

Youthful Offenders, Destitute and Neglected Children's Act 1896, Tasmania

1896 – 1918

Other Names: • Neglected Children and Youthful Offenders Act

URL: http://www.austlii.edu.au/au/legis/tas/num_act/tyodanca189660vn24573/

Details

The Youthful Offenders, Destitute and Neglected Children's Act also known by its full title "An Act to consolidate and amend the Law relating to Destitute Children and Youthful Offenders, and to make further provision for the Care and Control of neglected Children" (Act no.60 Vict. No.24) provided for the establishment of a Neglected Children's Department to manage the boarding out and apprenticeship systems. The Secretary of the Department was the guardian of all children committed to its care and decided whether they would be placed in an institution or in the boarding out and apprenticeship systems. The Act also widened the categories of neglect set out in the Industrial Schools Act of 1867 (Act no.31 Vict. No.37). The Youthful Offender, Destitute and Neglected Children Act 1896 was repealed by The Children of the State Act (Act no. 9 Geo. V No.15) on 22 November 1918.

The framers of the new Act drew on the Industrial Schools Act 1867 for a definition of neglect. According to it, children were neglected if they were 'found begging or receiving alms'; 'found wandering and not having any home or settled place of abode, or proper guardianship or visible means of subsistence'; or were 'destitute' because they were an orphan or their only living parent was in gaol. This definition's origin in vagrancy laws explains why both Acts provided for children to be charged with their own neglect.

The new Act expanded the definition of neglect to include children whose parents were both 'habitual drunkards', who were living with a person convicted of vagrancy and not 'properly' cared for, a girl found 'soliciting men or otherwise behaving in an indecent manner in any street or public place', a child under ten in 'casual' employment, and a child who had committed an offence that was not a felony or punishable by imprisonment. Children under fifteen living in a brothel or with a prostitute could also be committed. The Woman's Christian Temperance Union had pushed hard for clauses to protect girls from sexual abuse and all children from alcoholic parents or guardians and most of these clauses reflect their concerns.

Children who were apparently neglected could be arrested by a member of the public without a warrant and brought before a magistrate.

Children's right to Habeas Corpus was suspended by placing them in the guardianship of the Secretary of the Neglected Children's Department.

Anyone, including parents, who tried to communicate with a state ward without permission could be fined up to £20.

Parents were liable to pay their children's maintenance.

The Act provided for committees to manage the boarding out and apprenticeship systems but this did not happen. The Central Boarding Out Committee, established in 1881, disappeared in 1898 following a dispute with the first Secretary of the Department, George Richardson. After that, the public servants at the Department managed the systems.

The Act did not make enough provision for committing children who were destitute which meant that officials at the Neglected Children's Department had to persuade their parents to surrender them as 'uncontrollable'.

Since cruelty to children was dealt with by the *Prevention of Cruelty to and Better Protection of Children Act* (1895), the 1896 Act did not address it. That meant that few children were committed to the Neglected Children's Department because they had been abused. Those that were had usually become homeless because the abuser was their parent or guardian and had been sent to gaol.

Certified Children's Homes was the name given to institutions run by voluntary organisations and run by the Tasmanian government. According to section 48 of the 1896 *Youthful Offenders, Destitute and Neglected Children Act*, industrial schools could be certified:

The Minister may, upon the application of the Governors of an Industrial School, examine into the conditions and regulations thereof, and may by writing under his hand certify that such School is fitted for the reception of such children as may be sent there in pursuance of this Act; and thereupon the School shall be deemed a certified Industrial School.

Section 52 made a similar provision for training schools:

The Minister may, upon the application of the Managers of any Training School for the better training of youthful offenders, examine into the condition and regulation of the School, and may, by writing under his hand, certify that such School is fitted for the reception of youthful offenders as may be sent there in pursuance of this Act, and the same shall be deemed a certified Training School. No substantial alteration shall be made in or to the buildings of any Training School without the approval in writing of the Minister.

The Secretary of the Neglected Children's Department could, with the Minister's approval, transfer the guardianship of children he placed in a certified industrial or training school from himself to the Managers of that institution.

'Street children' as a term appeared in the press in the 1890s when alarm about unsupervised children working, playing, and creating mischief in Hobart's Elizabeth Street contributed to the introduction of the 1896 *Youthful Offenders, Destitute and Neglected Children's Act*. Concern about street children reappeared sporadically throughout the twentieth century. In Tasmania, at the turn of the twenty-first century, public concern once again centred on the behaviour of teenagers in the same spot, now known as the Elizabeth Street Mall.

The Women's Christian Temperance Union (WCTU), established in Tasmania in 1885, campaigned to remove children, especially girls, from the streets and were instrumental in the passage of the *Youthful Offenders, Destitute and Neglected Children's Act* 1896.

In 1896, WCTU leader, Annie Blair 'deplored the wretched homes from which these poor waifs come and [found] that drunkenness and impurity reign, instead of these poor children being shielded by their parents, they are in many cases driven to sin'.

Members of the Union believed that these children should be removed from their homes and placed with foster mothers. Grace Soltau, their first leader said that:

The care of a motherly woman, the discipline of a father's presence, the contact with boys and girls, in fact the whole circumstances of a natural family life – which is the divine institution – are much more helpful to most children, especially the more degraded ones, than the best school is.

More info

Chronology

- Industrial Schools Act 1867, Tasmania (1867 - 1896)
- Destitute Children Act 1875, Tasmania (1875 - 1896)
 - **Youthful Offenders, Destitute and Neglected Children's Act 1896, Tasmania (1896 – 1918)**
 - The Children of the State Act 1918, Tasmania (1918 - 1936)
 - Infants' Welfare Act 1935, Tasmania (1935 - 1961)
 - Child Welfare Act 1960, Tasmania (1960 - 2003)
 - Children, Young Persons and Their Families Act 1997, Tasmania (2000 - current)

Related Entries

Related Organisations

- [Neglected Children's Department, State of Tasmania \(1901 - 1918\)](#)
The *Youthful Offenders, Destitute and Neglected Children's Act* established the Neglected Children's Department.
- [Children's Protection Society \(1903 - 1920?\)](#)
The members of the Children's Protection Society worked to reform the Youthful Offenders, Destitute and Neglected Children's Act.

Is amended by

- [Youthful Offenders Destitute and Neglected Children's Amendment Act 1905, Tasmania \(1905 - 1918\)](#)

Related Legislation

- [Prevention of Cruelty to and Better Protection of Children Act 1895, Tasmania \(1895 - 1936\)](#)
Cruelty to children was dealt with by the *Prevention of Cruelty to and Better Protection of Children Act* (1895). This meant that the *Youthful Offenders, Destitute and Neglected Children's Act* did not address it.

Resources

- Evans, Caroline, [Landmarks in Mothering: Tasmanian Child Welfare Legislation, 1895-1918](#), Australia and New Zealand Legal History E-Journal, 2006
- Pearce, Vicki, *'A few viragos on an old stump': the womanhood suffrage campaign in Tasmania, 1880-1920*, Tasmanian Historical Research Association: papers and proceedings, 1985
- Evans, Caroline, *'Poor wand'rers': Tasmanian street children and social policy in the 1890s*, Tasmanian Historical Studies, 1998
- Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), [To Remove and Protect](#), 2014

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