



New South Wales

# Justice Legislation Amendment (Children) Bill 2024

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to make various amendments to the following Acts in the Communities and Justice portfolio—

- (a) *Child Protection (Working with Children) Amendment Act 2022*,
- (b) *Children (Community Service Orders) Act 1987*,
- (c) *Children (Criminal Proceedings) Act 1987*.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

**Clause 3** provides that explanatory notes in schedules of the proposed Act do not form part of the proposed Act.

**Schedules 1–3** contain amendments to the Acts specified in the overview and explanatory notes for the amendments.



New South Wales

# Justice Legislation Amendment (Children) Bill 2024

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*This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council*

*Clerk of the Parliaments*



New South Wales

## **Justice Legislation Amendment (Children) Bill 2024**

No. \_\_\_\_\_, 2024

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### **A Bill for**

An Act to amend various Acts in the Communities and Justice portfolio relating to children.

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*The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with/without amendment.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*

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**Tabling copy**

<b>The Legislature of New South Wales enacts—</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Justice Legislation Amendment (Children) Act 2024</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5
<b>3 Explanatory notes</b>	6
An explanatory note in a schedule of this Act does not form part of this Act.	7

<b>Schedule 1</b>	<b>Amendment of Child Protection (Working with Children) Amendment Act 2022 No 34</b>	1
		2
<b>Schedule 1 Amendment of Child Protection (Working with Children) Act 2012 No 51</b>		3
Insert “prescribed” before “criminal offence” in Schedule 1[10], proposed section 36C(1).		4
<b>Explanatory note</b>		5
The proposed amendment corrects an error in an uncommenced amendment to the <i>Child Protection (Working with Children) Act 2012</i> .		6
		7

<b>Schedule 2</b>	<b>Amendment of Children (Community Service Orders) Act 1987 No 56</b>	1
		2
<b>[1] Section 3 Definitions</b>		3
	Insert “or by another court order” after “section 20A” in section 3(1), definition of <i>relevant maximum period</i> .	4
		5
<b>[2] Section 21A Revocation of children’s community service order</b>		6
	Omit section 21A(1)(a). Insert instead—	7
	(a) for an order made by the Children’s Court, do the following—	8
	(i) decide to take no action,	9
	(ii) vary or revoke the conditions of, or impose further conditions on, the order,	10
	(iii) extend the relevant maximum period for the order,	11
	(iv) revoke the order, or	12
		13
<b>[3] Section 21A(1)(b)</b>		14
	Omit “in the case of”. Insert instead “for”.	15
<b>[4] Section 21A(2)</b>		16
	Omit “court may”. Insert instead “court may do the following”.	17
<b>[5] Section 21A(2)(a)–(d)</b>		18
	Omit section 21A(2)(a) and (b). Insert instead—	19
	(a) decide to take no action,	20
	(b) vary or revoke the conditions of, or impose further conditions on, the order,	21
	(c) extend the relevant maximum period for the order,	22
	(d) revoke the order.	23
		24
<b>[6] Section 21A(2A)</b>		25
	Insert after section 21A(2)—	26
	(2A) If a court revokes a children’s community service order under subsection (1)(a)(iv) or (2)(d), the court may deal with the person for the offence that resulted in the making of the order in the way the court could have dealt with the person if the order had not been made.	27
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		30
<b>[7] Section 21A(3)</b>		31
	Omit “as a consequence of the revocation of a children’s community service order under this section”.	32
		33
	Insert instead “under subsection (2A)”.	34
<b>[8] Section 22 Revocation of children’s community service orders on being dealt with for other offences</b>		35
		36
	Omit “court may” from section 22(1). Insert instead “court may do the following”.	37
<b>[9] Section 22(1)(a)–(d)</b>		38
	Omit section 22(1)(a) and (b). Insert instead—	39

(a)	decide to take no action in relation to the order,	1
(b)	vary or revoke the conditions of, or impose further conditions on, the order,	2 3
(c)	extend the relevant maximum period for the order,	4
(d)	revoke the order.	5
<b>[10]</b>	<b>Section 22(1A)</b>	6
	Insert after section 22(1)—	7
(1A)	If a court revokes a children’s community service order under subsection (1)(d), the court may deal with the person for the offence that resulted in the making of the order in the way the court could have dealt with the person if the order had not been made.	8 9 10 11
<b>[11]</b>	<b>Section 22(2)</b>	12
	Omit “subsection (1)”. Insert instead “subsections (1) and (1A)”.	13
<b>[12]</b>	<b>Section 27</b>	14
	Omit the section. Insert instead—	15
<b>27</b>	<b>Notice of variation or revocation of children’s community service orders</b>	16
(1)	A court must notify all relevant persons if the court does the following in relation to a children’s community service order—	17 18
(a)	varies or revokes the conditions of, or imposes further conditions on, the order,	19 20
(b)	extends the relevant maximum period for the order,	21
(c)	revokes the order.	22
(2)	In this section—	23
	<b>relevant person</b> means the following—	24
(a)	the Secretary,	25
(b)	the assigned officer in relation to the order,	26
(c)	if the court is not the Children’s Court—a Registrar of the Children’s Court.	27 28
	<b>Explanatory note</b>	29
	Items [2], [5] and [9] of the proposed amendments enable a court to do the following when an application to revoke a children’s community service order is made or when a person subject to a children’s community service order appears before the court for another offence—	30 31 32
(a)	take no action,	33
(b)	amend the order,	34
(c)	extend the maximum period the order can be in force (the <b>relevant maximum period</b> ),	35
(d)	revoke the order.	36
	Items [6] and [10] provide that if a court revokes a person’s children’s community service order, the court may deal with the person for the offence in the way the court could have dealt with the person if the order had not been made.	37 38 39
	Item [12] requires a court to notify certain people if the court amends or revokes a children’s community service order or extends the relevant maximum period for the order.	40 41
	Items [1], [3], [4], [7], [8] and [11] make consequential amendments.	42

<b>Schedule 3</b>	<b>Amendment of Children (Criminal Proceedings)</b>	1
	<b>Act 1987 No 55</b>	2
<b>[1]</b>	<b>Section 40 Variation of good behaviour bond or probation</b>	3
	Omit “terminate” from section 40(1)(a). Insert instead “revoke”.	4
<b>[2]</b>	<b>Section 41 Enforcement of conditions of good behaviour bond or probation or compliance with outcome plan</b>	5
	Omit “in accordance with subsection (4) or (5), as the case may require” from section 41(3).	6
	Insert instead “under subsections (4)–(6)”.	7
<b>[3]</b>	<b>Section 41(4)–(8)</b>	8
	Omit section 41(4)–(7). Insert instead—	9
	(4) If a court other than the Children’s Court or Local Court made the order under section 33(1) providing for the person to enter into a good behaviour bond or be released on probation, or the order under section 33(1)(c1) providing that the person be released under section 33(1)(c1) on condition that the person complies with an outcome plan, the Children’s Court or Local Court may—	10
	(a) order the person to be brought before the other court to be dealt with by the other court under subsection (5) or (6), or	11
	(b) deal with the person under subsection (5) or (6).	12
	(5) For an order under section 33(1) providing for the person to enter into a good behaviour bond or be released on probation, if a person is brought before a court and the court finds the person failed to comply with a condition of the good behaviour bond or probation, the court may do the following—	13
	(a) decide to take no action,	14
	(b) vary or revoke a condition of the good behaviour bond or probation, other than the condition under section 33(1A)(a) or (b), or impose a further condition,	15
	(c) vary the period of the order, provided the new period is not more than 2 years from when the order under section 33(1) was made,	16
	(d) revoke the order.	17
	(6) For an order under section 33(1)(c1), if a person is brought before a court and the court finds the person failed to comply with the outcome plan, the court may do the following—	18
	(a) decide to take no action,	19
	(b) revoke the order.	20
	(7) If a court revokes an order under subsection (5)(d) or (6)(b)—	21
	(a) the court may deal with the person for the offence that resulted in the making of the order in the way the court could have dealt with the person if the order had not been made, or	22
	(b) if the court is the Local Court—the court may deal with the person under paragraph (a) as if the person was at least 21 years of age when originally dealt with.	23
	(8) A person on whom a penalty is imposed under subsection (7) has the same rights of appeal as if the penalty had been imposed when the order that was revoked under this section was made.	24
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<b>[4] Section 41A Provisions applicable where control order suspended subject to good behaviour bond</b>	1
	2
Omit “Action with respect to a failure to comply with any such good behaviour bond may be taken under section 41. The good behaviour bond is to be terminated” from section 41A(2).	3
	4
	5
Insert instead “Without limiting section 41, if a person is brought before a court and the court finds the person failed to comply with a condition of the good behaviour bond, the court must revoke the order made under section 33(1B)(b)”.	6
	7
	8
<b>[5] Section 41A(3)</b>	9
Omit “If any such good behaviour bond is terminated”.	10
Insert instead “If the court revokes an order under subsection (2)”.	11
<b>Explanatory note</b>	12
Item [3] of the proposed amendments sets out the actions a court may take if the court finds a person failed to comply with a condition of the person’s good behaviour bond, probation or outcome plan as required by an order under the <i>Children (Criminal Proceedings) Act 1987</i> .	13
	14
	15
A court that finds a person failed to comply with a good behaviour bond or probation may—	16
(a) take no action, or	17
(b) amend the order, or	18
(c) vary the period of the order, or	19
(d) revoke the order,	20
A court that finds a person failed to comply with an outcome plan may—	21
(a) take no action, or	22
(b) revoke the order.	23
Items [1], [2], [4] and [5] make consequential amendments.	24