

Passed by both Houses



New South Wales

# **Children (Criminal Proceedings) Amendment (Publication of Names) Bill 2007**

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2007*



New South Wales

## **Children (Criminal Proceedings) Amendment (Publication of Names) Bill 2007**

Act No , 2007

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An Act to amend the *Children (Criminal Proceedings) Act 1987* with respect to the prohibition against the publication and broadcasting of names in connection with criminal proceedings involving a child; and for related purposes.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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

**1 Name of Act**

This Act is the *Children (Criminal Proceedings) Amendment (Publication of Names) Act 2007*.

**2 Commencement**

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

**3 Amendment of Children (Criminal Proceedings) Act 1987 No 55**

The *Children (Criminal Proceedings) Act 1987* is amended as set out in Schedule 1.

**4 Consequential amendment of Children and Young Persons (Care and Protection) Act 1998 No 157**

The *Children and Young Persons (Care and Protection) Act 1998* is amended as set out in Schedule 2.

**5 Repeal of Act**

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

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## Schedule 1      Amendment of Children (Criminal Proceedings) Act 1987

(Section 3)

**[1] Section 3 Definitions**

Insert “(except in section 11)” after “includes” in the definition of *parent* in section 3 (1).

**[2] Section 11 Publication and broadcasting of names**

Insert at the end of section 11 (4) (c):

, or

- (d) the publication or broadcasting of the name of a deceased child with the consent of a senior available next of kin of the child, but only if it appears to the senior available next of kin, after making such inquiries as are reasonable in the circumstances, that no other senior available next of kin objects to the publication or broadcasting of the name.

**[3] Section 11 (4F) and (4G)**

Insert after section 11 (4E):

- (4F) A senior available next of kin who is charged with, or is convicted of, an offence to which the criminal proceedings concerned relate cannot give consent, or object, to the publication or broadcasting of the name of a deceased child as referred to in subsection (4) (d).
- (4G) In considering whether to give consent to the publication or broadcasting of the name of a deceased child as referred to in subsection (4) (d), a senior available next of kin must, if the publication or broadcasting of the name of a brother or sister of the deceased child is prohibited under subsection (1) (d):
  - (a) make such inquiries as are reasonable in the circumstances to obtain the views of that brother or sister regarding the publication or broadcasting of the name of the deceased child, and
  - (b) take into account the impact of such a publication or broadcasting on that brother or sister.

**[4] Section 11 (7)**

Insert after section 11 (6):

- (7) In this section, *senior available next of kin* of a deceased child means:
- (a) a parent of the child, or
  - (b) if the parents of the child are dead, cannot be found, or for some other reason cannot exercise their parental responsibilities to the child:
    - (i) a person who, immediately before the death of the child, had parental responsibility (within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*) for the child, or
    - (ii) in the case of a child who was in the care of the Director-General of the Department of Community Services immediately before his or her death—the Director-General.

**[5] Schedule 2 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Children (Criminal Proceedings) Amendment (Publication of Names) Act 2007*

**[6] Schedule 2, Part 13**

Insert at the end of the Schedule:

**Part 13 Children (Criminal Proceedings)  
Amendment (Publication of Names) Act  
2007**

**17 Publication and broadcasting of names**

Section 11, as amended by the *Children (Criminal Proceedings) Amendment (Publication of Names) Act 2007*, applies in relation to proceedings whether commenced before or after the commencement of that Act.

**18 Publication and broadcasting of names previously published or broadcast**

Section 11 does not apply to the publication or broadcast of the names of the following persons in connection with criminal proceedings:

- (a) the name of a person that had been published or broadcast before 21 December 2001 (the date on which that section was amended by the *Criminal Legislation Amendment Act 2001*), being a person who was not a child at the time of the publication or broadcast,
- (b) the name of a person that had been published or broadcast before 24 March 2004 (the date on which that section was amended by the *Crimes Legislation Amendment Act 2004*), being a person who was deceased at the time of the publication or broadcast.

## **Schedule 2      Amendment of Children and Young Persons (Care and Protection) Act 1998**

(Section 4)

### **Section 105 Publication of names and identifying information**

Insert after section 105 (5):

- (6) This section does not apply in relation to criminal proceedings.  
**Note.** See section 11 of the *Children (Criminal Proceedings) Act 1987*.