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No. 33 of 1999

Fifth Session Fifth Parliament Republic of Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Children Act, Chap. 46:01

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REPUBLIC OF TRINIDAD AND TOBAGO—2000

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The Bill seeks to bring the present legislation pertaining to children in line with the United Nations Convention on the Rights of the Child. The Bill will therefore amend the Children Act, Chap. 46:01 to fall in line with Convention and also to harmonise it with the Children's Authority Bill, 1999 and the Children's Community Residences Bill, 1999.

Clause 3 of the Bill would amend section 2 of the Children Act, to insert a definition of Children's Authority. This clause would also amend the definition of "child" to raise the upper age limit of a child from fourteen to eighteen. The definition of "place of safety" in the Act would be deleted. The Children's Authority would be defined as a place of safety. The definition of "young person" would also be amended to include children over sixteen to meet our obligations under the Convention.

Clauses 4 to 7 would amend sections 3, 4, 6 and 7 of the Children Act to raise the age of the child from sixteen to eighteen in respect of persons who are responsible for the care of a child.

Clause 8 would have the dual effect of amending section 12 by raising the upper age limit of a child to eighteen and by deleting the reference to an Orphanage and substituting it with reference to children's homes and foster homes.

Clause 9 would amend section 13 by deleting the reference to a certified school and replacing it with a reference to a Community Residence under the Children's Authority Act.

Clause 10 would insert a new subclause 19E(1) to restrict the definition of a child in section 19 to a person under the age of fourteen.

Clause 11 would amend sections 24, 25 and 28 to raise the upper age limit of a child from sixteen to eighteen to meet our obligations under Article 33 of the Convention which requires that all States "take all appropriate measures, including legislative, administrative, social and educational measures to protect children from the illicit use of narcotic and psychotropic substances.

Clause 12 would amend section 29 to remove any reference to "child" and "Inspector" by deleting these words. The clause would also insert definitions of "Children's Home", "Community Residence" and "Rehabilitation Centre".

Clause 13 would amend section 32 to include a new subsection (3) that would allow for the application of the Children's Community Residences, Foster Homes and Nurseries Act.

Clause 14 would amend section 44 by raising the upper age limit of the child from sixteen to eighteen.

Clause 15 would amend section 50 by removing the discrimination that exists with respect to the treatment of boys and girls in their periods of detention.

Clauses 16 and 17 would amend sections 54 and 55 by deleting the reference to "Inspector" and substituting it with a reference to the "Authority".

Clause 18 would amend section 56 to make provision with respect to persons who are not foster parents but who wish to take children who are in community residences for short periods. This clause would also introduce two new subsections to require, in such circumstances, that certain information be furnished to the Authority for Authority's approval.

Clause 19 would amend section 61, which would no longer permit a Magistrate to send a child to prison.

Clause 20 would amend section 62, which would no longer permit a magistrate to send a child to prison, rather permit him to send the said child to a Youth Training Center under the Youthful Offenders Detention Act.

Clause 21 would amend Sections 64 and 65 by deleting the reference to "Inspector" and substituting it with a reference to the Authority.

Clause 22 would repeal section 69.

Clause 23 would restrict the application of the word "child" in section 78 to a person under the age of fourteen.

Clause 24 would delete paragraphs *(g)* and *(l)* of section 83, in keeping with our obligations under Article 37 of the United Nations Convention on the Rights of the child not to subject children to torture, cruel or inhumane treatment or punishment.

Clause 25 would raise the age of a child from sixteen to eighteen years.

Clause 26 would insert a new clause 87A that would restrict the definition of "child" to that of a person under fourteen and that of a "young person" to a person between ages of fourteen and sixteen for the purposes of sections 80, 82 and 83.

Clause 27 would amend section 99 to separate the references to children who are not before the Court for offences from those who are before court for offences.

Clause 28 would amend the Act to make several substitutions with respect to certified schools, industrial schools and orphanages.

BILL

AN ACT to amend the Children Act, Chap 46:01

[, 2000]

ENACTED by the Parliament of Trinidad and Tobago as follows:— Enactment

1. This Act may be cited as the Children (Amendment) Act, 1999, and shall come into operation on such day as is fixed by the President by Proclamation. Short title and commencement

Interpretation Chap. 46:01

2. In this Act "the Act" means the Children Act.

Section 2 amended

3. Section 2 of the Act is amended by—

(a) inserting in the appropriate alphabetical sequence the following definition:

"Authority" means the Children's Authority established under the No. of 1999 Children's Authority Act;";

(b) deleting the word "fourteen" in the definition of "child" and substituting the word "eighteen";

(c) deleting the definition "place of safety" and substituting the following definition:

"place of safety" means the Children's Authority;"; and

(d) deleting the definition of "young person" and substituting the following definition:

"young person" means a child who is 14 years of age or upwards.".

Section 3 amended

4. Section 3 of the Act is amended in subsection (1) by deleting the word "sixteen" and substituting the word "eighteen".

Section 4 amended

5. Section 4 of the Act is amended by deleting the word "sixteen" and substituting the word "eighteen".

Section 6 amended

6. Section 6 of the Act is amended by deleting the word "sixteen" and substituting the word "eighteen".

Section 7 amended

7. Section 7 of the Act is amended by deleting the word "sixteen" and substituting the word "eighteen".

Section 12 amended

8. Section 12 of the Act is amended—

(a) in subsection (1), by deleting the word "sixteen" and substituting the word "eighteen"; and

(b) in subsection (7), by deleting all the words commencing with the words "an Orphanage" and substituting the words "a children's home, foster home or making any other order as it thinks fit.".

Section 13 amended

9. Section 13 of the Act is amended in subsection (2), by deleting the words "a certified school under Part III" and substituting the words "a community residence under the Children's Authority Act".

Section 19 amended

10. Section 19E of the Act is amended by—

(a) renumbering that section as subsection (2); and

(b) inserting the following new subsection (1):

" (1) For the purpose of section 19, a "child" means a person under the age of fourteen.".

Sections 24, 25 and 28 amended

11. Sections 24, 25 and 28 of the Act are amended by deleting the word "sixteen" and substituting the word "eighteen".

Section 29 amended

12. Section 29 of the Act is amended by—

(a) deleting the definition of "child";

(b) deleting the definition "Inspector"; and

(c) inserting in appropriate alphabetical sequence the following definitions:

" "Children's Home" means a residence for the care and rehabilitation of children and which is licenced under the Community Residences, Foster Homes and Nurseries Act; Act No. of 1999

"Community Residence" includes industrial schools, orphanages, children's homes, residential centres and certified schools as defined by this Act; and

"Rehabilitation Centre" means a residence for the care and rehabilitation of youthful offenders, and which is licenced under the Community Residences, Foster Homes and Nurseries Act;".

Section 32 amended

13. Section 32 of the Act is amended—

(a) by inserting a new subsection (3) as follows:

" (3) Notwithstanding subsection (1), section 4 of the Children's Community Residences, Foster Homes and Nurseries Act shall apply to all such certified schools.".

Section 44 amended

14. Section 44 of the Act is amended in subsection (1), by deleting the word "fourteen" and substituting the word "eighteen".

Section 50 amended

15. Section 50 of the Act is amended in—

(a) in paragraph *(a)*, by deleting the words "in the case of a female until she attains" and substituting the word "to";

(b) in paragraph *(b)*, by—

(i) deleting the word "sixteen" and substituting the word "eighteen";

(ii) deleting the words "in the case of a male until he attains the age of eighteen and in the case of a female until she attains" and substituting the word "to".

Section 54 amended

16. Section 54 of the Act is amended by deleting the words "Inspector for his" and substituting the words "Authority for its".

Section 55 amended

17. Section 55 of the Act is amended by deleting the word "Inspector" and substituting the word "Authority".

18. Section 56 of the Act is amended by— Section 56 amended

(a) deleting subsection (1) and substituting the following subsection: .

"Temporary placement of child

56. (1) Where a person who is not a foster parent as defined by Part V of the Children's Community Residences, Foster Homes and Nurseries Act, wishes to care for a child who is—

Act No. of 1999

(a) in the care of a community residence;

(b) not a youthful offender; and

(c) is not related to him,

he shall apply to the manager of the community residence for a licence for such care.";

(b) inserting after subsection (1) the following subsections:

" (1A) Where an application has been made under subsection (1), the manager of the community residence shall notify the Authority of such application and shall supply the following particulars:

(a) (i) name and address;

(ii) occupation and place of work; and

(iii) marital status of the applicant;

(b) relationship of the applicant if any with the child;

(c) period of intended placement;

(d) suitability of child for such placement; and

(e) the reason for such placement.

(1B) Upon investigation by the Authority as to the suitability of such placement, the Authority may authorise the manger to permit the child to be temporarily placed out with the applicant.".

Section 61 amended

19. Section 61(1) of the Act is amended by deleting all the words beginning "as the magistrates directs".

Section 62 amended

20. Section 62 of the Act is amended in subsection (1), by deleting all the words beginning "to be imprisoned for three months" and substituting the words "he shall be liable to be sent to an industrial Training Centre as established by the Youthful Offenders Detention Act, for a term of three months and at the expiration of the term thereof he may be required to serve the balance period in a community residence.".

Sections 64 and 65 amended

21. Sections 64 and 65 of the Act are amended by deleting the word "Inspector" wherever it occurs and substituting the word "Authority".

Section 69 repealed

22. Section 69 of the Act is repealed.

Section 78 amended

23. Section 78(1) of the Act is amended by inserting after the word "child", the words "under the age of fourteen".

Section 83 amended

24. Section 83 of the Act is amended by deleting paragraphs *(g)* and *(l)*.

Section 87 amended

25. Section 87(3) of the Act is amended by deleting the word "sixteen" wherever it occurs and substituting the word "eighteen".

26. The Act is amended by inserting a new section 87A as follows: New section 87A inserted

"Interpretation

87A. For the purposes of sections 80, 82 and 83—

"child" means a person under the age of fourteen; and

"young person" means a person between the ages of fourteen and sixteen.".

27. Section 99 of the Act is amended— Section 99 amended

(a) in subsection (1), by—

(i) deleting the words "whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence" and substituting the words "charged with an offence is brought before any court,";

(ii) deleting the words "this Act" and substituting the words "Part IV".

(b) by inserting after subsection (1), the following new subsection (1A):

" (1A) Notwithstanding subsection (1), where a person is brought before any Court, otherwise than for the purpose of giving evidence, and it appears to the Court that he is a child or young person, the Court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgement of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to

the Court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person, and where it appears to the Court that the person so brought before it is of the age of eighteen years or upwards, that person shall, for the purposes of this Act, be deemed not to be a child or young person.".

Act amended

28. (1) The Act is amended by—

(a) deleting the words "school" and "certified school" wherever they occur and substituting the words "Community Residence";

(b) deleting the words "Industrial School" or "certified Industrial School" wherever they occur and substituting the words "Rehabilitation Center"; and

(c) deleting the words "Orphanage" or "certified Orphanage" wherever they occur and substituting the words "Children's Home".

(2) The provisions of subsection (1) shall not apply to sections 29 to 32.

Passed in the House of Representatives this
day of , 2000.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2000.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 33 of 1999

FIFTH SESSION

FIFTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Children Act, Chap. 46:01

Received and read the

First time.....

Second time.....

Third time.....