

1997

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**CHILDREN'S SERVICES (AMENDMENT)
BILL 1997**

EXPLANATORY MEMORANDUM

Circulated by authority of
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Minister for Education and Training

**EXPLANATORY MEMORANDUM
CHILDREN'S SERVICES (AMENDMENT) BILL 1997**

Outline

The Children's Services Amendment Bill 1997 amends the Children's Services Act 1986 to

- enable the Director of Family Services to arrange for the transfer of a person sentenced under the Act from one institution to another institution, whether within or outside the Territory, and
- make the annual reporting provision for the Official Visitor appointed under the Children's Services Act consistent with the Annual Reports (Government Agencies) Act 1995

Financial Considerations

There are financial costs involved but as the circumstances are very irregular they will be dealt with on a case by case basis

Details of the Amendments

PART I - PRELIMINARY

Title

Clause 1 provides for the short title for this Act to be the Children's Services (Amendment) Act 1997

Commencement

Clause 2 provides for Sections 1, 2 and 3 to commence on the day this Act is notified in the Gazette, and for the remaining provisions to commence 6 months after that day or on such earlier day or days as fixed by the Minister by notice in the Gazette

Principal Act

Clause 3 provides that the 'Principal Act' amended by this Act is the Children's Services Act 1986

PART II - ADMINISTRATION

Functions of the Official Visitor

Clause 4 amends section 19B of the Principal Act by omitting the requirement for the Official Visitor to submit a report in writing to the Minister detailing how the Official Visitor has performed his or her duties, and omits the requirement for the Minister to table the report separately in the Assembly. In future reports by the Official Visitor will be prepared in accordance with the provisions of the Annual Reports (Government Agencies) Act 1995

PART III - NEW DIVISION 3A

Transfer between institutions

Clause 5 amends Part IV of the Principal Act by inserting a new Division 3A

Proposed subsection 62A(1) of Division 3A gives the Director of Family Services (the Director) the authority to direct the transfer of a person from one ACT institution to another by means of a written transfer direction

Proposed subsection 62A (2) sets out examples of the circumstances to which the Director may have regard when considering an application for transfer by a transferee or a person responsible for a transferee, or where the transferee is a ward. These include the place or intended place of residence of the parents or other relatives of the transferee, the present and future education, training or employment, the medical needs, or the safety, health and welfare of the transferee. It also establishes whose consent to a transfer is necessary in relation to applications relating to wards or by persons responsible for transferees

Proposed subsection 62A(3) enables the Director to request any necessary information from the transferee or person responsible for the transferee for the purpose of deciding whether or not to make a transfer direction

Proposed subsection 62 A(4) enables the Director to refuse to make a transfer direction if the information is not supplied within time specified by the Director

Proposed subsection 62A(5) enables the Director to make a transfer direction on his or her own motion if the Director has reasonable grounds to believe that the behaviour of the transferee in the institution places at risk the safety, health or welfare of other persons detained in the institution or the staff of the institution

Proposed subsection 62A(6) provides that the Director's transfer direction is sufficient authority for an officer or police officer to take a person to the institution to which he or she is to be transferred

Proposed subsection 62A(7) defines 'person responsible', 'transferee' and 'transfer direction' for the purposes of new section 62A

Reporting of Transfers

Proposed section 62B requires the Director, within 14 days of making a direction, to notify the Legislative Assembly Standing Committee on Legal Affairs of the particulars of the direction, and to provide a copy of the notice to the Chief Magistrate and the Community Advocate

Temporary custody prior to transfer between institutions

Proposed section 62C allows for a transferee to be placed for up to 14 days or such longer period as the Director approves in writing, in a shelter or remand centre pending transfer from one institution to another. It also provides that prior written approval must be given by both the Director and the Director of Corrective Services if any placement under the section is to be at Belconnen Remand Centre. It also provides for the Director's transfer direction to be a sufficient authority for an officer or police officer to move a transferee to a shelter or a remand centre or between any combination of such places, and subsequently to take the transferee to the intended institution

PART IV - TRANSFER ARRANGEMENTS

Arrangements for Transfer

Clause 6 amends section 69C of the Principal Act to limit the circumstances in which the Director may make an arrangement for the transfer of a particular young offender from the Territory to a State to the circumstances referred to in section 69D

Power to arrange for transfers

Clause 7 amends section 69D of the Principal Act by substituting a new subsection (1) which sets out examples of the circumstances to which the Director may have regard in making an arrangement for the interstate transfer of a young offender when such transfer is applied for by a young offender or a person responsible for a young offender, or where the young offender is a ward

This clause also amends subsections (2) and (3) of section 69D to refer to applications made under new subsection (1)

The clause also amends section 69D by inserting subsection (3A) to provide for the Director on his or her own motion to be able to arrange for the interstate transfer of a young offender detained in an institution, if the Director has reasonable grounds to believe that the behaviour of the young offender places at risk the safety, health or welfare of the staff of the institution or other persons detained in the institution, the young offender has been given independent legal advice about the effect of the arrangement, and the Director is satisfied that there is no appeal pending against an order of the court to which the young offender is subject

Reporting of Transfers

Clause 8 inserts Subclause 62FA requiring the Director, within 14 days of the transfer direction to notify the Legislative Assembly Standing Committee on Legal Affairs of the particulars of the direction, and provide a copy of the notice to the Chief Magistrate and the Community Advocate

Temporary custody prior to interstate transfer

Clause 9 inserts proposed section 69GA allowing for a young offender to be placed for up to 14 days, or such longer period as the Director approves in writing, in a shelter or remand centre pending delivery to an escort for interstate transfer. It also provides that prior written approval must be given by both the Director and the Director of Corrective Services if any placement under the section is to be at Belconnen Remand Centre. It also provides for the Director's arrangement to be sufficient authority for an officer or police officer to move a young offender to a shelter or remand centre or between any combination of such places