

CHILD WELFARE (AMENDMENT) BILL, 1981

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Crimes (Sexual Assault) Amendment Bill, 1981.

The object of this Bill is to amend the Child Welfare Act, 1939, so as—

- (a) to provide that the same prohibition against a children's court dealing summarily with an offence punishable by death or penal servitude for life shall apply in respect of an offence under the proposed section 61B of the Crimes Act, 1900 (sexual assault category 1) (Schedule 1 (1)); and
 - (b) to provide that a child or young person who is charged with an indictable offence other than those referred to in paragraph (a) may be committed to trial not only in the discretion of the children's court before which he is charged but also at his own election (Schedule 1 (2)).
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(1) The first part of the document is a letter from the Secretary of the Department of Health and Social Security to the Chairman of the Committee on the Health of the Nation. The letter is dated 15th July 1981 and is addressed to the Chairman of the Committee on the Health of the Nation, 10 Downing Street, London SW1A 2AA.

(2) The second part of the document is a copy of the letter from the Chairman of the Committee on the Health of the Nation to the Secretary of the Department of Health and Social Security, dated 22nd July 1981. The letter is addressed to the Secretary of the Department of Health and Social Security, 1 Whitehall, London SW1A 2HQ.

(3) The third part of the document is a copy of the letter from the Secretary of the Department of Health and Social Security to the Chairman of the Committee on the Health of the Nation, dated 29th July 1981. The letter is addressed to the Chairman of the Committee on the Health of the Nation, 10 Downing Street, London SW1A 2AA.

(4) The fourth part of the document is a copy of the letter from the Chairman of the Committee on the Health of the Nation to the Secretary of the Department of Health and Social Security, dated 5th August 1981. The letter is addressed to the Secretary of the Department of Health and Social Security, 1 Whitehall, London SW1A 2HQ.

(5) The fifth part of the document is a copy of the letter from the Secretary of the Department of Health and Social Security to the Chairman of the Committee on the Health of the Nation, dated 12th August 1981. The letter is addressed to the Chairman of the Committee on the Health of the Nation, 10 Downing Street, London SW1A 2AA.

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CHILD WELFARE (AMENDMENT) BILL, 1981

No. , 1981.

A BILL FOR

An Act to amend the Child Welfare Act, 1939, with respect to the committal of children and young persons to trial.

[Mr WRAN—18 March, 1981.]

Child Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 Short title.

1. This Act may be cited as the "Child Welfare (Amendment) Act, 1981".

Commencement.

2. (1) Except as provided in subsection (2), this Act shall commence 10 on the date of assent to this Act.

(2) Section 3 and Schedule 1 shall commence on the day appointed and notified under section 2 (2) of the Crimes (Sexual Assault) Amendment Act, 1981.

Amendment of Act No. 17, 1939.

15 **3.** The Child Welfare Act, 1939, is amended in the manner set forth in Schedule 1.

Child Welfare (Amendment).

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE CHILD WELFARE ACT, 1939.

- 5 (1) (a) Sections 12 (1) (b), 83 (2) and (3), 86 (1), 87 (1) and (2)
(a)—
Omit “rape or” wherever occurring.
- (b) Sections 12 (1) (b), 83 (2) and (3), 86 (1), 87 (1) and (2)
(a)—
10 After “life” wherever occurring, insert “, an offence under
section 61B of the Crimes Act, 1900, or the offence of attempt-
ing to commit an offence under that section”.
- (2) Section 86 (2), (2A)—
Omit section 86 (2), insert instead :—
- 15 (2) Where a child or young person is charged before a court
with an indictable offence, other than an offence referred to in
subsection (1) or in section 501 (1) of the Crimes Act, 1900, and—
- (a) at any time in the course of the proceedings relating to
the offence the child or young person informs the court
that he wishes to take his trial according to law; or
- 20 (b) after all the evidence for the prosecution has been taken,
the court is of the opinion that—
- (i) a prima facie case has been made out; and
- (ii) the charge may not be properly disposed of in a
summary manner,
- 25 and the court informs the child or young person that it
is of that opinion,
- the proceedings in relation to the charge shall not continue in a
summary manner but the provisions of the Justices Act, 1902, as
applied by section 19, apply in relation to the proceedings.

Child Welfare (Amendment).

SCHEDULE 1—*continued.*

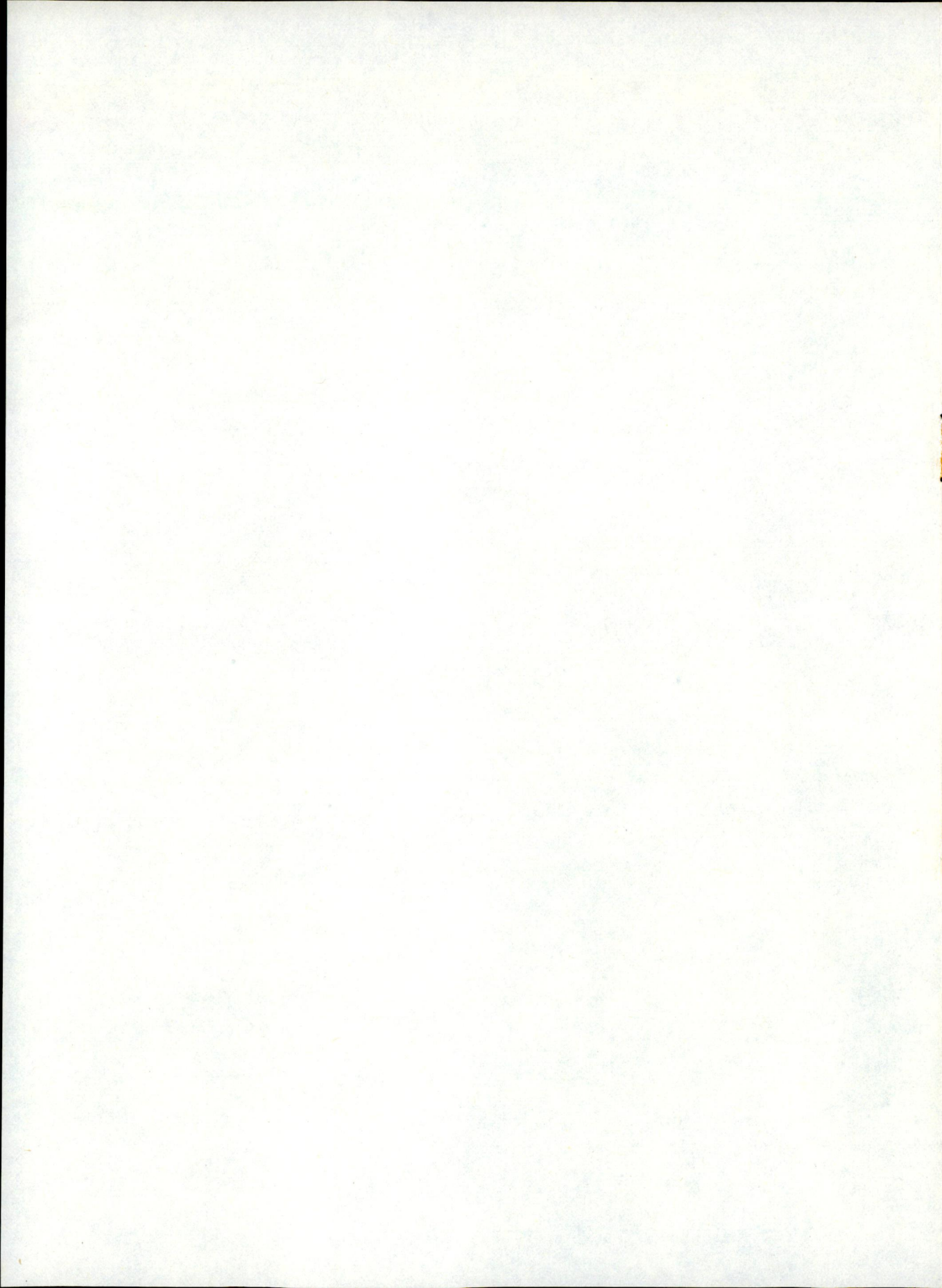
AMENDMENTS TO THE CHILD WELFARE ACT, 1939—*continued.*

5 (2A) Where, in the circumstances referred to in subsection (2) (b), a court commits a child or young person to take his trial according to law, the court shall forthwith submit to the Attorney General and the Minister a statement of the reasons for its decision to do so.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

(20c)



CHILD WELFARE (AMENDMENT) BILL

Schedule of the amendments referred to in Legislative Council's
Message of 9 April, 1981.

No. 1.—Page 4, Schedule 1, line 5. *Omit* “submit to”, *insert* “**furnish the child or young person,**”.

No. 2.—Page 4, Schedule 1, line 6. *After* “Minister”, *insert* “**with**”.

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CHILD WELFARE (AMENDMENT) BILL

Schedule of the amendments proposed to the Legislative Council's
Message of 7 April 1981.

No. 1—Page 4, Schedule 1, line 10, "young person" shall be substituted for "young person".

No. 2—Page 4, Schedule 1, line 11, "young person" shall be substituted for "young person".

CHILD WELFARE (AMENDMENT) ACT, 1981, No. 43

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 43, 1981.

An Act to amend the Child Welfare Act, 1939, with respect to the committal of children and young persons to trial. [Assented to, 15th May, 1981.]

Child Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the "Child Welfare (Amendment) Act, 1981".

Commencement.

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 3 and Schedule 1 shall commence on the day appointed and notified under section 2 (2) of the Crimes (Sexual Assault) Amendment Act, 1981.

Amendment of Act No. 17, 1939.

3. The Child Welfare Act, 1939, is amended in the manner set forth in Schedule 1.

Child Welfare (Amendment).

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE CHILD WELFARE ACT, 1939.

- (1) (a) Sections 12 (1) (b), 83 (2) and (3), 86 (1), 87 (1) and (2)
(a)—

Omit "rape or" wherever occurring.

- (b) Sections 12 (1) (b), 83 (2) and (3), 86 (1), 87 (1) and (2)
(a)—

After "life" wherever occurring, insert " , an offence under section 61B of the Crimes Act, 1900, or the offence of attempting to commit an offence under that section".

- (2) Section 86 (2), (2A)—

Omit section 86 (2), insert instead :—

(2) Where a child or young person is charged before a court with an indictable offence, other than an offence referred to in subsection (1) or in section 501 (1) of the Crimes Act, 1900, and—

(a) at any time in the course of the proceedings relating to the offence the child or young person informs the court that he wishes to take his trial according to law; or

(b) after all the evidence for the prosecution has been taken, the court is of the opinion that—

(i) a prima facie case has been made out; and

(ii) the charge may not be properly disposed of in a summary manner,

and the court informs the child or young person that it is of that opinion,

the proceedings in relation to the charge shall not continue in a summary manner but the provisions of the Justices Act, 1902, as applied by section 19, apply in relation to the proceedings.

Child Welfare (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CHILD WELFARE ACT, 1939—*continued.*

(2A) Where, in the circumstances referred to in subsection (2) (b), a court commits a child or young person to take his trial according to law, the court shall forthwith furnish the child or young person the Attorney General and the Minister with a statement of the reasons for its decision to do so.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 15th May, 1981.*