

South Australia



**STATUTES AMENDMENT (SENTENCING OF YOUNG OFFENDERS)  
ACT 1996**

**No. 68 of 1996**

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ANNO QUADRAGESIMO QUINTO

**ELIZABETHAE II REGINAE**

**A.D. 1996**

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**No. 68 of 1996**

**An Act to amend the Children's Protection Act 1993, the Criminal Law (Sentencing) Act 1988, the Family and Community Services Act 1972, the Young Offenders Act 1993 and the Youth Court Act 1993.**

*[Assented to 15 August 1996]*

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Statutes Amendment (Sentencing of Young Offenders) Act 1996*.

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Interpretation**

3. A reference in this Act to "the principal Act" is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2  
AMENDMENT OF CHILDREN'S PROTECTION ACT 1993**

**Amendment of s. 6—Interpretation**

4. Section 6 of the principal Act is amended by inserting after the definition of "psychologist" in subsection (1) the following definition:

"**Senior Judge**" includes, if the Senior Judge is not reasonably available to exercise a power vested in the Senior Judge under this Act, the most senior of the Judges of the Court who is available to exercise that power;.

**PART 3**  
**AMENDMENT OF CRIMINAL LAW (SENTENCING) ACT 1988**

**Amendment of s. 3—Interpretation**

5. Section 3 of the principal Act is amended—

- (a) by striking out paragraph (b) of the definition of "prescribed unit" in subsection (1) and substituting the following paragraphs:
- (b) where an order is made against a youth fixing a period of detention or home detention or a number of hours of community service for enforcement—
- (i) \$50; or
- (ii) if some other amount is prescribed, that amount;
- (c) where an undertaking is entered into under section 67 to work off the sum in default by the performance of community service—
- (i) \$100; or
- (ii) if some other amount is prescribed, that amount,;
- (b) by striking out the definition of "probative court" in subsection (1) and substituting the following definition:

"probative court" means—

- (a) in the case of a bond entered into pursuant to an order of an appellate court on an appeal against sentence—the court that imposed that sentence;
- (b) in any other case—the court that made the order pursuant to which the defendant entered into the bond.

**Insertion of s. 3A**

6. The following section is inserted after section 3 of the principal Act:

**Application of Act to youths**

3A. (1) Subject to any provision of this Act to the contrary, this Act applies in relation to the sentencing of a youth and the enforcement of a sentence against a youth.

(2) However, in the event of conflict between a provision of this Act and a provision of the *Young Offenders Act 1993* or the *Youth Court Act 1993*, the latter provision prevails to the extent of that conflict.

(3) In applying a provision of this Act to a youth who is being or has been dealt with as a youth (i.e., not as an adult)—

- (a) a reference to imprisonment is to be read as a reference to detention;

- (b) a reference to a warrant of commitment is to be read as an order for detention;
- (c) a reference to a prison is to be read as a reference to a training centre;
- (d) a reference to the CEO is to be read as a reference to the Chief Executive of the Department for Family and Community Services;
- (e) a reference to a community service officer is to be read as a reference to a person authorised (individually or by class) by the Minister for Family and Community Services to exercise the powers of a community service officer in relation to youths;
- (f) a reference to a bond, or to entering into a bond, is to be read as a reference to an order under section 26 of the *Young Offenders Act 1993*, or to becoming subject to such an order;
- (g) a reference to a probationer is to be read as a reference to a youth the subject of such an order;
- (h) a reference to a probation officer is to be read as a reference to a person authorised (individually or by class) by the Minister for Family and Community Services to exercise the powers of a probation officer in relation to youths.

**Amendment of s. 11—Imprisonment not to be imposed in certain circumstances**

7. Section 11 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) This section does not apply to a sentence of imprisonment imposed for the enforcement of sentence.

**Amendment of s. 19—Limitations on sentencing powers of Magistrates Court**

8. Section 19 of the principal Act is amended—

- (a) by striking out from subsection (3)(a) "Division 5" and substituting "2 years";
- (b) by striking out from subsection (3)(b) "twice the amount of a Division 1 fine" and substituting "\$150 000".

**Amendment of s. 19A—Restraining orders may be issued on finding of guilt or sentencing**

9. Section 19A of the principal Act is amended—

- (a) by striking out from subsection (1) "a restraining order against the defendant" and substituting "against the defendant a restraining order";
- (b) by inserting in subsection (1) "a domestic violence restraining order under" after "the *Summary Procedure Act 1921* or";
- (c) by striking out from subsection (2) "A restraining" and substituting "An";
- (d) by inserting in subsection (2) "a domestic violence restraining order under" after "the *Summary Procedure Act 1921* or".

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**Amendment of s. 23—Offenders incapable of controlling sexual instincts**

10. Section 23 of the principal Act is amended by striking out from paragraph (c) of the definition of "institution" in subsection (1) "child" and substituting "youth".

**Amendment of s. 27—Service on guardian**

11. Section 27 of the principal Act is amended by striking out "a child" and substituting "under 18 years of age".

**Amendment of s. 31—Cumulative sentences**

12. Section 31 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) This section does not apply in relation to a youth unless the youth is sentenced as an adult.

**Insertion of s. 31A**

13. The following section is inserted in Part 3 Division 2 of the principal Act before section 32:

**Application of Division to youths**

31A. This Division does not apply in relation to a youth unless the youth is sentenced as an adult.

**Amendment of s. 34—Maximum fine where no other maximum provided**

14. Section 34 of the principal Act is amended—

- (a) by striking out from paragraph (b)(i) "a Division 1 fine" and substituting "\$75 000";
- (b) by striking out from paragraph (b)(ii) "a Division 3 fine" and substituting "\$35 000";
- (c) by striking out from paragraph (b)(iii) "a Division 5 fine" and substituting "\$10 000".

**Amendment of heading**

15. The heading to Part 5 of the principal Act is amended by striking out "OR UNDERTAKINGS".

**Repeal of s. 44A**

16. Section 44A of the principal Act is repealed.

**Amendment of s. 45—Notification of court if suitable community service placement is not available**

17. Section 45 of the principal Act is amended—

- (a) by striking out from subsection (1) "sentenced a defendant to" and substituting "made an order for";
- (b) by inserting in subsection (2) "may" before "require";
- (c) by striking out from subsection (2) "sentencing" and substituting "order".

**Amendment of s. 47—Special provisions relating to community service**

18. Section 47 of the principal Act is amended—

- (a) by striking out from paragraph (e) "or more than 24";
- (b) by striking out paragraph (g) and substituting the following paragraph:
  - (g) if on any day a period of community service is to exceed four continuous hours, the next hour must be a meal break; and;
- (c) by striking out from paragraph (h) "children" and substituting "dependants";
- (d) by inserting after its present contents (now to be designated subsection (1)) the following subsection:

(2) This section does not apply in relation to the performance of community service by a youth.

**Amendment of s. 49—CEO must assign a probation officer or community service officer**

19. Section 49 of the principal Act is amended by striking out from subsection (1) "a court order" and substituting "an order".

**Amendment of s. 51—Power of Minister in relation to default in performance of community service**

20. Section 51 of the principal Act is amended by striking out from subsection (3) "of 320 hours".

**Repeal of s. 59AA**

21. Section 59AA of the principal Act is repealed.

**Amendment of s. 61—Imprisonment in default of payment**

22. Section 61 of the principal Act is amended by striking out subsection (6) and substituting the following subsection:

(6) This section does not apply in relation to a youth.

**Insertion of s. 61AA**

23. The following section is inserted after section 61 of the principal Act:

**Community service in default of payment by a youth**

61AA. (1) An order for payment of a pecuniary sum made against a youth is enforceable by community service in default of payment.

(2) The hours of community service to be performed in default of payment are as follows:

· eight hours for each prescribed unit of the pecuniary sum or the balance outstanding.

(3) However, if an order under this section would bring the total number of hours of community service that the youth is required to perform under this Act or the *Young Offenders Act 1993* to more than 500, the order must be reduced accordingly.



(4) Where a youth has been in default of payment of a pecuniary sum for one month or more, the court may make an order for community service against the youth.

(5) The order must specify the period, not exceeding 18 months, over which the community service is to be performed.

(6) However, if the youth previously entered into an undertaking to perform community service under section 67 in relation to the pecuniary sum but the undertaking was cancelled for non-compliance, the court may, instead of making an order under subsection (4), sentence the youth to a period of detention or home detention for enforcement of the pecuniary sum.

(7) A period of detention or home detention imposed under subsection (6)—

- (a) cannot (despite section 66) be imposed *ex parte*; and
- (b) will be calculated at the rate of one day of detention for each prescribed unit of the pecuniary sum or the balance outstanding; and
- (c) will be cumulative on any other period of detention or home detention that the youth is liable to serve under this section.

**Amendment of s. 66—*Ex-parte* orders**

24. Section 66 of the principal Act is amended by inserting in subsection (1) "or make an order for community service against a youth" after "warrant of commitment".

**Amendment of s. 67—Pecuniary sum may be worked off by community service**

25. Section 67 of the principal Act is amended—

- (a) by striking out subsection (5) and substituting the following subsection:

(5) On receiving an application under subsection (4), the CEO will permit the applicant to enter into an undertaking to perform community service in a form and on terms approved by the CEO.;

- (b) by striking out subsection (18).

**Amendment of s. 69—Amount in default is reduced by imprisonment served**

26. Section 69 of the principal Act is amended by striking out subsection (7).

**Amendment of s. 71—Community service orders may be enforced by imprisonment**

27. Section 71 of the principal Act is amended by striking out subsection (8).

**Amendment of s. 71A—Other non-pecuniary orders may be enforced by imprisonment**

28. Section 71A of the principal Act is amended by striking out subsection (5).

**PART 4**

**AMENDMENT OF FAMILY AND COMMUNITY SERVICES ACT 1972**

**Amendment of s. 8—Delegation**

29. Section 8 of the principal Act is amended—

- (a) by inserting in subsection (1) "or any other Act" after "this Act";

(b) by striking out subsection (2) and substituting the following subsection:

(2) The Chief Executive Officer may delegate to an employee of the Department or, with the approval of the Minister, to any other suitable person, any of the powers, duties, responsibilities or functions vested in, or delegated to, the Chief Executive Officer under this Act or any other Act.

**PART 5  
AMENDMENT OF THE YOUNG OFFENDERS ACT 1993**

**Amendment of s. 3—Objects and statutory policies**

**30.** Section 3 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (2);

(b) by inserting after subsection (2) the following subsection:

(2a) In imposing sanctions on a youth for illegal conduct—

(a) regard should be had to the deterrent effect any proposed sanction may have on the youth; and

(b) if the sanctions are imposed by a court on a youth who is being dealt with as an adult, regard should also be had to the deterrent effect any proposed sanction may have on other youths.

**Amendment of s. 4—Interpretation**

**31.** Section 4 of the principal Act is amended—

(a) by inserting before the definition of "Court" the following definition:

"Chief Executive" means the Chief Executive of the Department;;

(b) by striking out the definition of "Director-General";

(c) by inserting after the definition of "guardian" the following definition:

"home detention officer" means an employee of the Department assigned to the position of a home detention officer or authorised by the Minister (individually or by class) to exercise the powers of a home detention officer under this Act;.

**Amendment of s. 13—Limitation on publicity**

**32.** Section 13 of the principal Act is amended by striking out the penalty provision from subsection (3) and substituting the following penalty provision:

Maximum penalty:       \$10 000.

**Amendment of s. 15—How youth is to be dealt with if not granted bail**

**33.** Section 15 of the principal Act is amended by striking out from subsection (1) "Director-General" and substituting "Chief Executive".

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**Amendment of s. 17—Proceedings on the charge**

34. Section 17 of the principal Act is amended by inserting in subsection (1) " and, in doing so, has the powers of the Magistrates Court" after "summary offence".

**Amendment of s. 18—Procedure on trial of offences**

35. Section 18 of the principal Act is amended—

- (a) by inserting "and the powers of" after "to be followed by";
- (b) by striking out "is" (second occurring) and substituting "are".

**Amendment of s. 19—Committal for trial**

36. Section 19 of the principal Act is amended by striking out "is" and substituting "by and the powers of the Court are".

**Amendment of s. 23—Limitation on power to impose custodial sentence**

37. Section 23 of the principal Act is amended by striking out subsections (5) and (6) and substituting the following subsection:

(5) A sentence of home detention—

- (a) must not be imposed unless the Court is satisfied that the residence the Court proposes to specify in its order is suitable and available for the detention of the youth and that the youth will be properly maintained and cared for while detained in that place; and
- (b) should not be imposed if the Court is not satisfied that adequate resources exist for the proper monitoring of the youth while on home detention by a home detention officer.

**Amendment of s. 24—Limitation on power to impose fine**

38. Section 24 of the principal Act is amended by striking out "a Division 7 fine" and substituting "\$2 500".

**Amendment of s. 25—Limitation on power to require community service**

39. Section 25 of the principal Act is amended by inserting after its present contents (now to be designated subsection (1)) the following subsection:

(2) The period, to be stipulated by the Court, over which community service is to be performed may not exceed 18 months.

**Amendment of s. 26—Limitation on Court's power to require bond**

40. Section 26 of the principal Act is amended—

- (a) by inserting in subsection (3) after paragraph (b) the following paragraph:
  - (ba) an obligation to carry out specified work (whether for the benefit of a victim of the offence or for any other person or body);;
- (b) by striking out the penalty provision from subsection (4) and substituting the following penalty provision:

Maximum penalty:       \$2 500 or detention for 6 months (or both).

**Amendment of s. 28—Power to disqualify from holding driver's licence**

41. Section 28 of the principal Act is amended by striking out from subsection (3) "a court of summary jurisdiction" and substituting "the Magistrates Court".

**Amendment of s. 30—Court to explain proceedings etc.**

42. Section 30 of the principal Act is amended by striking out from subsections (1), (2) and (3) "child" or "child's" wherever it occurs and substituting, in each case, "youth" or "youth's" as the case may require.

**Amendment of s. 32—Reports**

43. Section 32 of the principal Act is amended by striking out from subsection (1) "Director-General" and substituting "Chief Executive".

**Amendment of s. 34—Attendance at court of guardian of youth charged with offence**

44. Section 34 of the principal Act is amended by striking out the penalty provision from subsection (3) and substituting the following penalty provision:

Maximum penalty: \$750.

**Amendment of s. 36—Detention of youth sentenced as an adult**

45. Section 36 of the principal Act is amended by inserting after subsection (2) the following subsection:

(2a) If a youth who is serving a sentence of detention (or imprisonment) in a training centre is sentenced to a term of imprisonment for an offence committed after turning 18 years of age and that term is to be served concurrently with the existing sentence, the youth must be transferred to a prison unless the sentencing court directs otherwise.

**Amendment of s. 37—Release on licence of youths convicted of murder**

46. Section 37 of the principal Act is amended by striking out from subsection (11) "Officer of the Department of Correctional Services" and substituting "of the Department for Correctional Services".

**Insertion of Division 2A**

47. The following Division is inserted after Division 2 of Part 5 of the principal Act:

**DIVISION 2A—HOME DETENTION****Conditions of home detention**

37A. (1) A sentence of home detention imposed on a youth by a court is subject to the following conditions:

- (a) the youth must remain at a residence specified by the court throughout the period of home detention and must not leave that residence at any time except for the following purposes:
  - (i) remunerated employment; or
  - (ii) urgent medical or dental treatment for the youth; or

- (iii) attendance at a course of education, training or instruction or any other activity as required by the court or as approved or directed by the home detention officer to whom the youth is assigned; or
- (iv) any other purpose approved or directed by the home detention officer;
- (b) the youth must be of good behaviour throughout the period;
- (c) the youth must obey the lawful directions of the home detention officer throughout the period;
- (d) such other conditions as the Court may specify.

(2) The Court may vary or revoke a condition imposed under subsection (1)(d).

(3) In this section "residence" includes, if the youth is an Aborigine who resides on tribal lands or an Aboriginal reserve, such area of land as the Court may specify.

#### **Home detention officers**

**37B.** (1) On receiving a copy of an order for home detention, the Chief Executive must assign the youth to a home detention officer and may from time to time re-assign the youth to another home detention officer.

(2) A home detention officer to whom a youth is assigned—

(a) may give reasonable written directions to the youth—

- (i) requiring the youth to take up, or not to give up, some particular course of education, training or instruction; or
- (ii) requiring the youth to take up, or not to give up, some particular employment; or
- (iii) requiring the youth to attend some particular counselling course; and

(b) may give the youth other written directions of a kind authorised by the Minister either generally or in relation to the particular youth.

(3) Any home detention officer may at any time—

- (a) enter or telephone the residence of a youth serving a sentence of home detention; or
- (b) telephone the youth's place of employment or any other place at which the youth is required or permitted to attend; or
- (c) question any person at that residence or place,

for the purposes of ascertaining whether or not the youth is complying with the conditions to which his or her home detention is subject.

(4) A person must not—

- (a) hinder a home detention officer in the exercise of powers under this section; or
- (b) fail to answer truthfully a question put to the person by a home detention officer pursuant to those powers.

Maximum penalty: \$2 500.

**Variation or revocation of home detention order**

37C. (1) The Court may vary an order for home detention if satisfied that the residence specified in the order is no longer suitable for detention of the youth and that there is some other suitable residence available for his or her detention.

(2) If the Court is satisfied that—

- (a) a youth serving a sentence of home detention has breached a condition to which the home detention was subject; or
- (b) the residence specified in the order is no longer suitable for the youth and no other suitable residence is available for his or her detention,

the Court may revoke the order for home detention.

(3) A youth is not in breach of the condition requiring the youth to remain at his or her residence if he or she leaves the residence for the purpose of averting or minimising a serious threat of risk or injury (to the youth or some other person).

(4) If the Court revokes an order for home detention it may impose some other sentence on the youth and, in doing so, must take into account the period served by the youth under the order.

(5) If an order for home detention is revoked on the ground of breach of condition, the Court may sentence the youth to detention for a term not exceeding the balance of the period of home detention unexpired as at the date on which the breach occurred, but a sentence of detention may not be imposed in the case of revocation on any other ground.

(6) The Court may, if it thinks it is necessary to do so, issue a warrant for the apprehension and detention of a youth pending determination of proceedings under this section.

**General provisions**

37D. (1) A youth is, on breaching the condition requiring the youth to remain at his or her residence, unlawfully at large.

(2) The Crown is not liable to maintain a youth who is serving a sentence of home detention.

**Amendment of s. 38—The Training Centre Review Board**

48. Section 38 of the principal Act is amended—

- (a) by striking out from subsection (2)(d) "Minister for Emergency Services" and substituting "Minister for Police";
- (b) by inserting after subsection (2)(d) the following paragraph:
  - (e) two Aboriginal persons with appropriate skills and experience appointed by the Governor on the nomination of the Minister for Aboriginal Affairs.;
- (c) by striking out from subsection (3) "(b) and (c)" and substituting "(b), (c) and (e)";
- (d) by inserting after subsection (6) the following subsections:

(6a) A member of the *Training Centre Review Board* incurs no personal liability for an act or omission of the member or the Board in good faith and in the exercise or discharge or purported exercise or discharge of the member's or the Board's powers or functions under this Act or any other Act.

(6b) A liability that would but for subsection (6a) attach to a member lies instead against the Crown.

- (e) by striking out paragraph (b) of subsection (9) and substituting the following paragraph:
  - (b) four of the appointed members (at least one of whom must be a member appointed under subsection (2)(e) if an Aboriginal youth is the subject of the review);.

#### **Amendment of s. 39—Review of detention by Board**

49. Section 39 of the principal Act is amended by striking out from subsection (1) "Director-General" and substituting "Chief Executive".

#### **Amendment of s. 40—Leave of absence**

50. Section 40 of the principal Act is amended—

- (a) by striking out from subsections (1), (2) and (4) "Director-General" wherever it occurs and substituting, in each case, "Chief Executive";
- (b) by inserting in subsection (1)(b) ", a personal development programme or a work programme, project or camp" after "training course".

#### **Amendment of s. 41—Conditional release from detention**

51. Section 41 of the principal Act is amended—

- (a) by striking out from subsections (1) and (12) "Director-General" wherever it occurs and substituting, in each case, "Chief Executive";
- (b) by striking out subsection (3) and substituting the following subsection:
  - (3) Subsection (2) does not apply—
    - (a) to a youth who has been dealt with as an adult and is serving a sentence or part of a sentence of imprisonment in a training centre; or
    - (b) to a youth who is serving a sentence of detention of less than 2 months.;

(c) by striking out from subsection (5) "The conditions" and substituting "Subject to subsection (5a), the conditions";

(d) by inserting after subsection (5) the following subsections:

(5a) The *Training Centre Review Board* may release a youth on condition that the youth remain at a residence specified by the Board for the remainder of the unexpired balance of the term of detention or such shorter period as the Board may specify and, if a youth is released on such a condition, the provisions of Division 2A (except for subsections (4), (5) and (6) of section 37C) apply as if—

(a) the order of the Board were a sentence of home detention imposed by the Court; and

(b) a reference to the Court were a reference to the Board.

(5b) The *Training Centre Review Board*—

(a) must not release a youth on home detention unless it is satisfied that accommodation is available at the residence it proposes to specify; and

(b) should not release a youth on home detention if it is not satisfied that adequate resources exist for the proper monitoring of the youth while on home detention by a home detention officer.;

(e) by inserting after subsection (13) the following subsections:

(14) If a youth is returned to detention under the original order—

(a) he or she is liable to serve the balance of the sentence unexpired as at the date on which the breach of condition occurred; and

(b) the youth will be taken to have been serving that balance of sentence during any period spent in custody pending determination of the proceedings for breach of condition.

(15) However, instead of exercising its powers under subsection (13), the Board may impose a further condition on the youth's release requiring the youth to perform a specified number of hours of community service, if the Board is of the opinion that the breach of condition was not so serious as to warrant returning the youth to detention.

#### **Amendment of s. 42—Absolute release from detention by Court**

52. Section 42 of the principal Act is amended by striking out from subsection (1) "Director-General" wherever it occurs and substituting, in each case, "Chief Executive".

#### **Amendment of s. 48—Escape from custody**

53. Section 48 of the principal Act is amended—

(a) by striking out the penalty provision from subsection (1) and substituting the following penalty provision:

Maximum penalty: Detention for 6 months.;

(b) by inserting after subsection (5) the following subsection:

(6) This section does not apply to a youth serving a sentence of home detention.



**Amendment of heading**

54. The heading to Part 6 of the principal Act is amended by inserting "AND OTHER WORK RELATED ORDERS" after "COMMUNITY SERVICE".

**Amendment of s. 49—Community service and work orders cannot be imposed unless there is a placement for the youth**

55. Section 49 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) No order, direction or requirement can be made by virtue of which a youth will be required to perform community service or participate in a particular work project, programme or camp unless there is, or will be within a reasonable time, a suitable placement for the youth in a community service programme, or in that work project, programme or camp.

**Insertion of s. 49A**

56. The following section is inserted after section 49 of the principal Act:

**Restrictions on performance of community service and other work orders**

49A. If a youth is required to perform community service or to carry out work pursuant to an order or undertaking under this Act, the following provisions apply:

- (a) the youth cannot be required to attend at a place for the purpose of performing community service or work at a time that would—
  - (i) interfere with the youth's paid employment or with a course of training or instruction relating to, or likely to assist him or her in obtaining, paid employment; or
  - (ii) cause unreasonable disruption of the youth's commitments in caring for his or her dependants; or
  - (iii) cause the youth to offend against a rule of a religion that he or she practises; and
- (b) the youth cannot be required to perform community service or work—
  - (i) for less than 4 hours in a week; or
  - (ii) for more than 8 hours in any one day,  
except in circumstances approved by the Minister; and
- (c) if on any day a period of community service or work is to exceed four continuous hours, the next hour must be a meal break; and
- (d) the youth will not be paid for the performance of the community service or work.

**Amendment of s. 50—Insurance cover for youths performing community service or other work orders**

57. Section 50 of the principal Act is amended—

- (a) by inserting "or other work pursuant to an order or undertaking under this Act" after "community service" (first occurring);
- (b) by striking out "community service" (second occurring) and substituting "that community service or work".

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**Amendment of s. 51—Community service or other work orders may only involve certain kinds of work**

58. Section 51 of the principal Act is amended by inserting in subsection (1) "or other work pursuant to an order or undertaking under this Act" after "community service".

**Amendment of s. 56—Reports**

59. Section 56 of the principal Act is amended by striking out from subsections (1) and (2) "30 September" wherever it occurs and substituting, in each case, "31 December".

**Amendment of s. 59—Detention and search by officers of Department**

60. Section 59 of the principal Act is amended by striking out "Director-General" and substituting "Chief Executive".

**Insertion of s. 59A**

61. The following section is inserted after section 59 of the principal Act:

**Power of arrest by officers of the Department**

59A. (1) An officer of the Department may, without warrant, apprehend any youth who has escaped from custody or who the officer has reasonable grounds to believe is otherwise unlawfully at large.

(2) An officer of the Department may, in exercising powers under subsection (1), break into any premises where the officer reasonably suspects the youth to be.

(3) A youth apprehended under this section must be returned forthwith to a training centre.

(4) However, if the youth is arrested outside an area specified in the regulations, the youth may be detained—

- (a) with a person or in a place (other than a prison) approved by the Minister; or
- (b) if it is not reasonably practicable to detain the youth as provided by paragraph (a), in a police prison, or in a police station, watch-house or lock-up approved by the Minister,

but only until such time as it is reasonably practicable to transfer the youth to a training centre.

(5) The person for the time being in charge of a police prison, police station, watch-house or lock-up in which a youth is detained under this section must take such steps as are reasonably practicable to keep the youth from coming into contact with any adult person detained in that place.

**Amendment of s. 60—Hindering an officer of the Department**

62. Section 60 of the principal Act is amended by striking out the penalty provision and substituting the following penalty provision:

Maximum penalty: \$2 500.

**Amendment of s. 63—Transfer of youths in detention to other training centre or prison**

63. Section 63 of the principal Act is amended by striking out from subsections (1), (2), (4) and (6) "Director-General" wherever it occurs and substituting, in each case, "Chief Executive".

**Amendment of s. 65—Regulations**

64. Section 65 of the principal Act is amended by striking out from subsection (2)(e) "a division 8 fine" and substituting "\$1 250".

**PART 6  
AMENDMENT OF YOUTH COURT ACT 1993****Amendment of s. 7—Jurisdiction**

65. Section 7 of the principal Act is amended—

- (a) by striking out from paragraph (c) "summary protection order" and substituting "restraining order";
- (b) by inserting in paragraph (c) "or a domestic violence restraining order under the *Domestic Violence Act 1994*" after "the *Summary Procedure Act 1921*".

**Amendment of s. 10—The Senior Judge**

66. Section 10 of the principal Act is amended by inserting after subsection (3) the following subsection:

- (4) The Senior Judge may exercise the powers of the Chief Magistrate under the *Magistrates Act 1983* in place of the Chief Magistrate in relation to a Magistrate who is a member of the Court's principal judiciary.

**Amendment of s. 25—Restrictions on reports of proceedings**

67. Section 25 of the principal Act is amended by striking out from the penalty provision in subsection (3) "Division 5 fine" and substituting "\$10 000".

**Amendment of s. 28—Punishment of contempt**

68. Section 28 of the principal Act is amended—

- (a) by striking out from paragraph (a) "a Division 7 fine" and substituting "\$2 500";
- (b) by striking out from paragraph (a) "Division 7 imprisonment" and substituting "6 months";
- (c) by striking out from paragraph (b) "a Division 5 fine" and substituting "\$10 000";
- (d) by striking out from paragraph (b) "Division 5 imprisonment" and substituting "2 years".

**Amendment of s. 32—Rules of Court**

69. Section 32 of the principal Act is amended by inserting in subsection (2) "who are members of the principal judiciary" after "Judges and Magistrates".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor