to replace the definition of "fine" with a definition corresponding to the definition of "fine" in the *Magistrates Court Act*. A definition of "outstanding fine" is also inserted.

Paragraph 6(b) amends section 54 to the effect that is the Registrar, rather than the Children's Court which will take action on default of payment. Consistent with the provisions applying where an adult fails to pay a fine, a child who does not pay will be committed to an institution, unless the fine is remitted. A child will be committed to an

Institution for a period calculated at the rate of one day for each \$100 or part thereof outstanding or 30 days whichever is the lesser.

Application

Clause 7 applies the new enforcement procedures only to fines imposed on or after the commencement of the new enforcement scheme.