

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

**Magistrates Court (Amendment) Bill
(No. 2) 1998**

A BILL

FOR

An Act to amend the *Magistrates Court Act 1930*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1. Short title

This Act may be cited as the *Magistrates Court (Amendment) Act (No. 2) 1998*.

2. Commencement

(1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act

is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

3. Principal Act

In this Act, "Principal Act" means the *Magistrates Court Act 1930*.

4. Entitlement to apply

Section 198 of the Principal Act is amended—

- (a) by omitting subparagraph (1) (c) (iii) and substituting the following subparagraph:

"(iii) the Community Advocate;";

- (b) by inserting after paragraph (1) (c) the following paragraph:

"(ca) where the aggrieved person is a person under a disability within the meaning of the *Magistrates Court (Civil Jurisdiction) Act 1982*—the Community Advocate; or",
and

- (c) by adding at the end the following subsections:

"(3) The Court shall not proceed with an application made by the Community Advocate unless it is satisfied that the Community Advocate is an appropriate person to make the application in the circumstances.

"(4) This section does not affect any right that a person would have, apart from this section, to make an application on behalf of an aggrieved person.

"(5) In this section—

'Community Advocate' means the Community Advocate appointed under the *Community Advocate Act 1991*."

5. Parties—applications by persons other than aggrieved persons

Section 200 of the Principal Act is amended—

- (a) by omitting from paragraph (a) "or";
(b) by adding at the end of paragraph (b) "or"; and
(c) by inserting after paragraph (b) the following paragraph:
"(c) the Community Advocate;".

6. Restriction on publication of reports of proceedings

Section 206P of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) Subject to this Part, a person shall not disseminate to the public or to a section of the public, by any means, an account of any proceedings, or of a part of any proceedings, under this Part that identifies—

- (a) a party to the proceedings;
- (b) a person who is related to, or associated with, a party to the proceedings or is, or is alleged to be, in any other way concerned in the matter to which the proceedings relate; or
- (c) a witness to the proceedings.”.

7. Insertion

After section 206P of the Principal Act the following sections are inserted:

“206PA. Limits of restriction on publication

“(1) Section 206P does not prevent a party to proceedings under this Act from informing another person of the contents of an order made in those proceedings.

“(2) Section 206P does not prevent—

- (a) any information from being disseminated with the permission of the Court in writing, in accordance with any conditions imposed by the Court;
- (b) any information from being communicated to a court or tribunal under subsection 68J (1) or (2) of the *Family Law Act 1975* of the Commonwealth;
- (c) any pleading, transcript of evidence or other document from being communicated to—
 - (i) persons concerned with other proceedings in a court or tribunal, for use in connection with those proceedings;
 - (ii) persons concerned with disciplinary proceedings of a legal practitioner, for use in connection with those proceedings; or
 - (iii) a body that grants legal aid, for the purpose of deciding whether to provide legal aid in a particular case;
- (d) any matter from being published in law reports or other technical or professional publications; or
- (e) any matter from being disseminated to a person in connection with the person’s professional practice.

“(3) The Court shall not give permission to disseminate information that would identify a person referred to in subsection 206P (1) unless it is satisfied that—

- (a) it is in the public interest;

- (b) it will promote compliance with the order; or
- (c) it is necessary or desirable for the proper functioning of the Act.

“(4) In subsection (2)—

‘Court’ includes an officer of the Court acting in the proceedings.

5 **“206PB. Application not invalid only because made under wrong Act**

“(1) This section applies where—

- (a) a person applied in good faith for an order under this Part;
- 10 (b) the person was entitled to apply for an order under the *Domestic Violence Act 1986* in respect of the alleged conduct of the respondent, so that subsection 198 (2) applied to the person; and
- (c) proceedings have commenced on the basis of the application.

“(2) If the proceedings have not concluded at the time when it becomes apparent that this section applies, the Court shall direct either—

- 15 (a) that the proceedings be continued under this Part; or
- (b) that the proceedings be continued under the *Domestic Violence Act 1986*.

“(3) If the proceedings have concluded before it becomes apparent that this section applies, any order purportedly made under this Part is as valid as if subsection 198 (2) had not applied.

“(4) Where the Court makes a direction under paragraph (2) (a), the application shall be treated as if subsection 198 (2) did not apply.

“(5) Where the Court makes a direction under paragraph (2) (b), the application and proceedings shall be treated as if the application had been made under the *Domestic Violence Act 1986*.”.

NOTE

Principal Act

1. Reprinted as at 30 May 1997. See also Acts Nos. 41, 94 and 96, 1997; No. #, 1998.