

Children's Court of Tasmania

1905 –

Details

The first Tasmanian Children's Court was set up with the passage of the *Youthful Offenders, Destitute and Neglected Children's Amendment Act 1905*. This law that children and young people's cases be heard away from the police office, that people not directly involved be excluded from the room, and that the charge be recorded in a special book. In 2018, the Children's Court is a division of the Magistrates Court of Tasmania. The Children's Court determines child protection matters, including care and protection orders and assessment orders. The Youth Justice Court hears and determines cases of young people alleged to have committed offences while under age of 18.

The *Youthful Offenders, Destitute and Neglected Children's Amendment Act 1905* set up the first Tasmanian Children's Court. It stipulated that their cases be heard away from the police office, that people not directly involved be excluded from the room, and that the charge be recorded in a special book. The jurisdiction of children's courts extended to cases that could be heard by Police Magistrates, a Court of Petty Sessions or by two Justices of the Peace.

Subsequent legislation increased the number of offences that could be heard in the Children's Court. However, children could still be put on trial in the Supreme Court for offences that had to come before a jury, such as murder or manslaughter, a situation that continues today.

The legislation that established Tasmania's children's court in 1905 was superseded by the *Children of the State Act 1918*. This legislation contained a number of provisions relating to children's courts – it provided for children's courts to be established by a special proclamation of the Governor. Cases involving children could now be heard away from the court room used by adults and at different times. People not directly involved were removed from the room and the charge was recorded in a different book.

By providing for one or more special magistrates for children's courts, the Act enabled women to preside over them. This was the result of a campaign by the Women's Health Association. In the absence of these special magistrates, a Police Magistrate or two Justices of the Peace could officiate.

The 1918 Act abolished the death sentence for children.

The Act provided for voluntary probation officers to investigate complaints and give the court information about children's habits, behaviour, and way of life. They could visit and supervise the children before and after a hearing, and help them to find work. The officer's role was to 'advise, assist and befriend' the children in their charge. A child could be assigned a probation officer instead of being made a ward of state.

Like the *Youthful Offenders, Destitute and Neglected Children's Act*, the *Children of the State Act* suspended *Habeas Corpus* by placing children in the guardianship of the Secretary of the Children of the State Department.

Under the *Youthful Offenders, Destitute and Neglected Children's Act*, children could be arrested without a warrant by a member of the public and brought before a magistrate for committal. Under the *Children of the State Act*, a summons had to be issued before the police or a probation officer could arrest a child or search the child's

home. However, children could be removed from a brothel, opium den, or the home of a thief without a warrant. Absconding children could be arrested by the police or an employee of the Department without a warrant.

Until 1989, the Children's Courts came under the Magistracy Departments which were individual Departments that managed the lower courts in various localities.

More info

Related Entries

Related Events

- [Inquiry into the Control and Management of Ashley Boys' Home, State of Tasmania \(1951 - 1953\)](#)

The Inquiry into the Control and Management of Ashley Boys' Home recommended that two or three paid magistrates preside over all the children's courts.

Related Legislation

- [Youthful Offenders Destitute and Neglected Children's Amendment Act 1905, Tasmania \(1905 - 1918\)](#)
- [The Children of the State Act 1918, Tasmania \(1918 - 1936\)](#)
- [Children's Charter Amendment Act 1923, Tasmania \(1923 - 1936\)](#)
- [Infants' Welfare Act 1935, Tasmania \(1935 - 1961\)](#)

Related Organisations

- [Police Department, State of Tasmania \(1898 - 2004\)](#)
- [Women's Health Association \(1901 - 1920?\)](#)

The Women's Health Association campaigned for special women magistrates to preside over children's courts.

- [Magistracy Departments, State of Tasmania \(1901 - 1989\)](#)
- [Law Department, State of Tasmania \(1983 - c. 1992\)](#)

Related Concepts

- [Juvenile Justice \(1860s - current\)](#)

Resources

- Evans, Caroline, [Childhood](#), The companion to Tasmanian history, 2005

Records

Records held by other organisations

- [Records of Cases Heard in Children's Court, Tasmania \(1906 - 1986\)](#)
- [Police Reports Received from the Children's Court \(1941 - 1959\)](#)
- [Hobart Area Office - Register/Index of Appearances by Juveniles in the Children's Court in Tasmania \(1941 - 1981\)](#)
- [Hobart Area Office - Case Records of the Childrens Court in Southern Tasmania \(1962 - 1980\)](#)
- [Police Reports, Correspondence and Associated Papers of Cases Relating to Juveniles, Heard by the Children's Court \(1941 - 1961\)](#)