
Third Session Fourth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 19 of 1994

[L.S.]

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

[Assented to 28th September, 1994]

WHEREAS it is enacted by section 13(1) of the ^{Preamble} Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution, and if any Act does so declare it shall have effect accordingly:

And whereas it is provided in subsection (2) of the said section 13, that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

- Enactment** ENACTED by the Parliament of Trinidad and Tobago as follows:—
- Short title** 1. This Act may be cited as the Children (Amendment) Act, 1994.
- Act inconsistent with Constitution** 2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.
- Chap. 46:01** 3. In this Act the Children Act is referred to as “the Act”.
- Section 2 amended** 4. Section 2 of this Act is amended by substituting for the definition of “place of safety” the following:
 “ ‘place of safety’ means any place appointed by the Minister to be a place of safety for the purpose of the Act, or any hospital or other suitable secure place the occupier of which is willing temporarily to receive a juvenile.”
- Section 3 amended** 5. Section 3 of the Act is amended—
 (a) in subsection (1)(a) by substituting for the word “four” in line one, the word “ten”;
 (b) in subsection (1)(b) by substituting for the word “one” in line one, the word, “five”;
 (c) in subsection (4)(a) by substituting for the words “eight” and “five” in lines four and six, the words “twenty” and “twelve” respectively.

6. Section 8 of the Act is amended—

Section 8 amended

- (a) in subsection (1) by substituting for the word “two” in line four, the word “five”;
- (b) by substituting for the word “girl” wherever it occurs the words “child or young person”.

7. Section 9 of the Act is amended by substituting for the word “girl” wherever it occurs the words “child or young person”.

Section 9 amended

8. Section 11 of the Act is amended—

Section 11 amended

- (a) by inserting in subsection (1)—
 - (i) before the word “or” in the first place where it occurs the words “a person referred to in section 15(1)(a)”;
 - (ii) after the word “been” in the second place where it occurs the words “or is likely to be”;
- (b) by adding after subsection (3) the following new subsection—

“ (4) A constable or a person referred to in section 15(1)(a) shall make a written report of action taken under this section to his superior officer within seventy-two hours of the taking of the action.”.

9. After section 11 of the Act the following section is inserted—

New section inserted

“Child or young person to appear before Magistrate in eight days once taken to a place of safety

11A. A person who takes a child or young person to a place of safety under section 11 or 15 shall cause that child or young person to appear before a Magistrate in Chambers no later than eight days from the date the child or young person is so taken or if the child or young person cannot appear, that person shall advise the Magistrate accordingly.”.

Section 13 amended

10. Section 13 of the Act is amended by adding after subsection (6) the following subsection:

“ (7) A Magistrate, in making an order, shall do so with the child or young person’s welfare as the paramount consideration, taking into account the wishes of the child or young person involved where such wishes can be reasonably ascertained.”.

Section 15 repealed

11. Section 15 of the Act is repealed and the following section is substituted—

“Care Order 15. (1) If it appears to a Magistrate on complaint on oath of—

(a) a public officer experienced or qualified in social work who is approved by the Minister in writing; or

(b) a person who in the opinion of the Magistrate is acting in the interest of a child or young person,

that a child or young person has suffered or is suffering harm so as to cause concern for the welfare of that child or young person, or is likely to suffer such harm, the Magistrate may require a parent or guardian to appear before him.

(2) A Magistrate may act in accordance with subsection (1) in proceedings under sections 11, 12, 44 or 45.

(3) Where, in proceedings referred to in subsections (1) and (2), the Magistrate is satisfied that the child or young person has suffered, is suffering or is likely to suffer harm sufficient to cause concern for the welfare of that child or young person, the Magistrate may, with the child or young person’s welfare as the

paramount consideration, taking into account the wishes of the child or young person involved where such wishes of the child or young person can be reasonably ascertained, order that the child or young person—

- (a) remain in the custody of a parent or guardian, subject to a period of supervision by a named person or authority, and subject to such conditions as are specified in the order; or
- (b) be committed to the care of a relative of the child or young person or other fit person named by the court, such relative or other fit person being willing and able to undertake such care.

(4) An order made under subsection (3) may also—

- (a) provide for access to the child or young person by a parent or legal guardian; and
- (b) provide for supervision and monitoring of the order in such manner as is specified in the order.

(5) An order made under subsection (3) may be renewed, varied or revoked as the case may be, by the court making the order on the application of any person who in the opinion of the court, is acting in the interest of the child or young person.

(6) Section 12(3) shall apply in respect of an order made under this section.

(7) Where proceedings are before a Magistrate under subsection (1), section 11, 12, 44(1) or 45 in respect of a child or young person—

- (a) who is a ward of court;
- (b) in respect of whom there is in force an order of the High Court relating to custody, guardianship or access; or
- (c) in respect of whom proceedings relating to or affecting him are before or pending in the High Court under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act or the Matrimonial Proceedings and Property Act,

the Magistrate shall refer the proceedings to the High Court whereupon those proceedings subject to subsections (8), (9) and (10) shall be continued as if they had been properly and duly commenced in that Court under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act or the Matrimonial Proceedings and Property Act, whichever applies.

(8) In proceedings removed to the High Court under subsection (7), the High Court may make an order under subsection (2), or such other order as it sees fit.

(9) At any stage of the proceedings in which an order under subsection (2) may be made, the Court may—

- (a) in the case of the High Court, on its own motion;
- (b) in the case of the Magistrate, by summons; or
- (c) on the application of any person acting in the interest of the child or young person,

join as a party to the proceedings any person who ought to have been joined as a party or whose presence before the Court is desirable or necessary to determine the matter.

(10) Nothing in this section precludes the High Court or the Magistrate, as the case may be, in proceedings in which an order under subsection (2) may be made, from making an interim order, including an interim care order, pending the appearance of the child or young person, parent or guardian, or other person.

(11) For the purposes of this section—

“harm” includes—

- (a) wilful neglect;
- (b) assault;
- (c) ill-treatment;
- (d) physical, sexual or mental abuse;
- (e) a prescribed offence as defined in section 3 of the Domestic Violence Act;

(f) a situation where any child or young person is being used as a drug courier and drug pusher by those having his custody charge or care.

(12) Where a complaint on oath has been made under subsection (1) and where the circumstances so require, the Magistrate may issue a warrant authorising any constable to remove the child or young person, with or without search, to a place of safety and detain him there until he is brought before a Magistrate.

(13) A Magistrate issuing a warrant under this section may, by the same warrant, cause any person accused of any offence in respect of the child or young person to be apprehended and brought before a Magistrate, and cause proceedings to be taken against such person according to law.

(14) Any constable authorised by warrant under this section to search for any child or young person, or to remove any child or young person with or without search, may enter, if need be by force, any house, building, or other place specified in the warrant, and may remove the child or young person therefrom.

(15) Every warrant issued under this section shall be executed by a constable, who shall be accompanied by the person laying the information, if such person so desires, unless the Magistrate

by whom the warrant is issued otherwise directs, and the constable may also, if the Magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(16) It shall not be necessary in any information or warrant under this section to name the child or young person.”.

12. Section 23 of the Act is amended by deleting Section 23 amended from subsection (1) the words “any society or body corporate established for the reception or protection of poor children or the prevention of cruelty to children” and substituting the words “any body corporate, authority, agency or society established for the reception of children and young persons to whom this Act applies.”.

13. Section 29(1) of the Act is amended in the Section 29 amended definition of “orphanage” by adding after the word “children” the words “or a home or institution”.

14. Section 75 of the Act is amended— Section 75 amended

(a) by repealing subsection (1) and substituting the following subsection—

“ (1) Where a child or young person is charged with an offence or brought before a Magistrate under this Act, his parent or guardian may, in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the Court before which the case is heard or determined during all the stages of the proceedings, unless the Court is satisfied that it would be unreasonable to require his attendance.”;

- (b) in subsection (3), by deleting the words “or where an application is made to a Magistrate for an order to send a child to a certified Orphanage” and substituting the words “or in proceedings referred to in section 15(1) or (2)”; and
- (c) in subsection (4) by deleting the words “but if that person is not the father, the attendance of the father may also be required”.

Validating of acts
done under repealed
provisions

15. The taking of a child or a young person to a place of safety under the Act or the making of an order under the Act in respect of an offence specified in a provision referred to in the Schedule to the Act which was repealed by the First Schedule to the Sexual Offences Act is not invalid by reason solely of that repeal.

Act No. 27 of 1986

Order for counselling

16. Where under sections 3, 5, 6, 8 and 9, a person is convicted of an offence, the Court shall have the power to make an Order for the convicted person to be submitted for counselling.

Schedule substituted

17. The Schedule to the Children Act is repealed and the following Schedule substituted.

“SCHEDULE

Any offence under—

- (a) the Sexual Offences Act, 1986;
- (b) sections 21 and 48 of the Offences against the Person Act, and any offence against a child or young person under section 6 of that Act; and
- (c) section 4 or 5 of the Summary Offences Act.”.

Chap. 11:08

Chap. 11:02

Passed in the Senate this 9th day of November, 1993.

J. SAMPSON
Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all members of the Senate, that is to say by the votes of 23 Senators.

J. SAMPSON

Acting Clerk of the Senate

Passed in the House of Representatives this 2nd day of September, 1993.

R. CUMBERBATCH

Acting Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all members of the House, that is to say by the votes of 31 members of the House.

R. CUMBERBATCH

Acting Clerk of the House

House of Representatives amendments agreed to by the Senate this 6th day of September, 1994.

J. SAMPSON

Acting Clerk of the Senate

Senate amendment to House of Representatives amendments agreed to by the House this 9th day of September, 1994.

R. CUMBERBATCH

Acting Clerk of the House