

Queensland



**JUVENILE JUSTICE
LEGISLATION
AMENDMENT ACT 1996**

Act No. 22 of 1996

Queensland



**JUVENILE JUSTICE LEGISLATION
AMENDMENT ACT 1996**

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MINOR AMENDMENTS OF JUVENILE JUSTICE ACT 1992

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PROVISIONS COMMENCING ON DAY FIXED BY PROCLAMATION

Queensland



Juvenile Justice Legislation Amendment Act 1996

Act No. 22 of 1996

An Act to amend the *Juvenile Justice Act 1992*, the *Corrective Services (Administration) Act 1988* and for other purposes

[Assented to 15 August 1996]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Juvenile Justice Legislation Amendment Act 1996*.

Commencement

2. The provisions mentioned in schedule 3 commence on a day fixed by proclamation.

PART 2—AMENDMENT OF JUVENILE JUSTICE ACT 1992

Act amended by pt 2 and sch 1

3. This part and schedule 1 amend the *Juvenile Justice Act 1992*.

Amendment of s 4 (Principles of juvenile justice)

4.(1) Section 4, before paragraph (a)—

insert—

‘(aa)the community must be protected from offences; and’.

(2) Section 4(e)(ii), ‘punished’—

omit, insert—

‘dealt with’.

(3) Section 4(e)—*insert—*

‘(iii) dealt with in a way that strengthens the child’s family; and’.

(4) Section 4—*insert—*

‘(ea) a victim of an offence committed by a child should be given the opportunity to participate in the process of dealing with the child for the offence in a way allowed by the law; and

(eb) a parent of a child should be encouraged to fulfil the parent’s responsibility for the care and supervision of the child, and supported in the parent’s efforts to fulfil this responsibility; and’.

(5) Section 4(aa) to (g)—*renumber* as section 4 (a) to (j).**Amendment of s 5 (Definitions)**

5.(1) Section 5, definitions **“caution”**, **“Commissioner”**, **“community service”** and **“non-life offence”**—

*omit.***(2)** Section 5—*insert—*

‘**“approved form”** see section 227.

“caution” see part 1C, division 1.

“commission” means the Queensland Corrective Service Commission.

“community conference agreement” see section 18E(3).

“community conference convenor” see section 18B.

“community service” means activities decided to be community service under section 224A.¹

“convenor” means a community conference convenor.

¹ Section 224A (Programs and services for children)

“**detainee**”, for a proceeding or application, means a person who is, or was until the person’s appearance before a court for the proceeding or application, in the commission’s custody under this Act, other than a person serving a term of imprisonment under this Act.

“**disclosable caution**” see sections 18N and 18O.

“**disclosable community conference agreement**” see sections 18N and 18O.

“**fixed release order**” see section 189.

“**officer**” of the commission, see the *Corrective Services (Administration) Act 1988*, section 6.²

“**parole**” means parole under the *Corrective Services Act 1988*, part 4.³

“**personal offence**” means an offence relating to the person of another.

“**penalty unit**” see *Penalties and Sentences Act 1992*, section 5.⁴

“**property offence**” means an offence relating to property.

“**referring court**” for an offence referred to a community conference—see section 18C(b).

“**referring police officer**” for an offence referred to a community conference—see section 18C(a).

“**seven year offence**” means a life offence or an offence of a type, that if committed by an adult, would make the adult liable to imprisonment for 7 years or more.

“**State**” includes a Territory.

“**supreme court offence**” see section 69.’.

² *Corrective Services (Administration) Act 1988*, section 6, definition “officer”—
“**officer**” engaged or appointed by the commission means a person employed on the basis of full-time employment or part-time employment.’.

³ *Corrective Services Act 1988*, part 4 (Parole)

⁴ *Penalties and Sentences Act 1992*, section 5 (Meaning of penalty unit)

(3) Section 5, definition “**legal practitioner**”—

insert—

‘(c) a person mentioned in section 229(2)⁵ acting for a party.’.

Amendment of s 8 (Meaning of “serious offence”)

6. Section 8(2)—

omit, insert—

‘**(2)** An offence is not a serious offence if it is of a type that, if committed by an adult, may be dealt with summarily under—

(a) the Criminal Code, section 443(1)(eb) or (i);⁶ or

(b) the *Drugs Misuse Act 1986*, section 13.⁷’.

Insertion of new pt 1A

7. After section 9—

insert—

‘PART 1A—ADMINISTRATION

‘Explanation about Act’s administration

‘**9A.(1)** This Act is administered through departments and the commission.

‘**(2)** The involvement of the commission is expressly mentioned in this Act and in the *Corrective Services (Administration) Act 1988*.

‘**(3)** The Minister responsible for this part’s administration is responsible for the Act’s development as a whole, particularly for the way it affects the administration of justice.

⁵ Section 229(2) (Proceeding for offence)

⁶ Criminal Code, section 443(1)(eb) or (i) (Indictable offences which may be dealt with summarily)

⁷ *Drugs Misuse Act 1986*, section 13 (Certain offences may be dealt with summarily)

‘(4) For subsection (3), the Minister may require the commission to provide—

- (a) information it has relevant to the Act’s effectiveness; and
- (b) access to detention centres and other places controlled by the commission for genuine researchers seeking information on a voluntary basis.

‘Delegations

‘9B.(1) The chief executive of a department may delegate to the commission or to an officer of the public service or the commission a power conferred on that chief executive under this Act.

‘(2) The commission may delegate to a chief executive of a department or to an officer of the commission or the public service a power conferred on the commission under this Act.

‘(3) A power delegated to the commission or a chief executive of a department may be subdelegated by the commission or that chief executive.

‘(4) Subsections (1) to (3) apply to a power subject to any written direction of the Minister responsible for the administration of the provision under which the power is conferred.

‘(5) This section does not limit a power of delegation conferred on a chief executive of a department or the commission by another Act.

‘Appearances by chief executive and commission

‘9C.(1) This section applies to a provision of this Act about a proceeding or application that states a chief executive may appear or, if a detainee is involved, the commission may appear.

‘(2) It is declared that the entitlement of the commission to appear does not affect the entitlement to appear of the chief executive mentioned in the provision.’.

Insertion of new pts 1B and 1C

8. Before part 2—

insert—

‘PART 1B—INVESTIGATION PROVISIONS***‘Division 2—Fingerprints and palmprints*****‘Application by police officer for permission to take child’s identifying particular**

‘**10.(1)** This section applies if a child has been charged, without being arrested, with an indictable offence or an offence against any of the following Acts that is an arrest offence—

- (a) the Criminal Code;
- (b) the *Drugs Misuse Act 1986*;
- (c) the *Police Service Administration Act 1990*;
- (d) the *Regulatory Offences Act 1985*;
- (e) the *Vagrants, Gaming and Other Offences Act 1931*;
- (f) the *Weapons Act 1990*.

‘**(2)** A police officer (the “**applicant**”) may apply to a Childrens Court Magistrate (the “**court**”) to have an identifying particular of the child taken.

‘**(3)** The applicant must give notice of the application to—

- (a) the child; and
- (b) a parent of the child, unless a parent can not be found after reasonable inquiry; and
- (c) the chief executive; and
- (d) the commission, if the child is a detainee.

‘**(4)** The court may decide the application in the absence of a person mentioned in subsection (3), if the court is satisfied that subsection (3) has been complied with.

‘**(5)** On the application—

- (a) the applicant and anyone mentioned in subsection (3) is entitled to be heard and to provide evidence; and
- (b) the court may act on statements of information and belief.

‘(6) The court may order the identifying particular to be taken if it is satisfied, on the balance of probabilities, of all the following facts—

- (a) someone has committed the charged offence;
- (b) there is evidence of an identifying particular of the offender that is of the same type as the identifying particular the applicant seeks to have taken from the child;
- (c) the child is reasonably suspected of being the offender;
- (d) the order is necessary for the proper conduct of the investigation of the offence.

‘(7) The order must state the investigation for which the order is made.

‘(8) If the child will not be in custody when the particular is taken, the order must require the child to report to a police station as directed under the order to have the identifying particular taken.

‘(9) A child must not contravene the order.

Maximum penalty—10 penalty units.

‘(10) A child who commits an offence against subsection (9) may be arrested without warrant.

‘(11) If the child will be in custody when the particular is taken, the order must require the particular to be taken at the place the child is held in custody.

‘(12) A police officer may use reasonable force to take the identifying particular under the order.

‘(13) This section is subject to section 10A.⁸

‘(14) In this section—

“**charged offence**” means the offence with which the child is charged or an offence arising out of the same, or same set of, circumstances.

⁸ Section 10A (Another person must be present when identifying particular is taken)

“identifying particular” means fingerprints or palmprints.

“parent”, of a child, includes someone who is apparently a parent of the child.

‘Another person must be present when identifying particular is taken

‘10A.(1) In a proceeding for an offence, a court must not admit into evidence against a defendant an identifying particular taken from the defendant under section 10⁹ unless the court is satisfied a person mentioned in subsection (2) was present when the identifying particular was given.

‘(2) The person required to be present is—

- (a) a parent of the child; or
- (b) a legal practitioner acting for the child; or
- (c) a person acting for the child who is employed by an agency whose primary purpose is to provide legal services; or
- (d) a justice of the peace other than—
 - (i) a justice of the peace who is a member of the Queensland Police Service; or
 - (ii) a justice of the peace (commissioner for declarations); or
- (e) an adult nominated by the child.

‘(3) Subsection (1) does not apply if—

- (a) the prosecution satisfies the court there was proper and sufficient reason for the absence of a person mentioned in subsection (2) when the particular was taken; and
- (b) the court considers that, in the particular circumstances, the particular should be admitted into evidence.

‘(4) This section does not require that a police officer permit or cause to be present when the identifying particular is taken a person whom the police officer suspects on reasonable grounds—

- (a) is an accomplice of the child; or

⁹ Section 10 (Application by police officer for permission to take child’s identifying particular)

(b) is, or is likely to become, an accessory after the fact;
for the offence or another offence under investigation.

‘(5) This section does not limit the power of a court to exclude evidence from admission in a proceeding.

‘Destruction of identifying particular taken under court order

‘10B.(1) An identifying particular taken from a child under an order under section 10¹⁰ must be destroyed if the investigation for which the order was made does not result in a sentence order being made.

‘(2) For subsection (1), the destruction must happen within 7 days of the following—

- (a) if the investigation is for an offence for which a proceeding had started when the order was made and the proceeding ends without a sentence order being made—the end of the proceeding;
- (b) if the investigation is for an offence for which a proceeding is started within 28 days after the order is made and the proceeding ends without a sentence order being made—the end of the proceeding;
- (c) if the investigation is for an offence for which a proceeding is not started within 28 days of the order—the end of the period of 28 days.

‘(3) An applicant who obtains an order to have an identifying particular taken from a child under section 10 must not fail to ensure the particular is destroyed under this section, unless the applicant has a reasonable excuse for failing to do so.

Maximum penalty—100 penalty units.

‘Division does not limit other provisions

‘10C. This division does not limit another Act under which someone’s fingerprints or palmprints may be taken.

¹⁰ Section 10 (Application by police officer for permission to take child’s identifying particular)

‘PART 1C—CAUTIONS AND COMMUNITY CONFERENCES

‘Division 2—Community conferences

‘Subdivision 1—Establishment of process and generally applicable provisions

‘Object of division and explanation

‘18A.(1) The object of this division is to establish a community conference process for a child who admits committing an offence to a police officer or after a finding of guilt for an offence is made against the child before a court.

‘(2) The process allows the child, a victim of the offence and the community to consider or deal with the offence in a way benefiting all concerned.

‘(3) The process involves the following steps—

- (a) a police officer or court refers the offence to a community conference;
- (b) a community conference convenor convenes a conference between the child and other concerned persons (see section 18D¹¹);
- (c) at the conference the offence is discussed and an agreement made on what must be done because of the offence.

‘(4) The benefits intended are—

- (a) the child may benefit by—
 - (i) meeting any victim and taking responsibility for the results of the offence in an appropriate way; and
 - (ii) having the opportunity to make restitution and pay compensation for the offence; and

¹¹ Section 18D (Who may participate in a community conference)

- (iii) taking responsibility for the way in which the conference deals with the offence; and
- (iv) having less involvement with the courts' criminal justice system; and
- (b) the victim may benefit by the opportunity—
 - (i) to meet and understand the child and understand why the offence was committed; and
 - (ii) to express the victim's concerns; and
 - (iii) to have questions answered; and
 - (iii) to influence the way in which the conference deals with the offence; and
 - (v) to encourage the child's sense of responsibility; and
- (c) the community may benefit by—
 - (i) fewer offences being committed because of effective early intervention by the community; and
 - (ii) less public cost from unnecessary involvement of the courts' criminal justice system; and
 - (iii) increasing resolution of disputes within the community without government intervention or legal proceedings.

'(5) In deciding whether it is appropriate to refer an offence to a community conference, a police officer or court must have regard to—

- (a) the offence's nature; and
- (b) the harm suffered by anyone because of the offence; and
- (c) whether the interests of the community and the child would be served by having the offence considered or dealt with in an informal way.

'(6) This subdivision provides for community conferences generally.

‘(7) Subdivision 2¹² has provisions for a community conference when an offence is referred by a police officer before the start of a proceeding for the offence.

‘(8) Part 5, division 1A¹³ has provisions for a community conference when an offence is referred by a court after a finding of guilt is made against a child for the offence.

‘Approval of community conference convenor

‘18B.(1) The chief executive may approve a person as a community conference convenor (a “convenor”).

‘(2) Before approving a person as a convenor, the chief executive must be satisfied the person has appropriate experience or training to be a convenor.

‘(3) The convenor of a particular community conference must be—

- (a) a person approved as a community conference convenor by the chief executive; and
- (b) independent of the circumstances of the offence.

‘Who may refer an offence to a community conference

‘18C. An offence may be referred to a community conference by—

- (a) a police officer under section 18H¹⁴ (the “referring police officer”); or
- (b) a court under part 5, division 1A (the “referring court”).

‘Who may participate in a community conference

‘18D. The participants in a community conference are as follows—

¹² Subdivision 2 (Reference by police officer before a proceeding starts)

¹³ Part 5 (Sentencing), division 1A (Court referred community conferences before sentencing)

¹⁴ Section 18H (Reference of offence to community conference by police officer)

- (a) the convenor;
- (b) the child and, at the child's request—
 - (i) a legal practitioner acting for the child; or
 - (ii) a member of the child's family; or
 - (iii) an adult nominated by the child;
- (c) at the request of any victim of the offence—the victim or a legal practitioner acting for the victim or a member of the victim's family;
- (d) a representative of—
 - (i) if the offence is referred to the conference by a police officer—the commissioner of the police service; or
 - (ii) if the offence is referred to the conference by a court—the prosecution in the proceeding for the offence;
- (e) another person decided by the convenor.

Example of paragraph (e)—

The convenor may decide a representative of the chief executive may participate in a conference if the community conference agreement may provide for the child to be subject to a program similar to one a child is subject to under a community service order or a probation order.

‘Conduct of community conference

‘18E.(1) A community conference must be convened and conducted by the convenor for the conference.

‘(2) All decisions made by the convenor necessary for the conduct of the conference must be respected by the participants.

‘(3) The conference must be directed towards making an agreement about the offence (the **“community conference agreement”**).

‘(4) The convenor may bring the conference to an end at any time if—

- (a) the child fails to attend the conference as required by the referring police officer or court; or
- (b) the convenor considers—

- (i) the offence unsuitable for a community conference; or
- (ii) an agreement will not be made within a time the convenor considers appropriate.

‘(5) Also, the conference ends if an agreement is made.

‘(6) The convenor must give the referring police officer or court a report about the outcome of the conference within 14 days of the conference’s end.

‘(7) The report must be in the approved form.

‘Form of community conference agreement

‘**18F.(1)** A community conference agreement about an offence must be in the approved form.

‘(2) The agreement must be agreed to and signed by—

- (a) the convenor; and
- (b) the child; and
- (c) a representative of—
 - (i) if the offence is referred to the conference by a police officer— the commissioner of the police service; or
 - (ii) if the offence is referred to the conference by a court—the prosecution in the proceeding for the offence;
- (d) if a victim of the offence participates in the conference—the victim.

‘(3) The agreement must contain provisions under which—

- (a) the child admits committing the offence; and
- (b) the child’s compliance with the agreement is monitored.

‘(4) The agreement may contain a provision about the following—

- (a) the making of restitution or payment of compensation;
- (b) an apology that must be made to a victim;
- (c) the child’s future conduct while a child;
- (d) a program mentioned in subsection (5);

(e) another matter the convenor considers appropriate.

‘(5) An agreement signed by the chief executive may provide for the child to be subject to a program similar to one a child is subject to under a community service order or a probation order.

‘(6) The agreement may not provide for the child to be treated more severely for the offence than if the child were sentenced by a court or in a way contravening the sentencing principles in section 109.¹⁵

‘(7) A copy of the agreement must be given immediately to each person who signs the agreement under subsection (2).

‘If chief executive signs agreement for program

‘18G.(1) This section applies if the chief executive signs a community conference agreement providing for a program similar to one a child is subject to under a community service order or a probation order.

‘(2) The chief executive may arrange the program and monitor the child’s participation.

‘(3) If the child fails to comply with the agreement’s requirements about the program, the chief executive may take no action or notify—

- (a) for an offence referred to the community conference by a police officer—the police officer; or
- (b) for an offence referred to the community conference by a court—the court’s proper officer.

‘Subdivision 2—Reference by police officer before a proceeding starts

‘Reference of offence to community conference by police officer

‘18H.(1) A police officer may refer the offence to a community conference before a proceeding is started for the offence, if—

- (a) the child admits committing the offence to the police officer; and
- (b) the victim consents, if there was a victim of the offence; and

¹⁵ Section 109 (Sentencing principles)

- (c) the police officer considers—
- (i) the referral is a more appropriate way of dealing with the offence than starting a proceeding; and
 - (ii) a caution is inappropriate and a proceeding for the offence would be appropriate if the reference were not made; and
 - (iii) a community conference convenor will be available for the community conference.

‘(2) The police officer may require the child to attend the community conference as directed by the police officer.

‘(3) However, if the convenor for the conference considers the offence unsuitable for a community conference, the convenor may decline to convene the conference by written notice given to the police officer.

‘(4) The notice must be in the form approved by the chief executive.

‘(5) The notice is taken to bring the conference to an end.

‘(6) The police officer must inform the child that the police officer has received the notice.

‘If an agreement is made on a referral by a police officer

‘18I. If a community conference agreement is made on the referral by the police officer, the child is then not liable to be prosecuted for the offence.

‘Powers of police officer if referral is unsuccessful or if child contravenes agreement

‘18J.(1) This section applies if—

- (a) the child fails to attend the community conference as directed by the police officer; or
- (b) the community conference ends without an agreement being made; or
- (c) the child contravenes an agreement made at the community conference.

‘(2) In considering what further action is appropriate, the police officer

must consider—

- (a) the matters mentioned in section 19(2);¹⁶ and
- (b) any participation by the child in the community conference; and
- (c) if an agreement was made at the conference—anything done by the child under the agreement.

‘(3) The police officer may—

- (a) take no action; or
- (b) administer a caution to the child; or
- (c) refer the offence to another community conference, with or without the same convenor; or
- (d) start a proceeding against the child for the offence.

‘Division 3—Confidentiality of cautions, community conference agreements and information from community conferences

‘Confidentiality of cautions and community conference agreements

‘18K.(1) This section applies if, for an offence committed by a child—

- (a) a caution is to be, or has been, administered to the child; or
- (b) the child makes a community conference agreement about an offence referred to a community conference by a police officer.

‘(2) A member of the Queensland Police Service must not give to anyone other than a member of the Queensland Police Service information likely to identify the child as a person to whom a caution is to be, or has been, administered, or who has entered into a community conference agreement.

Maximum penalty—100 penalty units.

‘(3) Subsection (2) does not prevent the information being given to—

- (a) a parent of the child; or

¹⁶ Section 19 (Police officer to consider alternatives to proceeding against child)

- (b) a complainant for the offence; or
- (c) the chief executive; or
- (d) a member of a police service of the Commonwealth or another State dealing with a child offender; or
- (e) a legal practitioner acting for the child; or
- (f) a court, or legal practitioner acting for a party in a proceeding in which the administration of the caution or the making of the community conference agreement is admissible in evidence; or
- (g) a person who has the function of investigating offences under an Act and who is dealing with a child offender; or
- (h) a person who is undertaking research approved by the commissioner of the police service; or
- (i) another person, for the purpose of this Act.

‘Confidentiality of information about community conference generally

‘18L.(1) For section 226,¹⁷ information gained by a community conference convenor in the conduct of a community conference is confidential information gained through the administration of this Act.

‘(2) The convenor may record, disclose or use the information if the convenor has a reasonable excuse for the recording, disclosure or use.

‘(3) It is a reasonable excuse if the recording, disclosure or use is—

- (a) for a report to a referring police officer or court under section 18E(6);¹⁸ or
- (b) with the agreement of all the parties to the community conference; or
- (c) for this or another Act; or
- (d) for statistical purposes without revealing, or being likely to reveal, the identity of a person to whom the information relates; or

¹⁷ Section 226 (Preservation of confidentiality)

¹⁸ Section 18E(6) (Conduct of community conference)

- (e) for an inquiry or proceeding about an offence happening in the conduct of a community conference.

‘(4) In this section—

“**conduct of a community conference**” includes all steps involved in establishing the conference and dealing with anything from the conference.

‘Division 4—Use in evidence of cautions, community conference agreements and information about community conferences

‘Admissibility of evidence of caution or community conference agreement

‘18M.(1) Evidence that a caution has been administered to a child or a community conference agreement has been made by a child is not admissible against the child in a proceeding taken against the child for an offence.

‘(2) Subsection (1) does not stop evidence of a caution being admitted against the child—

- (a) in a proceeding for which the caution is a disclosable caution; or
- (b) under section 18(2);¹⁹ or
- (c) in a proceeding in which the caution is admissible in evidence under an Act.

‘(3) Subsection (1) does not stop evidence of a community conference agreement being admitted against the child—

- (a) in a proceeding for which the agreement is a disclosable community conference agreement; or
- (b) in a proceeding in which the community conference agreement is admissible in evidence under an Act.

¹⁹ Section 18 (Childrens Court may dismiss charge if caution should have been administered)

‘Disclosable caution and community conference agreement—later childhood offence

‘18N.(1) This section applies to a person who—

- (a) as a child is administered a caution, or makes a community conference agreement, for a seven year offence committed by the child; and
- (b) after the caution is administered or the agreement is made, commits an offence as a child (the **“later childhood offence”**).

‘(2) For a proceeding for the later childhood offence—

- (a) the caution is a **“disclosable caution”**; and
- (b) the agreement is a **“disclosable community conference agreement”**.

‘Disclosable caution and community conference agreement—later adulthood offence

‘18O.(1) This section applies to a person who—

- (a) as a child is administered a caution, or makes a community conference agreement, for an offence committed by the person; and
- (b) is dealt with as a child for a second or later seven year offence; and
- (c) after being dealt with as a child for a second or later seven year offence commits an offence as an adult (the **“later adulthood offence”**).

‘(2) For a proceeding for the later adulthood offence—

- (a) the caution is a **“disclosable caution”**; and
- (b) the community conference agreement is a **“disclosable community conference agreement”**.

‘(3) It is immaterial—

- (a) whether the caution or agreement relied on for subsection (1)(a) was administered or made for the second or later seven year offence relied on for subsection (1)(b) or for another offence; and

- (b) whether the caution or agreement relied on for subsection (1)(a) was administered or made before or after the second or later seven year offence relied on for subsection (1)(b) was committed or dealt with.

‘(4) In this section—

“**dealt with**”, for an offence, includes the following—

- (a) being administered a caution for the offence;
- (b) making a community conference agreement for the offence;
- (c) dealt with on a finding of guilt.

“**second**” seven year offence of a child mentioned in subsection (1)(b) and (c), means a seven year offence the child commits after being dealt with for a seven year offence.

‘Use of information from community conference in evidence

‘**18P.(1)** Evidence of anything done or said, or an admission made, in the conduct of a community conference about an offence is inadmissible in any proceeding.

‘(2) However, evidence that would otherwise be excluded from admission in a proceeding because of subsection (1) is admissible in a proceeding if—

- (a) all the parties to the community conference agree to the admission of the evidence; or
- (b) the proceeding is under part 5, division 1A;²⁰ or
- (c) the evidence is admissible under this or another Act; or
- (d) the proceeding is about an offence happening in the conduct of the community conference.

²⁰ Part 5 (Sentencing), division 1A (Court referred community conferences before sentencing)

‘(3) In this section—

“**conduct of a community conference**” includes all steps involved in establishing the conference and dealing with anything from the conference.’.

Amendment of pt 2 heading (Cautions and start of proceedings)

9. Part 2, heading, ‘Cautions and’—

omit.

Amendment of s 10 (Police officer to consider alternatives to proceeding against child)

10.(1) Sections 10(1)—

insert—

‘(c) to refer the offence to a community conference.’.

(2) Section 10—

renumber as section 19.

Omission of s 18 (Confidentiality of cautions—admissibility)

11. Section 18—

omit.

Amendment of s 19 (Childrens Court may dismiss charge if caution should have been administered)

12.(1) Section 19—

insert—

‘(3) If the court dismisses a charge under subsection (1), the court may—

- (a) administer the caution to the child; or
- (b) direct that a caution be administered to the child as directed by the court.’.

(2) Section 19—

renumber as section 18.

Amendment of s 20 (Arrest and ex officio indictment power preserved)

13.(1) Section 20(1), ‘Sections 10’—

omit, insert—

‘Sections 19’

(2) Section 20(1)(a), ‘the proviso to section 42(1)’—

omit, insert—

‘section 42(1A)’.

(3) Section 20(1)(b), ‘life’—

omit, insert—

‘serious’.

(4) Section 20(2), ‘sections 10’—

omit, insert—

‘sections 19’.

(5) Section 20—

insert—

‘(4) Sections 19, 21 and 22²¹ do not apply to the arrest of a child by a police officer who believes on reasonable grounds that the child is an adult.

‘(5) In deciding whether the police officer had the reasonable grounds, a court may have regard to the child’s apparent age and the circumstances of the arrest.’.

²¹ Sections 19 (Police officer to consider alternatives to proceeding against child), 21 (Restriction on arrest of child) and 22 (Parent and chief executive must be advised of arrest of child)

Amendment of s 22 (Parent and chief executive must be advised of arrest of child)

14. Section 22—

insert—

‘(2) In this section—

“**parent**”, of a child, includes someone who is apparently a parent of the child.’.

Amendment of s 23 (Attendance notice may be issued for arrest offence)

15.(1) Section 23, heading, ‘arrest’—

omit.

(2) Section 23(2)—

omit, insert—

‘(2) If a police officer believes on reasonable grounds that a child has committed an offence, the police officer may serve an attendance notice on the child.’.

Amendment of s 28 (Parent and chief executive must be advised of service of attendance notice on child)

16. Section 28—

insert—

‘(2) In this section—

“**parent**”, of a child, includes someone who is apparently a parent of the child.’.

Amendment of s 32 (Service of complaint and summons if offender a child)

17.(1) Section 32(2)(a), after ‘child’—

insert—

‘, unless a parent can not be found after reasonable inquiry’.

(2) Section 32—

insert—

(5) In this section—

“parent”, of a child, includes someone who is apparently a parent of the child.’.

Amendment of s 41 (Custody of child pending court appearance)

18. Section 41, ‘chief executive’—

omit, insert—

‘commission’.

Amendment of s 43 (Custody of child if not released by court)

19.(1) Section 43, ‘chief executive’—

omit, insert—

‘commission’.

(2) Section 43(5), ‘chief executive’s’—

omit, insert—

‘commission’s’.

Amendment of s 48 (Application of part 4 of Mental Health Act 1974)

20. Section 48(2)(c) and (d)—

omit, insert—

‘(c) mention of the Community Corrections Board is taken to mean the commission.’.

Amendment of s 56 (Presence of parent required generally)

21. Section 56(1), ‘before the court’—

omit, insert—

‘before a court’.

Insertion of new s 56A

22. After section 56—

insert—

‘Court may order parent to attend

‘56A.(1) A court before which a child appears charged with an offence may order a parent of the child to attend the proceeding as directed by the court.

‘(2) The order may be made on the prosecution’s application or on the court’s initiative.

‘(3) The court may cause the proper officer of the court to give written notice to the parent to attend as directed.

‘(4) If requested by the proper officer, the commissioner of the police service must help the proper officer to give the notice.

‘(5) The court may recommend the chief executive provide financial assistance to the parent to ensure the parent’s attendance.

‘(6) A person must not contravene a notice given to the person under subsection (3).

Maximum penalty—50 penalty units.

‘(7) A court that makes an order under subsection (1) may adjourn the proceeding to allow the parent to attend.’.

Replacement of s 60 (Chief executive's right of audience generally)

23. Section 60—

omit, insert—

'Chief executive's and commission's rights of audience generally

'60.(1) This section applies to a proceeding before a court in which a child is charged with an offence.

'(2) The chief executive or, if the child is a detainee, the commission, is entitled to be heard by the court on matters mentioned in subsection (3), even though the chief executive or commission is not a party to the proceeding.

'(3) The matters are—

- (a) adjournment of the proceeding; and
- (b) matters relating to the custody or release from custody of the child pending completion of the proceeding; and
- (c) sentence orders that may be made against the child; and
- (d) without limiting paragraphs (a) to (c), matters on which the court considers the chief executive or commission should be heard.

'(4) If the chief executive or commission is a party to the proceeding, the chief executive or commission may appear and be represented by an officer of the department or commission.'

Amendment of s 67 (Use of adduced evidence after change of procedure)

24. Section 67(1)—

insert—

- '(d)** a decision of a court to continue or hear a proceeding in its concurrent jurisdiction under division 9.²².

²² Division 9 (Child offenders who become adults)

Replacement of ss 68 and 69

25. Section 68 and 69—

omit, insert—

‘Subdivision 1—Application

‘Application of div 2

‘68. This division applies to a proceeding in which a child is charged with a serious offence.

‘Subdivision 2—Procedure if the serious offence is a supreme court offence

‘Meaning of “supreme court offence”

‘69. A “supreme court offence” is an offence that a District Court does not have jurisdiction to try because of the *District Court Act 1967*, section 61.²³

‘Application of subdiv 2

‘69A. This subdivision applies to a proceeding before a Childrens Court Magistrate (the “court”) in which a child is charged with a supreme court offence.

‘Committal proceeding only option

‘69B. The proceeding must be conducted as a committal proceeding.

‘Child must be committed for trial or sentence before Supreme Court

‘69C. If, on consideration of all the evidence adduced at the committal proceeding, the court is of the opinion that the evidence is sufficient to put the child on trial for the offence, the court must order the child to be

²³ *District Courts Act 1967*, section 61 (Exception from criminal jurisdiction)

committed—

- (a) to be tried before the Supreme Court; or
- (b) if the child enters a plea of guilty at the committal proceeding—to be sentenced before the Supreme Court.

‘Subdivision 3—Procedure if the serious offence is not a supreme court offence

‘Application of subdiv 3

‘**69D.** This subdivision applies to a proceeding before a Childrens Court Magistrate (the “**court**”) in which a child is charged with a serious offence other than a supreme court offence.

‘Committal proceeding only option

‘**69E.** The proceeding must be conducted as a committal proceeding.’.

Insertion of new subdiv heading

26. Before section 72—

insert—

‘Subdivision 4—Proceedings before Childrens Court Judge’.

Amendment of s 89 (Application for review)

27.(1) Section 89(1)(b)—

omit, insert—

- ‘(b) the chief executive, or, if the child is a detainee, the commission, acting in either case in the child’s interests; or
- (c) the complainant or arresting officer for the charge for which the sentence order was made.’.

(2) Section 89(2)(b), ‘14’—

omit, insert—

‘28’.

Amendment of s 94 (Interrelation with other types of appeal)

28.(1) Section 94(1)—

insert—

‘**“application”** by a child for a sentence review, includes an application by the chief executive or the commission acting in the child’s interests.’.

(2) Section 94(2) and (3), ‘application’—

omit, insert—

‘application by the child’.

(3) Section 94—

insert—

‘(4) If—

- (a) a complainant or arresting officer applies for a sentence review of a sentence order made against a child; and
- (b) the child starts a proceeding for an ordinary appeal against the sentence order or the finding of guilt for which it was made;

a Childrens Court Judge can not proceed to hear and decide the application for the sentence review until the ordinary appeal is finished.’.

Amendment of s 98 (Correction of error by court making order)

29. Section 98(2)(b)—

omit, insert—

- ‘(b) if the defendant affected is a child, the persons who may apply under the section include the chief executive, or, if the child is a detainee, the commission, acting in either case in the child’s interests.’.

Amendment of s 101 (Lack of jurisdiction discovered after proceeding ends)

30.(1) Section 101(3)(b)—

omit, insert—

‘(b) if the person charged in the proceeding was a child—the chief executive, or, if the child is a detainee, the commission, acting in either case in the child’s interests; or’.

(2) Section 101(5)(a), ‘been found’—

omit, insert—

‘found’.

Amendment of s 102 (Extension of Act for detainee offender)

31. Section 102(3)(c), ‘chief executive’—

omit—

‘commission’.

Amendment of s 105 (Offender treated as adult)

32. Section 105, heading—

omit, insert—

‘When offender must be treated as an adult’.

Amendment and relocation of s 106 (Sentencing offender)

33.(1) Section 106, heading, after ‘offender’—

insert—

‘as adult’.

(2) Section 106(1), '(Offender treated as adult)'—

omit, insert—

‘, 106 or 107A²⁴’.

(3) Section 106—

renumber and relocate as section 107B.

Insertion of new s 106

34. After section 105—

insert—

‘When offender may be treated as an adult

‘106.(1) This section applies if—

- (a) a proceeding has started against an offender for an offence in the way provided in this Act for a child (the **“childhood proceeding”**); and
- (b) by the time 1 year has passed after the offender becomes an adult—
 - (i) the childhood proceeding has not been completed to a finding of guilty or not guilty; and
 - (ii) the offender, for another offence—
 - (A) is proceeded against as an adult; or
 - (B) has been sentenced as an adult.

‘(2) The court hearing the childhood proceeding may decide to continue the proceeding as if the offender were an adult when the offence was committed.

‘(3) For subsection (2), the Childrens Court may continue the proceeding in its concurrent jurisdiction.

²⁴ Section 105 (When offender must be treated as an adult), 106 (When offender may be treated as an adult) or 107A (When order made as child may be dealt with as adult order)

‘(4) If the offender is found guilty, the offender must be sentenced as an adult.

‘(5) This section applies despite section 105(2).²⁵’.

Amendment of s 107 (Continuing effect on offender of orders made when child)

35. Section 107—

insert—

‘(3) For subsection (2), a reference in this Act to a child subject to an order who commits an offence or contravenes a requirement of, or prescribed requirement relating to, the order is declared to include a reference to the child committing the offence or contravening the requirement while subject to the order after becoming an adult.

‘(4) Subsection (3) does not limit subsection (2).

‘(5) If—

- (a) a proceeding or order mentioned in subsection (2)(b) may be taken before, or made by, a court if a person is found guilty of an offence before the court; and
- (b) the person is found guilty before a Magistrates Court of an offence committed as an adult;

the court has concurrent jurisdiction to hear the proceeding or make the order.

‘(6) For subsection (5), any judicial officer constituting the Magistrates Court may constitute the Childrens Court.’.

²⁵ Section 105(2) (When offender must be treated as an adult)

Insertion of new s 107A

36. After section 107—

insert—

‘When order made as child may be dealt with as adult order

‘107A.(1) This section applies if—

- (a) a sentence order is made against a person as a child (the **“childhood sentence order”**); and
- (b) a proceeding arising out of the order is taken before a court after the person becomes an adult.

‘(2) If the circumstances mentioned in subsection (3) apply, the court may decide to deal with the person as if—

- (a) the childhood sentence order were a corresponding adult order made for the offence; and
- (b) the offence were committed as an adult.

‘(3) The circumstances are—

- (a) the person, for another offence committed as an adult—
 - (i) is being proceeded against; or
 - (ii) has been sentenced; or
- (b) more than 1 year has passed after the offender becomes an adult.

‘(4) The court may declare the childhood sentence order to be a corresponding adult order and make all necessary changes to the childhood sentence order to change it to a corresponding adult order.

‘(5) The person is then subject to the corresponding sentence order for the proceeding before the court and any further proceedings and orders.

‘(6) For subsection (2), the Childrens Court may continue the proceeding in its concurrent jurisdiction.

‘(7) In this section—

“corresponding adult order” to a childhood sentence order, means a type of sentence to which an adult is liable that is similar to the type of the childhood sentence order, for example—

- (a) a probation order made under the *Penalties and Sentences Act 1992* is a corresponding adult order to a probation order made under this Act; and
- (b) a community service order made under the *Penalties and Sentences Act 1992* is a corresponding adult order to a community service order made under this Act.’.

Amendment of s 110 (Presentence report)

37. Section 110(5) to (7)—

omit, insert—

‘(5) The chief executive must cause the presentence report to be prepared in documentary form and given to the court promptly.

‘(6) The report must be given to the court promptly, but need not be given in less than 15 days.’.

Amendment of s 112 (Disclosure of presentence report)

38.(1) Section 112(2), ‘must’—

omit, insert—

‘may’.

(2) Section 112—

insert—

‘(3) The court may give directions it considers appropriate about a report given to anyone under subsection (1) or (2), including, for example, a direction limiting disclosure and a direction requiring the report’s return.’.

Amendment of s 113 (Finding of guilt as child may be disclosed while a child)

39. Section 113(1), all words from ‘had’—

omit, insert—

‘had by a court that subsequently sentences the child for any offence as a child.’.

Amendment of s 114 (Evidence of childhood finding of guilt not admissible against adult)

40.(1) Section 114—

insert—

‘**(2A)** Subsection (1) does not apply to the finding of guilt for a purpose mentioned in subsection (4) if the adult, as a child, was dealt with for a seven year offence and then committed and was dealt with for a seven year offence.

‘**(2B)** For an adult mentioned in subsection (3), the finding of guilt is part of the adult’s criminal history for a proceeding in which the adult is sentenced for any offence.

‘**(2C)** Subsection (3) and (4) apply to the finding of guilt despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

‘**(2D)** However, the provisions of the *Criminal Law (Rehabilitation of Offenders) Act 1986* applying at the end of a rehabilitation period for a conviction apply as if the finding of guilt were a conviction.

‘**(2E)** In this section—

“**dealt with**”, for an offence, includes the following—

- (a) being administered a caution for the offence;
- (b) making a community conference agreement for the offence;
- (c) dealt with on a finding of guilt.’.

(2) Section 114(2A) to (3)—

renumber as section 114(3) to (8).

Insertion of new s 114A

41. After section 114—

insert—

‘Particular cautions and community conference agreements admissible as part of person’s criminal history

‘**114A.(1)** A caution administered to a person may be considered as part of the person’s criminal history in a proceeding in which—

- (a) the person is sentenced for an offence; and
- (b) the caution is a disclosable caution.

‘(2) A community conference agreement made by a person for an offence committed by the person may be considered as part of the person’s criminal history in a proceeding in which—

- (a) the person is sentenced for an offence; and
- (b) the agreement is a disclosable community conference agreement.’.

Amendment of s 119 (Copy of court order to be given to child, parent and chief executive)

42.(1) Section 119, heading—

omit, insert—

‘Copy of court order to be given to child, parent etc.’.

(2) Section 119(1)(b)(iii)—

omit, insert—

‘(iii) the chief executive, and, if the child is a detainee, the commission.’.

Insertion of new pt 5, div 1A

43. Part 5—

insert—

‘Division 1A—Court referred community conferences before sentencing

‘Reference to community conference by court

‘**119A.(1)** This section applies if a finding of guilt for an offence is made against a child before a court.

‘(2) The court may refer the offence to a community conference, if—

- (a) the victim consents, if there was a victim of the offence; and

- (b) the court considers—
 - (i) the offence may be appropriately dealt with by a community conference without the court making a sentence order; or
 - (ii) referral to a community conference would help the court in making an appropriate sentence order; and
 - (c) the court considers a community conference convenor will be available for the community conference.
- ‘(3) On making the referral the court may—
- (a) give directions it considers appropriate to the child, the convenor of the conference and anyone else who may participate in the conference; and
 - (b) adjourn the proceeding for the offence.

‘If an agreement is made on an indefinite referral by a court

‘119B.(1) This section applies if a community conference agreement is made on referral by a court that considered the offence may be appropriately dealt with by a community conference without the court making a sentence order.

‘(2) The community conference convenor must give notice to the court’s proper officer that the agreement was made.

‘(3) A notice under subsection (2)—

- (a) brings the court proceeding for the offence to an end; and
- (b) the child is then not liable to be further prosecuted for the offence.

‘(4) On the giving of the notice, the child is taken to have been found guilty by the court of the offence without a conviction being recorded.

‘Powers of proper officer if indefinite referral is unsuccessful or if child contravenes agreement made on court’s indefinite referral

‘119C.(1) This section applies if—

- (a) a court refers an offence to a community conference on considering the offence may be appropriately dealt with by a

community conference without the court making a sentence order; and

(b) a circumstance mentioned in subsection (2) happens.

‘(2) The circumstances are—

(a) the child fails to attend the conference as directed by the court; or

(b) the community conference ends without an agreement being made; or

(c) a community conference agreement is made and the child contravenes the agreement.

‘(3) The court’s proper officer may—

(a) take no action; or

(b) refer the offence to another community conference, with or without the same convenor; or

(c) bring the charge for the offence back on before the court for sentencing.

‘(4) For subsection (3)(c), the proper officer must give notice to the child and the chief executive that the proceeding for the offence is to be heard by the court on a specified day.

‘(5) If requested by the proper officer, the commissioner of the police service must help the proper officer give the notice.

‘(6) If the proceeding for the offence was previously brought to an end by a notice under section 119B(2),²⁶ a notice under subsection (4)—

(a) restarts the proceeding from when it was brought to an end; and

(b) the child is then liable to be sentenced for the offence.

‘(7) In making a sentence order for the offence, the court must consider—

(a) any participation by the child in the community conference; and

(b) if an agreement is made—

²⁶ Section 119B(2) (If an agreement is made on an indefinite referral by a court)

- (i) the agreement; and
- (ii) anything done by the child under the agreement.

‘If an agreement is made on a referral by a court before sentence

‘119D.(1) This section applies if a community conference agreement is made on referral by a court because the court considered referral to a community conference would help the court in making an appropriate sentence order for the offence.

‘(2) In making a sentence order for the offence, the court must consider—

- (a) the child’s participation in the community conference; and
- (b) the agreement; and
- (c) anything done by the child under the agreement; and
- (d) a convenor’s report under section 18E(6).²⁷

‘(3) A court may impose a requirement on the child under the sentence order or in addition to the sentence order, even if the requirement is also a requirement of the agreement.’.

Amendment of s 120 (Sentence orders—general)

44.(1) Section 120(1)(e)(i), ‘60’—

omit, insert—

‘100’.

(2) Section 120(1)(e)(ii), ‘120’—

omit, insert—

‘200’.

(3) Section 120(1)(f)—

omit, insert—

‘(f) order that the child be detained for a period not more than—

²⁷ Section 18E(6) (Conduct of community conference)

- (i) if the court is not constituted by a judge—1 year; or
- (ii) if the court is constituted by a judge and section 121²⁸ does not apply—the shorter period of the following—
 - (A) half the maximum term of imprisonment that an adult convicted of the offence could be ordered to serve;
 - (B) 5 years.’.

(4) Section 120(2)—

omit, insert—

‘(2) A court may make an order for a child’s detention under subsection (1)(f) with or without an immediate release order under section 176.²⁹’.

Amendment of s 121 (Sentence orders—serious offences)

45.(1) Section 121(2)—

omit, insert—

‘(2) For a serious offence other than a life offence, the court may order the child to be detained for a period not more than 7 years.’.

(2) Section 121(3), ‘a period not longer than’—

omit.

(3) Section 121(3)(a)—

omit, insert—

‘(a) a period not more than 10 years; or’.

(4) Section 121(3)(b), ‘14 years’—

omit, insert—

‘a period up to and including the maximum of life,’.

²⁸ Section 121 (Sentence orders—serious offence)

²⁹ Section 176 (Immediate release order)

(5) Section 121(4)—

renumber as subsection (5).

(6) Section 121—

insert—

‘(4) A court may make an order for a child’s detention under subsection (2) or (3) with or without an immediate release order under section 176.³⁰’.

Insertion of new ss 121A–121C

46. After section 121—

insert—

‘More than 1 type of order may be made for a single offence

‘**121A.** A court may make more than 1 type of sentence order for a single offence, subject to sections 121B and 121C.³¹’

‘Combination of probation order and community service order

‘**121B.(1)** If a court makes both a probation order and a community service order against a child for a single offence (the “**original offence**”), the court—

- (a) must make separate orders; and
- (b) must not impose one of the orders as a requirement of the other order.

‘(2) If the child contravenes a requirement of either the probation order or the community service order after the orders are made and is resentenced for the original offence, the other order is discharged.’

³⁰ Section 176 (Immediate release order)

³¹ Sections 121B (Combination of probation order and community service order) and 121C (Combination of detention order and probation order)

‘Combination of detention order and probation order

‘121C.(1) This section applies if a court makes both a detention order and a probation order against a child for a single offence.

‘(2) The court may make the detention order only for a maximum period of 6 months and may not make an immediate release order.

‘(3) The probation order may only be for a maximum period ending 1 year after release from detention under the detention order.

‘(4) The requirements of the probation order only start when the child is released from detention.’.

Amendment of s 122 (Other orders)

47. Section 122—

insert—

‘(c) an order allowed by division 9A.³²’.

Amendment of s 124 (Recording of conviction)

48. Section 124(2), after ‘order’—

insert—

‘only’.

Insertion of new s 131A

49. After section 131—

insert—

‘Proper officer’s application on breach

‘131A.(1) This section applies if a child who is ordered to pay a fine for an offence fails to pay all the fine within the time allowed for payment.

‘(2) The proper officer may apply to the court to cancel the fine order and make a community service order against the child.

³² Division 9A (Order for identifying particulars to be taken)

‘(3) The proper officer must give notice of the application to—

- (a) the child; and
- (b) a parent of the child, unless a parent can not be found after reasonable inquiry; and
- (c) the chief executive.

‘(4) If the court is satisfied that the child has not paid an amount of the fine within the time allowed, the court may—

- (a) take no action; or
- (b) extend the time for paying the amount; or
- (c) cancel the fine order and resentence the child by making a community service order against the child.

‘(5) The community service hours under the community service order must be calculated using the following formula—

$$\frac{\text{unpaid amount of fine} \times 8}{1 \text{ penalty unit.}}$$

‘(6) However, the community service hours calculated using the formula must not be more than that permitted under section 120(1)(e) or 151.³³

‘(7) If the hours calculated under the formula are less than that permitted by section 151, the court may not make an order under subsection (4)(c).

‘(8) If the hours calculated under the formula are more than that permitted by section 120(1)(e) or 151, the court may only make an order for the maximum hours permitted.

‘(9) The community service order is a community service order under section 120(1)(e).

‘(10) In this section—

“parent”, of a child, includes someone who is apparently a parent of the child.’.

³³ Section 120(1)(e) (Sentence orders—general) or 151 (Limitation on number of hours of community service)

Amendment of s 134 (Chief executive's application on breach)

50.(1) Section 134(5)—

omit, insert—

‘(5) A copy of the complaint must be served on a parent of the child, unless a parent can not be found after reasonable inquiry.’.

(2) Section 134—

insert—

‘(8) In this section—

“**parent**”, of a child, includes someone who is apparently a parent of the child.’.

Amendment of s 141 (Variation, discharge and resentence in the interests of justice)

51. Section 141(4)—

omit.

Amendment of s 149 (Community service to be performed within limited period)

52. Section 149(a), ‘6 months’—

omit, insert—

‘1 year’.

Amendment of s 153 (Chief executive's application on breach)

53.(1) Section 153(4)—

omit, insert—

‘(4) A copy of the complaint must be served on a parent of the child, unless a parent can not be found after reasonable inquiry.’.

(2) Section 153—

insert—

‘(7) In this section—

“parent”, of a child, includes someone who is apparently a parent of the child.’.

Amendment of s 156 (Specific powers if breach proved)

54. Section 156(1)(b), ‘6 months’—

omit, insert—

‘1 year’.

Amendment of s 158 (Variation, discharge and resentence in the interests of justice)

55. Section 158(4)—

omit.

Amendment of s 167 (Detention to be served in detention centre)

56. Section 167(2), ‘determined by the chief executive’—

omit, insert—

‘decided by the commission’.

Amendment of s 171 (Limitation on cumulative orders)

57.(1) Section 171(1)(a), ‘6 months’—

omit, insert—

‘1 year’.

(2) Section 171(1)(b), ‘2 years’—

omit, insert—

‘7 years’.

Insertion of new s 172A

58. After section 172—

insert—

‘Application for variation of detention order in interests of justice

‘172A.(1) This section applies to a child who—

- (a) escapes from detention under a detention order for an offence (the **“original”** order and offence); and
- (b) is held in custody in another State for another offence committed in the other State or on a charge of an offence allegedly committed in the other State (the **“interstate custody”**).

‘(2) An application may be made at any time to the court that made the original order to change the original order in the interests of justice.

‘(3) The application may be made by the child or the commission, acting in the interests of the child.

‘(4) If the application is not made by the commission, notice of the application must be given to the commission.

‘(5) On the application the court may—

- (a) take no action; or
- (b) order all or part of the period of interstate custody to be a period of detention taken to have been served under the original order.

‘(6) An order under subsection (5)(b) has effect even if the period of interstate custody is required to be served, concurrently or cumulatively, with a period of custody imposed because of an offence, other than the original offence, committed in Queensland or elsewhere.’.

Amendment of s 173 (Multiple orders of detention and imprisonment against person as adult and child)

59. Section 173(4)—

omit, insert—

‘(4) The commission may arrange for the person to serve all or part of the term of imprisonment in a detention centre.’.

Insertion of new pt 5, div 7, subdiv 4

60. Part 5, division 7—

insert—

‘Subdivision 4—Parole for life sentences

‘Application of subdiv 4

‘191A. This subdivision applies to a child who is sentenced to detention for life.

‘Application of parole provisions

‘191B.(1) The *Corrective Services Act 1988*, part 4,³⁴ applies to the child.

‘(2) For subsection (1), a reference in the part to a prisoner serving a term of imprisonment for life is taken to include the child.’.

Insertion of new pt 5, div 9A

61. Part 5—

insert—

‘Division 9A—Order for identifying particulars to be taken

‘Court may order sentenced child’s identifying particulars to be taken

‘194A.(1) This section applies if a child is found guilty before a court of an indictable offence or an offence against any of the following Acts that is an arrest offence—

- (a) the Criminal Code;
- (b) the *Drugs Misuse Act 1986*;
- (c) the *Police Service Administration Act 1990*;
- (d) the *Regulatory Offences Act 1985*;

³⁴ *Corrective Services Act 1988*, part 4 (Parole)

(e) the *Vagrants, Gaming and Other Offences Act 1931*;

(f) the *Weapons Act 1990*.

‘(2) The court, in addition to making a sentence order against the child, may make an order that the child’s identifying particulars be taken.

‘(3) If the child will not be in custody when the particulars are to be taken, the order must require the child to report to a police station as directed under the order to have them taken.

‘(4) A child must not contravene the order.

Maximum penalty—10 penalty units

‘(5) A child who commits an offence against subsection (4) may be arrested without warrant.

‘(6) If the child will be in custody when the particulars are to be taken, the order must require them to be taken at the place the child is held in custody.

‘(7) A police officer may use reasonable force to take the particulars under the order.

‘(8) In this section—

“**identifying particulars**” means fingerprints and palmprints.’.

Amendment of s 197 (Notice to parent of child offender)

62.(1) Section 197(1)—

omit, insert—

‘**197.(1)** This section applies if it appears to a court, on the evidence or submissions in a case against a child found guilty of a personal or property offence, that—

- (a) compensation for the offence should be paid to anyone; and
- (b) a parent of the child may have contributed to the fact the offence happened by not adequately supervising the child; and
- (c) it is reasonable that the parent should be ordered to pay compensation for the offence.

‘**(1A)** The court may decide to call on a parent of the child to show cause,

as directed by the court, why the parent should not pay the compensation.

‘(1B) The court may act under subsection (2) on its own initiative or on the prosecution’s application.’

(2) Section 197—

insert—

‘(5A) A proceeding under this section or section 198³⁵ is a civil proceeding and a court may make an order for the costs of the proceeding.

‘(5B) In this section—

“**compensation**” for the offence means compensation for—

- (a) loss caused to a person’s property whether the loss was an element of the offence charged or happened in the course of the commission of the offence; or
- (b) injury suffered by a person, whether as the victim of the offence or otherwise, because of the commission of the offence.’

(3) Section 197(1A) to (5B)—

renumber as section 197(2) to (9).

Amendment of s 198 (Show cause hearing)

63.(1) Section 198(5)—

omit, insert—

‘(5) If, on consideration of the evidence and submissions mentioned in subsection (1)(a) and (b), a court is satisfied of the matters mentioned in section 197(1)(a),(b) and (c),³⁶ the court may make an order requiring the parent to pay compensation.

‘(5A) The court is to make its decision on the basis of proof beyond a reasonable doubt.

‘(5B) The maximum amount of compensation payable under an order is 67 penalty units.’

³⁵ Section 198 (Show cause hearing)

³⁶ Section 197(1)(a), (b) and (c) (Notice to parent of child offender)

(2) Section 198—

insert—

‘(10) To remove doubt, it is declared that the commission can not be ordered to pay compensation under subsection (5).’.

(3) Section 198(5A) to (10)—

renumber as section 198(6) to (12).

Amendment of s 199 (Recovery of unpaid compensation amounts)

64.(1) Section 199(1) and (2)—

omit, insert—

‘199.(1) An amount of compensation ordered to be paid under section 198,³⁷ and any amount of costs ordered to be paid, is a debt owed by the parent to the person in whose favour the order is made.’.

(2) Section 199(3) and (4)—

renumber as section 199(2) and (3).

Omission of s 202 (Chief executive to establish programs and services)

65. Section 202—

omit.

Amendment of s 203 (Management of detention centres)

66.(1) Section 203, ‘chief executive’—

omit, insert—

‘commission’.

(2) Section 203(2), after ‘for example’—

insert—

‘, rules,’.

³⁷ Section 198 (Show cause hearing)

Amendment of s 205 (Functions, powers and duties of official visitor)

67. Section 205, ‘chief executive’—

omit, insert—

‘commission’.

Amendment of s 206 (Directions to official visitor on security)

68. Section 206, ‘chief executive’—

omit, insert—

‘commission’.

Amendment of s 207 (Where children to be detained)

69.(1) Section 207(1), ‘chief executive must determine’—

omit, insert—

‘commission must decide’.

(2) Section 207(2), ‘chief executive’—

omit, insert—

‘commission’.

Amendment of s 208 (Authority for admission to detention centre)

70. Section 208, ‘chief executive’—

omit, insert—

‘commission’.

Amendment of s 210 (Leave of absence)

71. Section 210, ‘chief executive’—

omit, insert—

‘commission’.

Amendment of s 211 (Childrens Court may order transfer to prison)

72.(1) Section 211(1)—

omit, insert—

‘**211.(1)** Subject to subsection (2), a person serving a period of detention under a detention order, or the commission, may apply to a Childrens Court Judge for an order that the unserved part of the period of detention be served as a term of imprisonment.’.

(2) Section 211(4), ‘remainder’—

omit, insert—

‘unserved part’.

(3) Section 211(5) and (6)—

omit, insert—

‘**(5)** The *Corrective Services Act 1988* applies to a person imprisoned under the order.

‘**(6)** However, the person may only, and must, be released on parole on the day the person would have been released under a fixed release order if the order under subsection (1) had not been made, unless the person—

- (a) is released under the *Corrective Services Act 1988*, section 166(4) or (5);³⁸ or
- (b) is required to be held in custody for another reason.’.

Amendment of s 212 (Chief executive may authorise treatment)

73.(1) Section 212, ‘chief executive’—

omit, insert—

‘commission’.

(2) Section 212, ‘chief executive’s’—

‘commission’s’.

³⁸ *Corrective Services Act 1988*, section 166(4) or (5) (Eligibility for parole)

Amendment of s 213 (Ordinary visitor)

74.(1) Section 213, ‘chief executive’—

omit, insert—

‘commission’.

(2) Section 213(3)(a), ‘chief executive’s’—

omit, insert—

‘commission’s’.

(3) Section 213(5) to (7)—

omit, insert—

‘**(5)** The commission may, on reasonable grounds, ask a visitor to a detention centre—

- (a) to submit to an external physical search by a member of the staff of the detention centre; or
- (b) to submit anything in the visitor’s possession to a search by a member of the staff of the detention centre.

‘**(6)** The commission may give a visitor who has entered a detention centre a direction it considers necessary for the security or good order of the centre.

‘**(7)** If a visitor refuses to submit to a search requested under subsection (5) or fails to comply with a direction under subsection (6), the commission may ask the visitor to leave the centre immediately.’.

Amendment of s 215 (Complaints generally)

75. Section 215, ‘chief executive’—

omit, insert—

‘commission’.

Amendment of s 216 (Official visitor to hear and investigate complaints)

76. Section 216, ‘chief executive’—
omit, insert—
‘commission’.

Amendment of s 220 (Search warrant)

77. Section 220, ‘chief executive’—
omit, insert—
‘commission’.

Amendment of s 221 (Warrants may be granted by telephone, facsimile, radio etc.)

78. Section 221(1), ‘chief executive’—
omit, insert—
‘commission’.

Amendment of s 222 (Offences relating to detention centres)

79. Section 222(1)(b) and (c), ‘chief executive’—
omit, insert—
‘commission’.

Amendment of s 223 (Child of detainee may be accommodated in detention centre)

80. Section 223, ‘chief executive’—
omit, insert—
‘commission’.

Insertion of new ss 224A and 224B

81. Part 7, after section 224—

insert—

‘Programs and services for children

‘224A.(1) The chief executive must establish—

- (a) programs and services necessary to give effect to any order or direction under this Act; and
- (b) programs and services to support, help, and reintegrate into the community children who have committed offences.

‘(2) Subsection (1) does not apply to programs and services the commission has a function to develop and administer under the *Corrective Services (Administration) Act 1988*, section 18.³⁹

‘(3) Without limiting subsection (1), the chief executive must decide the activities that are to comprise community service for every community service order.

‘(4) The chief executive may establish any other programs and services for children who have committed offences.

‘Police may help in keeping child in custody

‘224B. Nothing in this Act stops the commissioner of the police service entering into arrangements with the commission under which the commissioner holds a child in custody for the commission.’.

Amendment of s 225 (Parent entitled to know of whereabouts of child in custody)

82.(1) Section 225(1), ‘chief executive’—

omit, insert—

‘commission’.

³⁹ *Corrective Services (Administration) Act 1988*, section 18 (Functions of commission)

(2) Section 225(2)—

omit, insert—

‘(2) The commission on request must give the information to the parent if the child is in the commission’s custody, or the commission knows where the child is.’.

Replacement of s 227 (Delegation by chief executive)

83. Section 227—

omit, insert—

‘Approved form

‘227. A form may be approved for use under a provision of this Act—

- (a) for a provision administered through the commission—by the commission; or
- (b) for a provision administered through a department—by the department’s chief executive.’.

Amendment of s 228 (Evidence)

84. Section 228(2)—

omit, insert—

‘(2) It is unnecessary to prove the appointment of a department’s chief executive, an officer of the public service, an officer of the commission, an official visitor or anyone appointed under this Act.’.

Amendment of s 229 (Proceeding for offence)

85. Section 229(2)—

omit, insert—

‘(2) In a proceeding for an offence against this Act, a police officer, an officer of the public service or an officer of the commission may appear for the prosecution even though not a complainant or arresting officer.’.

‘(3) A reference in this Act to a legal practitioner acting for a party includes anyone appearing for the prosecution under subsection (2).’.

Replacement of s 234 (Transitional provisions)

86. Section 234—

omit, insert—

‘Transitional delegations saved by Juvenile Justice Legislation Amendment Act 1996

‘234.(1) Despite any specified invalidity, it is declared a transitional delegation was or is in effect until cancelled—

- (a) before the commencement of the amendment Act—by a chief executive; or
- (b) after the commencement of the amendment Act—
 - (i) by a chief executive, if the chief executive has power to make a delegation of the type cancelled; or
 - (ii) by the commission, if the commission has power to make a delegation of the type cancelled.

‘(2) A delegation is a “**transitional delegation**” if it is—

- (a) a delegation in effect immediately before the first administrative order took effect, whether the delegation was made under section 227⁴⁰ or under the *Family Services Act 1987*, section 10⁴¹ that, if subsection (1) did not apply, would have become ineffective because of the order; or
- (b) a delegation made by the director-general, Department of Justice that, if subsection (1) did not apply, would have been ineffective because it was made to an officer of the public service other than an officer of the Department of Justice; or
- (c) a delegation made by a chief executive before the making of a later administrative order that, if subsection (1) did not apply,

⁴⁰ Section 227 (Delegation by chief executive)

⁴¹ *Family Services Act 1987*, section 10 (Delegation, and exercise of powers on behalf of chief executive)

would have become ineffective because it was of a type that after the order could not be made by the chief executive; or

- (d) a delegation made by a chief executive before the commencement of the amendment Act that, if subsection (1) did not apply, would become ineffective because it was of a type that on the commencement of the amendment Act could not be made by the chief executive.

‘(3) This section is—

- (a) to remove doubt; and
(b) expires on the 31 December 1996; and
(c) is a section to which the *Acts Interpretation Act 1954*, section 20A⁴² applies.

‘(4) In this section—

“**amendment Act**” means the *Juvenile Justice Legislation Amendment Act 1996*.

“**chief executive**” means—

- (a) the director-general of the Department of Justice; or
(b) the director-general of the Department of Families, Youth and Community Care.

“**delegation**” means a delegation or purported delegation of a power provided by this Act.

“**first administrative order**” means the *Administrative Arrangements Order (No. 2) 1996*.

“**later administrative order**” means—

- (a) the *Administrative Arrangements Amendment Order (No. 1) 1996*; or
(b) another administrative arrangements order or amendment order made before this section expires.

⁴² *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)

“specified invalidity” means an invalidity affecting a transitional delegation and mentioned in subsection (2) in relation to the delegation.

‘Transitional orders and decisions saved by Juvenile Justice Legislation Amendment Act 1996

‘235.(1) Despite a specified invalidity, a transitional order or decision is declared to have been, and is, in effect.

‘(2) An order or decision is a **“transitional order or decision”** if it is an order or decision made after 25 February 1996 that, if subsection (1) did not apply, would be invalid because it mentions one transitional department instead of another transitional department.

‘(3) The order or decision is taken to have referred to, and to refer to, the department that was required to be mentioned if the order or decision was to be in effect.

‘(4) This section is—

- (a) to remove doubt; and
- (b) expires on the 31 December 1996; and
- (c) is a section to which the *Acts Interpretation Act 1954*, section 20A⁴³ applies.

‘(5) In this section—

“order or decision” means an order or decision, or purported order or decision, of a court under this Act.

“specified invalidity” means an invalidity affecting a transitional order or decision and mentioned in subsection (2) in relation to the order or decision.

“transitional department” means—

- (a) the Department of Family Services and Aboriginal and Islander Affairs; or

⁴³ *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)

- (b) the Department of Families, Youth and Community Care; or
- (c) the Department of Justice.

‘Application of Act to matters before Juvenile Justice Legislation Amendment Act 1996

‘236.(1) This Act as amended by a provision of the amendment Act applies to an offence committed, and proceeding started, before the commencement of the provision.

‘(2) However—

- (a) a person can not be sentenced more severely for an offence committed before the commencement of a provision of the amendment Act than would have been the case if the provision had not been enacted; and
- (b) a caution administered before the commencement of section 18N⁴⁴ or 18O⁴⁵ can not be disclosed to a court or anyone after the commencement of the section if the disclosure could not have been made if the section had not been enacted.
- (c) a parent of a child can not be ordered under section 198⁴⁶ to pay compensation for an offence committed by the child before the commencement of section 63 of the amendment Act that the parent could not have been ordered to pay before the commencement.

‘(3) Subsection (2)(a) is about punishment level and does not stop a court making orders against anyone of a type or number only available because of the amendment Act.

(4) In this section—

“amendment Act” means the *Juvenile Justice Legislation Amendment Act 1996*.’.

⁴⁴ Section 18N (Disclosable caution and community conference agreement—later childhood offence)

⁴⁵ Section 18O (Disclosable caution and community conference agreement—later adulthood offence)

⁴⁶ Section 198 (Show cause hearing)

Amendment of sch 1 (Regulation making power)

87.(1) Schedule 1, items 2 to 12—

renumber as items 3 to 13.

(2) Schedule 1, after item 1—

insert—

‘2. All matters concerning community conferences, including—

- (a) convening and conduct of a community conference; and
- (b) reports to be given by a community conference convenor; and
- (c) time for completing a community conference; and
- (d) regulating contents of community conference agreements; and
- (e) keeping of names of persons approved as community conference convenors and information about community conferences.’.

Omission of sch 2 (Transitional provisions)

88. Schedule 2—

omit.

PART 3—AMENDMENT OF CORRECTIVE SERVICES (ADMINISTRATION) ACT 1988**Act amended in pt 3**

89. This part amends the *Corrective Services (Administration) Act 1988*.

Replacement of s 6 (Interpretation)

90. Section 6—

omit, insert—

‘Dictionary

‘6. The dictionary in the schedule defines particular words used in this Act.⁴⁷’.

Amendment of s 18 (Functions of commission)

91.(1) Section 18(2)(c), after ‘persons’—

insert—

‘who, under the *Corrective Services Act 1988*, are’

(2) Section 18(2)—

insert—

‘(e) must develop and administer programs and services necessary to give effect to orders or directions under the *Juvenile Justice Act 1992* about detainees; and

(f) must develop and administer programs and services to support, help, and reintegrate into the community detainees.’.

Amendment of s 19 (Powers of commission)

92.(1) Section 19(2)(b), ‘and prisoners, and for persons’—

omit, insert—

‘, prisoners and detainees and for persons who, under the *Corrective Services Act 1988*, are’.

(2) Section 19(2)(e) and (f), after ‘this Act’—

insert—

‘, the *Juvenile Justice Act 1992*’.

(3) Section 19(2)(g), ‘prisoners or persons’—

omit, insert—

⁴⁷ In some Acts, definitions are contained in a dictionary that appears as the last schedule and forms part of the Act—*Acts Interpretation Act 1954*, section 14.

‘prisoners, detainees or persons who, under the *Corrective Services Act 1988*, are’.

Amendment of s 20 (Rules)

93. Section 20—

insert—

‘(7) The commission can not make rules under this section for detention centres, detainees or the conduct of the commission’s officers in relation to detention centres or detainees.

‘(8) The commission’s power to make rules for detention centres, detainees or the conduct of the commission’s officers in relation to detention centres and detainees is stated in the *Juvenile Justice Act 1992*, section 203.⁴⁸’.

Amendment of s 30 (Custody of seal; authentication of documents)

94. Section 30(5), ‘ or the *Corrective Services Act 1988*’—

omit, insert—

‘, the *Juvenile Justice Act 1992* or the *Corrective Services Act 1988*’.

Amendment of s 32 (Disclosure of interest)

95.(1) Section 32, ‘prisoner’—

omit, insert—

‘prisoner, detainee’.

(2) Section 32, ‘prisoners’—

‘prisoners, detainees’.

(3) Section 32(7), after ‘a person’—

insert—

‘who, under the *Corrective Services Act 1988*, is’.

⁴⁸ *Juvenile Justice Act 1992*, section 203 (Management of detention centres)

Replacement of ss 34 to 38

96.(1) Sections 34 to 38—

omit, insert—

‘Other officers of commission

‘34.(1) The commission may employ persons it considers necessary or convenient for the administration of this Act, the *Corrective Services Act 1988* or for the commission’s functions and powers under any Act.

‘(2) Employment by the commission is to be—

- (a) on salary or wages; or
- (b) under a contract.

‘(3) The employment conditions of a person employed on salary and wages are decided by the commission, subject to any applicable industrial award.

‘(4) The employment conditions of a person employed under a contract are the contract conditions agreed between the commission and the person and industrial awards do not apply.

‘(5) In this section—

“industrial award” includes an industrial or other agreement under the *Industrial Relations Act 1990* and any decision about employment conditions under that Act.

‘Superannuation schemes

‘35.(1) The commission may—

- (a) establish or amend superannuation schemes; or
- (b) join in establishing or amending superannuation schemes; or
- (c) take part in superannuation schemes.

‘(2) The auditor-general may audit the schemes.

‘(3) Subsection (2) is subject to the *Financial Administration and Audit*

Act 1977, part 6.⁴⁹

(2) The *Acts Interpretation Act 1954*, section 20A,⁵⁰ applies to provisions, omitted by subsection (1), about persons who, immediately before the commencement of this section, were officers of the commission under section 34(3) as it existed at that time.

(3) Subsection (2) and this subsection expire the day after they commence.

Amendment of s 43 (Discipline)

97. Section 43(1)(c)—

omit, insert—

‘(c) a contravention of a code of conduct under section 20(2)⁵¹ or a rule, direction, code, standard or guideline under the *Juvenile Justice Act 1992*, section 203(2);⁵²’.

Amendment of s 45 (Suspension)

98. Section 45(1)(a), ‘prison’—

omit, insert—

‘prison or detention centre’.

⁴⁹ *Financial Administration and Audit Act 1977*, part 6 (Audit of public accounts and public sector entities)

⁵⁰ *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)

⁵¹ Section 20(2) (Rules)

⁵² *Juvenile Justice Act 1992*, section 203(2) (Management of detention centres)

Replacement of ss 51 to 60—

99. Sections 51 to 60—

omit, insert—

‘Funds to be maintained

‘51.(1) The commission must maintain—

- (a) a prisoners trust fund; and
- (b) a detainees trust fund.

‘(2) All amounts received by a commission officer, or anyone else under an arrangement with the commission, for a prisoner must be paid into the prisoners trust fund.

‘(3) All amounts received by a commission officer, or anyone else under an arrangement with the commission, for a detainee must be paid into the detainees trust fund.

‘(4) Amounts in a prisoners or detainees trust fund to the credit of a prisoner or detainee—

- (a) may be spent by the prisoner or detainee, with the commission’s consent; and
- (b) must be paid to the public trustee, if the public trustee is managing the prisoner’s or detainee’s estate and the public trustee requests the payment; and
- (c) must be paid to the prisoner or detainee on being discharged or being released on parole or under an immediate or fixed release order under the *Juvenile Justice Act 1992*.’

Amendment of s 61 (Secrecy)

100. Section 61(1)(a), after ‘Act’—

insert—

*‘or the *Juvenile Justice Act 1992*’.*

Amendment of s 63 (Commission deemed to be owner of property)

101.(1) Section 63(1)(a), ‘prison’—

omit, insert—

‘prison, detention centre’.

(2) Section 63(1)(b), ‘prisoners or persons’—

omit, insert—

‘prisoners, detainees or persons, who, under the *Corrective Services Act 1988* are.’.

Amendment of s 70 (Annual report)

102. Section 70(1), ‘and the *Corrective Services Act 1988*’—

omit, insert—

‘, the *Corrective Services Act 1988* and the *Juvenile Justice Act 1992*’.

Insertion of new pt 6 and schedule

103. After section 72—

insert—

‘PART 6—TRANSITIONAL**‘Definitions**

‘73. In this part—

“amendment Act” means the *Juvenile Justice Legislation Amendment Act 1996*.

“changeover day” means a day fixed under a regulation.

“department” means the Department of Families, Youth and Community Care.

“transferred person” means a person transferred to the commission under section 74(2).⁵³

‘Transfer of staff to commission

‘74.(1) The purpose of this section is to transfer officers of the public service to the commission because of the change to the commission’s functions under the amendment Act.

‘(2) On the changeover day the following persons are transferred to the commission—

- (a) persons who, immediately before the day were officers of the public service employed as members of the staff of detention centres; and
- (b) persons decided by the Governor in Council who, immediately before the day, were officers of the public service.

‘(3) On transfer, a transferred person stops being an officer of the public service and becomes an officer of the commission.

‘(4) Until the commission decides the employment conditions of a transferred person under section 34(3) or (4),⁵⁴ a transferred person is entitled to salary and other entitlements the person would have had if the person’s employment as an officer of the public service had continued.

‘(5) A transferred person may claim against the commission all entitlements accrued as an officer of the public service and not used.

‘(6) A transferred person’s long service leave entitlements are to be calculated as if service as an officer of the public service and service with the commission were continuous service with the commission.

‘(7) For 5 years after being transferred to the commission, a transferred person has the same rights to appeal against someone else’s employment promotion in the public service as if the transfer had not happened.

⁵³ Section 74(2) (Transfer of staff to commission)

⁵⁴ Section 34(3) or (4) (Other officers of commission)

‘SCHEDULE**‘DICTIONARY**

section 6

“commission” means the Queensland Corrective Services Commission.

“commissioner” means a commissioner of the commission.

“community corrections” means the following—

- (a) services about prisoners who are released on parole and persons subject to probation orders, community service orders or fine option orders;
- (b) community corrections centres and services about community corrections centres;
- (c) programs for prisoners who are living or working outside of a prison and for persons subject to probation orders, community service orders or fine option orders;
- (d) services about, and programs for, persons prescribed under a regulation;

“community corrections centre” means a community corrections centre under the *Corrective Services Act 1988*, section 12.⁵⁵

“corrective services” means community corrections and custodial corrections.

“custodial corrections” means the following—

- (a) prisons and services related to prisons;
- (b) detention centres and services related to detention centres;
- (c) programs for prisoners who are held in a prison;
- (d) programs for detainees.

⁵⁵ *Corrective Services Act 1988*, section 12 (Establishment of community corrections centres)

“**detainee**” means someone who is in the commission’s custody under the *Juvenile Justice Act 1992* other than a person serving a term of imprisonment under that Act.

“**detention centre**” means a detention centre under the *Juvenile Justice Act 1992*, section 201.⁵⁶

“**director-general**” means the director-general of Corrective Services appointed under this Act.

“**employee**”, of the commission, means a person employed by the commission on wages.

“**officer**”, of the commission, means a person employed by the commission on salary, or engaged or appointed by it on a contract basis, for full-time or part-time employment

“**prison**” means a prison under the *Corrective Services Act 1988*, section 11.⁵⁷

“**prisoner**” means someone, other than a detainee, who is—

- (a) in the commission’s custody; or
- (b) released on parole under the *Corrective Services Act 1988*.

“**secretary**” means the secretary to the commission.’.

⁵⁶ *Juvenile Justice Act 1992*, section 201 (Establishment of detention centres and other places)

⁵⁷ *Corrective Services Act 1988*, section 11 (Establishment of prisons)

PART 4—AMENDMENT OF THE BAIL ACT 1980

Act amended by pt 4

104. This part amends the *Bail Act 1980*.

Insertion of new s 19A

105. Part 2, after section 19—

insert—

‘Consideration of findings of guilt, cautions and community conference agreements as child for decisions about release from custody

‘19A.(1) This section applies to a person in custody on a charge of an offence, if—

- (a) the person—
 - (i) has been found guilty as a child of an offence without a conviction being recorded; or
 - (ii) has been administered a caution as a child for an offence; or
 - (iii) has made a community conference agreement as a child about an offence; and
- (b) the finding, caution or agreement may be treated as part of the person’s criminal history by a court that sentences the person on the charge.

‘(2) A court or person deciding whether to remand the person in custody on the charge or release the person from custody may have regard to the finding, caution or agreement.’.

PART 5—AMENDMENT OF CHILDRENS COURT ACT 1992

Act amended by pt 5

106. This part amends the *Childrens Court Act 1992*.

Amendment of s 20 (Who may be present at a proceeding)

107. Section 20(2)—

insert—

‘(c) a representative of mass media.’.

PART 6—OTHER AMENDMENTS

Amendments in sch 2

108. Schedule 2 amends the *Corrective Services Act 1988*.

SCHEDULE 1**MINOR AMENDMENTS OF JUVENILE JUSTICE
ACT 1992**

section 3

1. Section 9(1), ‘probation order, community service order, or immediate release order’—*omit, insert—*

‘particular order on sentence’.

2. Section 9A—*renumber and relocate* as section 9D, in part 1A.**3. Part 2, division 2—***renumber and relocate* as division 1 in part 1C.**4. Part 2, divisions 3 to 5—***renumber* as divisions 2 to 4.**5. Section 13(3), ‘Commissioner may’—***omit, insert—*

‘commissioner of the police service may’.

6. Sections 17, 40(1), 41(1)(a), 41(2), 43(3), 43(4) and 45, ‘Commissioner’—*omit, insert—*

‘commissioner of the police service’.

SCHEDULE 1 (continued)

7. Section 36—

renumber as section 9E.

8. Part 2 division 6—

renumber and *relocate* as division 1 in part 1B.

9. Section 49—

insert—

‘(f) to perform other functions and exercise other powers conferred on the judge under this Act.’.

10. Section 103, heading—

omit, insert—

‘Definitions for pt 4, div 9’.

11. Section 108(1), ‘Act’—

omit, insert—

‘part’.

12. Section 125(3), ‘guilty’—

omit, insert—

‘guilt’.

13. Section 167(2) ‘Commissioner’—

omit, insert—

‘commissioner of the police service’.

SCHEDULE 1 (continued)

14. Part 6, heading—*omit, insert—***‘PART 6—DETENTION ADMINISTRATION’.****15. Section 204(4)(c), ‘Corrective Services Commission’—***omit, insert—*

‘commission’.

16. Section 226(1)(a), ‘this’—*omit, insert—*

‘a prescribed’.

17. Section 226(1)(b), ‘another’—*omit, insert—*

‘an’.

18. Section 226(5)—*insert—*‘**“prescribed Act”** means the following—

- (a) this Act;
- (b) *Corrective Services (Administration) Act 1988*;
- (c) *Corrective Services Act 1988*’.

SCHEDULE 2**MINOR AMENDMENTS OF CORRECTIVE
SERVICES ACT 1988**

section 108

1. Section 10, heading—*omit, insert—***‘Definitions’.****2. Section 10—***insert—***‘“appointed day” means 15 December 1988.’.**

SCHEDULE 3

PROVISIONS COMMENCING ON DAY FIXED BY PROCLAMATION

section 2

1. Section 5(1), omission of definition **“caution”**.
2. Section 5(2), insertion of definitions **“caution”**, **“community conference convenor”**, **“convenor”**, **“community conference agreement”**, **“disclosable community conference agreement”**, **“referring court”** and **“referring police officer”**.
3. Section 6.
4. Section 8, insertion of new pt 1C, div 2 to 4.
5. Section 9.
6. Section 10.
7. Section 11.
8. Section 12.
9. Section 13.
10. Section 22.
11. Section 25.
12. Section 26.
13. Section 27(1), insertion of new section 89(1)(c).
14. Section 27(2).
15. Section 28(3).
16. Section 33.
17. Section 34.
18. Section 35.

SCHEDULE 3 (continued)

- 19.** Section 36.
- 20.** Section 37.
- 21.** Section 38.
- 22.** Section 39.
- 23.** Section 40.
- 24.** Section 41.
- 25.** Section 43.
- 26.** Section 44.
- 27.** Section 45.
- 28.** Section 46.
- 29.** Section 48.
- 30.** Section 49.
- 31.** Section 51.
- 32.** Section 52.
- 33.** Section 54.
- 34.** Section 55.
- 35.** Section 57.
- 36.** Section 58.
- 37.** Section 60.
- 38.** Section 62.
- 39.** Section 63.
- 40.** Section 64.
- 41.** Section 72.

SCHEDULE 3 (continued)

42. Part 4.

43. Schedule 1, items 3 and 4.