



New South Wales

# Children and Young Persons (Care and Protection) Amendment Bill 2024

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Children and Young Persons (Care and Protection) Act 1998* to provide that the Act is intended to have extraterritorial application, including in relation to children and young persons who do not ordinarily live in, or who are not present in, New South Wales, if there is a sufficient connection to New South Wales.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## **Schedule 1      Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157**

**Schedule 1[1] and [2]** give effect to the overview above. **Schedule 1[3]** provides for the application of the proposed Act.



New South Wales

# Children and Young Persons (Care and Protection) Amendment Bill 2024

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*



New South Wales

## **Children and Young Persons (Care and Protection) Amendment Bill 2024**

No. \_\_\_\_\_, 2024

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### **A Bill for**

An Act to amend the *Children and Young Persons (Care and Protection) Act 1998* in relation to the extraterritorial application of the Act to children and young persons outside of New South Wales.

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*The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.*

*Legislative Council*

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*Clerk of the Parliaments*

**Tabling copy**

**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

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This Act is the *Children and Young Persons (Care and Protection) Amendment Act 2024*.

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**2 Commencement**

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This Act commences on the date of assent to this Act.

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<b>Schedule 1</b>	<b>Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157</b>	1
		2
<b>[1] Section 4 Children and young persons to whom this Act applies</b>		3
Omit “who are present in New South Wales, or” from section 4(b).		4
Insert instead—		5
who—		6
(i) are present in New South Wales, or		7
(ii) have a sufficient connection to New South Wales, or		8
<b>[2] Section 4(2) and (3)</b>		9
Insert at the end of section 4—		10
(2) This Act is intended to have extraterritorial application in so far as the legislative powers of the State permit, including in relation to children and young persons who do not ordinarily live in, or who are not present in, New South Wales.		11 12 13 14
(3) In determining whether a child or young person has a sufficient connection to New South Wales for subsection (1)(b)(ii), the following may be considered—		15 16
(a) whether the child or young person is the subject of a care order under this Act,		17 18
(b) whether members of the child or young person’s family, kin or community live in New South Wales,		19 20
(c) any time the child or young person spends in New South Wales, including under arrangements for contact,		21 22
(d) whether the child or young person attends school or participates in other programs or services in New South Wales,		23 24
(e) any plans for the child or young person to return to live in New South Wales, including plans for the child or young person to be restored to the child or young person’s parents in New South Wales,		25 26 27
(f) whether the particular matter could be dealt with by another court in another jurisdiction.		28 29
<b>[3] Schedule 3 Savings, transitional and other provisions</b>		30
Insert at the end of the schedule, with appropriate part and clause numbering—		31
<b>Part</b>	<b>Provision consequent on enactment of Children and Young Persons (Care and Protection) Amendment Act 2024</b>	32 33 34
		35
<b>Application of amendments</b>		35
(1) A relevant function exercised before the commencement date, that would have been validly exercised if the amending Act had commenced before the relevant function was exercised, is taken to have been validly exercised.		36 37 38
(2) An order made by a court under this Act before the commencement date, that would have been validly made if the amending Act had commenced before the order was made, is taken to have been validly made.		39 40 41
(3) In this clause—		42

***amending Act*** means the *Children and Young Persons (Care and Protection) Amendment Act 2024*.

***commencement date*** means the date on which the amending Act commences.

***relevant function*** means a function conferred or imposed by this Act or the regulations.

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