

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Thursday, 2 December 1982

CHILDREN AND YOUNG PERSONS AMENDMENT BILL

Proposed Amendments

MR PALMER, in Committee, to move the following amendments:

To omit clause 3 and substitute the following clause:

3. Powers in respect of unaccompanied children in public places—(1) The principal Act is hereby amended by repealing section 12 (as amended by subsections (1) to (3) of section 51 of the Summary Offences Act 1981), and substituting the following section:

“12. (1) Where a child is found in a public place (within the meaning of section 2 (1) of the Summary Offences Act 1981) unaccompanied by his parent or guardian or by any other person who has the care of him and he is:

“(a) Associating with known criminals or drug addicts; or

“(b) In an environment which is detrimental to his physical well-being,—

any member of the Police may, using such force as may reasonably be necessary, take the child and forthwith deliver him into the custody of his parents or guardian or of any other person who has the care of him.

“(2) Where the member of the Police cannot find any of the persons to whom the child may be delivered under subsection (1) of this section, he may—

“(a) Deliver the child to any person who, having regard to the circumstances, is able and willing to care for the child; or

“(b) Place the child in the custody of the Director-General by delivering the child to a Social Worker.

“(3) Placement of a child in the custody of the Director-General under subsection (2) (b) of this section shall be sufficient authority for the detention of the child by a Social Worker or in a residence under this Act until—

“(a) A parent or guardian or person having the care of the child is found; or

“(b) The child is made the subject of a complaint under section 27 of this Act and is brought before a Children and Young Persons Court so that the Court may determine whether he is to be held in custody pending the disposal of the complaint; or

“(c) The expiry of a period of 3 days after the day on which the child was detained pursuant to subsection (1) of this section—

whichever occurs first.

“(4) Where—

“(a) A member of the Police finds a child or young person in a public place (within the meaning of section 2 (1) of the Summary Offences Act 1981) during school hours and reasonably believes that child or young person to be of or over the age of 6 years but under the age of 15 years; and

“(b) The child or young person or any person accompanying the child or young person is unable to give the member of the Police a satisfactory explanation for the child’s or the young person’s absence from school at that time—

the member of the Police may deliver the child or young person—

“(i) To the school at which the member of the Police believes the child or young person is or should be enrolled; or

“(ii) To his parents or guardian or to any other person having the care of the child or young person; and

“(iii) Shall report the matter to a Social Worker.”

(2) Section 51 of the Summary Offences Act 1981 is hereby consequentially amended by repealing subsections (1) to (3).

To insert, after clause 11, the following new clauses:

11A. New sections—The principal Act is hereby amended by repealing section 70 and inserting after section 69 the following sections:

“69A. Confinement and treatment of children and young persons in institutions—(1) For the purposes of this section and of sections 69B and 69C of this Act,—

“(a) ‘Institution’ means an institution as defined in section 69 (2) of this Act; and

“(b) Every reference to a child or young person in an institution shall be to a child or young person detained in an institution pursuant to the provisions of this Act.

“(2) No child or young person in an institution shall be subject to any form of physical punishment.

“(3) No disciplinary measures shall be taken against any child or young person in an institution unless such measures are in the interests of the child or young person and are in conformity with regulations made pursuant to this Act.

“(4) No child shall at any time be placed within a secure unit within any institution.

“(5) No young person in an institution shall be detained within a secure unit for more than 24 hours unless a Youth Advocate has certified in writing that such detention is necessary for the safety of the young person or of other persons in the institution.

“(6) Every child and young person in an institution shall be entitled to contact and communicate confidentially with a Youth Advocate and with a lawyer of his or her choice.

“(7) Every child and young person in an institution shall have the right regularly to contact his or her family, including persons whom the child or young person regards as being members of his or her family.

“(8) Every child and young person in an institution shall be provided with such standard of education as may from time to time be prescribed for persons of his or her age by the Education Act 1964 and regulations made pursuant to that Act.

“69B. **Youth Advocate**—(1) The Governor-General shall from time to time, by warrant under his hand, appoint sufficient Youth Advocates to exercise the jurisdiction granted to Youth Advocates by this Act.

“(2) A Youth Advocate shall be appointed in each Department of Social Welfare district in which an institution is situated and he or she shall be advised by the principal of the institution of every admission of a child or young person to that institution within 24 hours of any such admission.

“(3) A person shall not be appointed to be a Youth Advocate unless he or she is, by reason of age, race, personality, and community involvement with young people, a suitable person to discharge the functions of a Youth Advocate.

“(4) A Youth Advocate shall be appointed for a term of 3 years.

“69C. **Functions and powers of Youth Advocates**—(1) Every Youth Advocate shall have the following functions—

“(a) To liaise between individual children and young persons in institutions and the child or young person’s family and community;

“(b) To assist the child or young person to enforce his or her legal rights;

“(c) To assist the child or young person on re-entry into the community from the institution;

“(d) To inquire into the treatment of children and young persons in institutions; and

“(e) To ensure compliance by an institution with the duties imposed on that institution by this Act and by any regulations made pursuant thereto.

“(2) Every Youth Advocate may—

“(a) Enter any institution, and any part of any institution at any time;

“(b) Examine the state and condition of every child and young person in an institution;

“(c) Inspect any discipline book maintained by an institution; and

“(d) Communicate confidentially with any child or young person in an institution and with any member of the staff of an institution.

EXPLANATORY NOTE

The new clause 3 is designed to return the law to a state similar to that which it was in prior to 1981. Power of the Police in respect of unaccompanied children or young persons will be restricted to children and not apply to young persons. The amendment is based on the view that the principal Act already contains sufficient power for dealing with young persons whose behaviour pattern indicates a need for official intervention. Section 27 of the Act provides for complaint proceedings to be initiated in respect of any child or young person who is in need of care, protection or control. Section 28 makes provision for removal of a child or young person on warrant if this is considered necessary. Where the Police find a child or young person in a public place, power is given to take that person to school or deliver the person to his or her parents.

Proposed new sections 69A to 69C are seen as taking the place of the provisions proposed by the Minister in respect of Visiting Committees in Supplementary Order Paper No. 30. The provisions implement some of the recommendations made in Archbishop Johnston's report dated 29 October 1982 on the current practices and procedures followed in institutions of the Department of Social Welfare in Auckland. That report was consequent upon the earlier report of the Human Rights Commission on the same subject. In particular the proposals provide for a bill of rights for children and young persons confined in institutions, and limit the use of secure units.
