

Children and Young Persons Act 1989

No. 56 of 1989

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Victoria

No. 56 of 1989

Children and Young Persons Act 1989

[Assented to 14 June 1989]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purposes

- 1. The main purposes of this Act are—**
 - (a) to establish The Children’s Court of Victoria as a specialist court dealing with matters relating to children and young persons; and**
 - (b) to provide for the protection of children and young persons; and**
 - (c) to make provision in relation to children and young persons who have been charged with, or who have been found guilty of, offences; and**
 - (d) to amend and consolidate for the purposes of the new Court the law relating to the jurisdiction and procedure of children’s courts.**

Commencement

2. This Act comes into operation on a day or days to be proclaimed.

Definitions

3. (1) In this Act—

“**Aboriginal agency**” means an organisation declared to be an Aboriginal agency under section 6.

“**Aborigine**” means a person who—

- (a) is descended from an Aborigine or Torres Strait Islander; and
- (b) identifies as an Aborigine or Torres Strait Islander; and
- (c) is accepted as an Aborigine or Torres Strait Islander by an Aboriginal or Torres Strait Island community.

“**Access**” means the contact of a child with a person who does not have custody of the child by way of—

- (a) a visit by or to that person, including attendance for a period of time at a place other than the child’s usual place of residence; or
- (b) communication with that person by letter, telephone or other means.

“**Accountable undertaking**” means a sentencing order referred to in section 137 (1) (c).

“**Adult Parole Board**” means the Adult Parole Board established by section 61 of the *Corrections Act 1986*.

“**Age**” means, in the absence of positive evidence as to age, apparent age.

“**Appropriate registrar**” means the registrar at the proper venue of the Court.

“**Authorised bail justice**” means a person who—

- (a) is appointed under section 120 of the *Magistrates’ Court Act 1989* as a bail justice or is a bail justice by virtue of holding a prescribed office within the meaning of section 121 of that Act; and
- (b) is authorised by the Attorney-General to perform functions for the purposes of the provision in which the expression is used.

“**Bail justice**” means bail justice appointed under section 120 of the *Magistrates’ Court Act 1989*.

“**Care**”, in relation to a child, means the daily care and control of the child, whether or not involving custody of the child.

“**Case plan**” means a statement of any decision concerning a child made by the Director-General after the making of an order by the Family Division in respect of the child.

“Case planning process” means the process of decision-making by the Director-General concerning a child, beginning when a protective intervener receives a notification about the child under section 64 (1) and including—

- (a) decisions made in the course of investigations conducted after a notification under section 64 (1) is received; and
- (b) decisions made in the course of preparing a protection report or disposition report; and
- (c) decisions made in assessing whether or not a protection application should be made; and
- (d) decisions relating to the placement or supervision of the child, whether made before or after a protection application or protection order is made; and
- (e) the holding of meetings for the purpose of formulating a case plan.

“Chief Magistrate” means the Chief Magistrate appointed under section 7 (2) of the *Magistrates’ Court Act* 1989 and includes an Acting Chief Magistrate appointed under section 8 of that Act.

“Child” means—

- (a) in the case of a person who is alleged to have committed an offence, a person who at the time of the alleged commission of the offence was under the age of 17 years but of or above the age of 10 years but does not include any person who is of or above the age of 18 years at the time of being brought before the Court; and
- (b) in any other case, a person who is under the age of 17 years.

“Children’s Court” means The Children’s Court of Victoria.

“Community service” means—

- (a) a community service established under section 57; or
- (b) a community service approved under section 58 (1).

“Court” means The Children’s Court of Victoria.

“Court liaison officer” means a court liaison officer appointed under section 36 (2).

“Court official” means—

- (a) the principal registrar of the Court; or
- (b) a registrar or deputy registrar of the Court; or
- (c) a court liaison officer; or
- (d) any person employed in any of the offices of the Court.

“Custody” means custody as defined in section 5.

“Custody to Director-General order” means an order referred to in section 85 (1) (a) (v).

- “Custody to third party order”** means an order referred to in section 85 (1) (a) (iii).
- “Department”** means the administrative unit referred to as the Department of Community Services in Column One of Schedule Two to the *Public Service Act 1974*.
- “Director-General”** means the Director-General of Community Services appointed under the *Public Service Act 1974*.
- “Disposition report”** means a report referred to in section 48.
- “Division”** means Division of the Court.
- “Fine”** includes any penalties, forfeitures, sums of money and costs ordered to be paid by the person fined.
- “Fund”** means the State Guardianship Fund established under section 125 (1).
- “Guardianship”** means guardianship as defined in section 4.
- “Guardianship to Director-General order”** means an order referred to in section 85 (1) (a) (vi).
- “Hearing date”**, in relation to a proceeding, means the date on which the proceeding is listed for hearing.
- “Interim accommodation order”** means an order under section 73.
- “Interim protection order”** means an order under section 85 (1) (b).
- “Interpreter”** means—
- (a) an interpreter accredited with the National Accreditation Authority for Translators and Interpreters Limited; or
 - (b) a competent interpreter.
- “Irreconcilable difference application”** means an application under section 71.
- “Legal practitioner”**, in relation to a party to a proceeding, means the counsel or solicitor representing that party in the proceeding.
- “Legal representation”** means representation by counsel or a solicitor.
- “Magistrate”** means a magistrate for the Court.
- “Officer”** means officer of the Department.
- “Order”**, in relation to the Criminal Division, includes judgment and conviction.
- “Parent”**, in relation to a child, includes—
- (a) the father and mother of the child; and
 - (b) the spouse of the father or mother of the child; and
 - (c) a person who is living with the father or mother of the child as if she were his wife or he were her husband (as

the case requires) although not married to him or her;
and

- (d) a person who has custody of the child; and
- (e) a person whose name is entered as the father of the child in the Register of Births or the index of paternity kept by the Registrar of Births, Deaths, Marriages and Names; and
- (f) a person who acknowledges that he is the father of the child by an instrument of the kind described in section 8 (2) of the *Status of Children Act 1974*; and
- (g) a person in respect of whom a court has made a declaration of, or a finding or order regarding, the paternity of the child.

“Parole order” means an order under Subdivision 4 or 5 of Division 10 of Part 4.

“Parole period” means the period from a person’s release on parole until the end of the period of his or her detention.

“Period”, in relation to detention, includes the aggregate of two or more periods, whether cumulative or concurrent.

“Permanent care order” means an order under section 112.

“Police gaol” has the same meaning as in the *Corrections Act 1986*.

“Pre-sentence report” means a report referred to in Subdivision 4 of Division 8 of Part 2.

“Prison” has the same meaning as in the *Corrections Act 1986*.

“Probation officer” includes the Director-General and every honorary probation officer.

“Proceeding” means any matter in the Court, including a committal proceeding.

“Process” includes witness summons, charge-sheet, summons to answer to a charge, warrant to arrest, remand warrant, search warrant, warrant to seize property, warrant to imprison, warrant to detain in a youth residential centre or a youth training centre, warrant of delivery and any process by which a proceeding in the Court is commenced.

“Proper venue”—

- (a) in relation to a proceeding in the Family Division, means the venue of the Court that is nearest to—
 - (i) the place of residence of the child; or
 - (ii) the place where the subject-matter of the application arose; and
- (b) in relation to a proceeding in the Criminal Division, means the venue of the Court that is nearest to—
 - (i) the place of residence of the child; or