

Child Welfare Act Amendment Act 1952, Western Australia

1952 – 2006

URL: https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_7225_homepage.html

Details

The *Child Welfare Act Amendment Act 1952* amended the *Child Welfare Act 1947* to increase the power of authorities to make children wards of the State. Changes were made to the definition of destitute and neglected children and to the definition of 'ward' (s.2) and it became an offence to try and prevent an officer of the Child Welfare Department (CWD) from inspecting premises where there was a reasonable belief that a destitute or neglected child was living (s.8). A destitute child for whom there was no 'positive evidence' of a name could be given a new name (s.5) and children could be committed by the courts to the care of the CWD for a specified period of time (s.3). The Act was repealed by the *Children and Community Services Act 2004*.

The *Child Welfare Act Amendment Act 1952* amended the *Child Welfare Act 1947*. Many of the amendments increased the power of authorities to take a child into the 'care' of the State.

The 1952 amendments changed the definition of 'destitute child' (s2.b.b) to enable children who had been placed in institutions by their near relatives, but whose near relatives had thereafter refused to pay maintenance for the child, to be declared destitute or neglected and be made wards of the State(ss.3-4).

In explaining this amendment to the Legislative Council the Hon. Sir Charles Latham MLC (*Hansard*, 14 October 1952, p.1298), said that 'the present definition cannot be applied to a child that has been placed in an institution by his parents, who then fail to pay the institution for him and eventually disappear...frequently the institution authorities have asked the Child Welfare Department to have these deserted children made wards of the State. This, however, cannot be done as the children are not destitute according to the Act. The amendment will enable the children to be committed to the care of the department, which will then pay the institution for their upkeep...'.

The definition of 'neglected child' was also amended (s.2c) to include children whose living conditions placed them in 'mental, physical or moral' danger. Latham (p.1298) explained the Government's reason for this amendment: 'There are grave doubts that the existing definitions of "neglected child" are not adequate to permit the committal to the care of the State of children whose environment and upbringing are detrimental to its welfare. The purpose of the amendment is to place the matter beyond reasonable doubt'.

The definition of 'ward' was extended (s.2d) to children who were released from an institution on parole to parents before the end of their committal period. According to Latham (p.1298), there was doubt whether the existing definition of a ward ('a child who, under the Act, is placed in an institution, or is apprenticed, boarded out or placed out') was sufficient. Latham said that this definition did not cover 'a child who is committed to an institution by the Children's Court, but who is immediately released to its parents on good behaviour. In such a case the child is really a ward on parole and the Child Welfare Department is required to see that the child's subsequent behaviour warrants the tolerant attitude of the court. Under the present definition it appears possible that the child's committal could be challenged and it is for this reason that a new definition is considered necessary.'

Another amendment enabled children to be committed by the courts to the care of the department for a specified period of time (s.3). Latham (p.1298) explained: 'At present the court can commit a child to an institution, or release it on probation under the supervision of the Child Welfare Department for any period up to the child's 18th birthday. However, in cases where the court commits a child to the care of the department, the Act specifies no particular term. This is rectified by the Bill...it provides the machinery necessary to obtain the committal of the child' who has been deemed destitute or neglected under the earlier amendments. 'It throws the onus on the institution or the department to first take all steps to trace the parents or relatives of the child, and to obtain payment for the child's maintenance. If this action is unsuccessful the court may then be asked to commit the child to the care of the department'.

Destitute children for whom there was no 'positive evidence' of a name (s.5) could be given a name by the department under the amended legislation. It was, according to Latham (p.1298) 'considered necessary in order that an abandoned child whose name cannot be ascertained can be provided with one. The amendment will enable the Child Welfare Department to bestow a name on the child and to alter it if, in due course, the child's correct name is discovered.'

Officers of the department (s.8) were also permitted to enter and inspect the premises where a destitute or neglected child was presumed to live as a result of the amendments. This was deemed necessary, said Latham (p.1299), because it had 'occurred several times that officers of the department have been refused access to premises where it has been necessary to remove a neglected or destitute child, and the amendment is designed to overcome such as state of affairs.'

The *Child Welfare Act Amendment Act 1952* was repealed by the *Children and Community Services Act 2004*.

More info

Related Entries

Related Organisations

- [Child Welfare Department, State of Western Australia \(22 December 1927 - 15 June 1972\)](#)

The Child Welfare Department was given additional authority through the *Child Welfare Act Amendment Act 1952*

Amends

- [Child Welfare Act 1947, Western Australia \(1948 - 2006\)](#)

Resources

- Foster, Darren J, [Submission No 347 to the Senate Inquiry into Children in Institutional Care](#), 3 April 2004.
Relevance: The amendments broadened the definition of 'neglect' and more children were brought into care as a result, according to Foster in Submission No. 347 to the Inquiry into Children in Institutional Care

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