



New South Wales

Children and Young Persons (Care and Protection) Amendment (Child Abuse or Neglect) Bill 2003

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* and the *Criminal Procedure Act 1986*:

- (a) to enable the offences under the *Children and Young Persons (Care and Protection) Act 1998* of abuse or neglect of children or young persons, and leaving children or young persons unsupervised in motor vehicles, to be dealt with either summarily or on indictment (at the election of the prosecutor), and
- (b) to increase the maximum penalty for those offences (currently 200 penalty units or \$22,000) to 200 penalty units or imprisonment for 2 years, or both, if the offence is to be dealt with summarily, or 400 penalty units (\$44,000) or imprisonment for 5 years, or both, if the offence is to be dealt with on indictment.

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 on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Children and Young Persons (Care and Protection) Act 1998* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Criminal Procedure Act 1986* set out in Schedule 2.

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

Schedule 1 [1] amends sections 227, 228 and 231 of the *Children and Young Persons (Care and Protection) Act 1998* to increase the maximum penalty for the offences of abuse or neglect of children or young persons, and leaving children or young persons unsupervised in motor vehicles (currently 200 penalty units or \$22,000) to 400 penalty units (\$44,000) or imprisonment for 5 years, or both. (This will be the maximum penalty if such an offence is to be dealt with on indictment. The amendment made by Schedule 2 [2] provides separately for the maximum penalty for such an offence if it is to be dealt with summarily.)

Schedule 1 [2] makes a consequential amendment.

Schedule 2 Amendment of Criminal Procedure Act 1986 No 209

Schedule 2 [2] amends Table 2 of Schedule 1 to the *Criminal Procedure Act 1986* so that an offence referred to above will be dealt with summarily unless the prosecutor elects to have it dealt with on indictment. (Those offences are currently dealt with summarily under section 259 of the *Children and Young Persons (Care and Protection) Act 1998*.)

Schedule 2 [1] amends section 268 (2) of the *Criminal Procedure Act 1986* to provide that the maximum penalty for those offences if dealt with summarily is imprisonment for 2 years or 200 penalty units, or both.



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New South Wales

Children and Young Persons (Care and Protection) Amendment (Child Abuse or Neglect) Bill 2003

No. , 2003

A Bill for

An Act to amend the *Children and Young Persons (Care and Protection) Act 1998* to increase the maximum penalty for certain offences relating to the abuse or neglect of children (including by enabling the court to impose prison terms), and to amend the *Criminal Procedure Act 1986* to allow those offences to be dealt with either summarily or on indictment.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Children and Young Persons (Care and Protection) Amendment (Child Abuse or Neglect) Act 2003</i> .	3 4
2 Commencement	5
This Act commences on the date of assent.	6
3 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157	7 8
The <i>Children and Young Persons (Care and Protection) Act 1998</i> is amended as set out in Schedule 1.	9 10
4 Amendment of Criminal Procedure Act 1986 No 209	11
The <i>Criminal Procedure Act 1986</i> is amended as set out in Schedule 2.	12 13

Schedule 1	Amendment of Children and Young Persons (Care and Protection) Act 1998	1
	No 157	2
		3
	(Section 3)	4
[1]	Sections 227, 228 and 231	5
	Omit “200 penalty units” wherever occurring.	6
	Insert instead “400 penalty units or imprisonment for 5 years, or both”.	7
[2]	Section 259 Proceedings for offences	8
	Omit “or 175 (1) (Special medical treatment)” from section 259 (2).	9
	Insert instead “, 175 (1) (Special medical treatment), 227 (Child and young person abuse), 228 (Neglect of children and young persons) or 231 (Leaving children and young persons unsupervised in motor vehicles)”.	10
		11
		12

Schedule 2 Amendment of Criminal Procedure Act 1986 No 209	1
	2
(Section 4)	3
[1] Section 268 Maximum penalties for Table 2 offences	4
Insert after section 268 (2) (k):	5
(1) for an offence under section 227, 228 or 231 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> —imprisonment for 2 years, or a fine of 200 penalty units, or both.	6
	7
	8
	9
[2] Schedule 1 Indictable offences triable summarily	10
Insert at the end of Table 2 with appropriate numbering:	11
Part Offences under certain other Acts	12
Children and Young Persons (Care and Protection) Act 1998	13
An offence under section 227, 228 or 231 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> .	14
	15