

State Children Act 1907, Western Australia

1907 – 1948

Other Names: • Child Welfare Act 1907

URL:

[https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_13958.pdf/\\$FILE/State%20Children%20Act%20%5B00-00-00%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_13958.pdf/$FILE/State%20Children%20Act%20%5B00-00-00%5D.pdf?OpenElement)

Details

The State Children Act came into effect in Western Australia in 1907. It repealed the Industrial Schools Act 1874 (and related Amendment Acts of 1877 and 1822) and the Industrial and Reformatory Schools Act 1893. Its stated purpose was 'to make better provision for the Protection, Control, Maintenance, and Reformation of Neglected and Destitute Children, and for other purposes'. The Act set up the State Children Department and mechanisms to regulate the institutions and people that 'cared' for or punished children. The Act also established the Children's Court of WA and regulated the employment of children and young people.

The State Children Act was very wide-ranging in its scope. It covered:

- The powers and operations of the State Children Department
- Institutions for the 'care' of children, including which institutions would be subsidised by the government
- The powers and operations of the Children's Courts, including the treatment of children which the Court found to be 'neglected' or 'uncontrollable' or who were 'habitual truants', and penalties for adults who harmed children
- The financial maintenance which should be paid by relatives of children in 'care' or in need
- The 'committal' of children to the 'care' of the state or to an institution or to a private person such as a licensed foster mother
- Licensing people to employ children
- Registration of 'lying-in' (or maternity) homes and foster mothers
- Matters that would be penalised and the form of penalty, including whipping a child

Section 4 of the Act defined a 'destitute child', as 'any child whom the Children's Court found had no sufficient means of subsistence' and whose near relatives were, in the Court's opinion, 'in indigent circumstances and unable to support such child, or are dead, or unknown, or cannot be found', or were out of the State or in the custody of the law.

Part V of the Act related to the maintenance of children by their relatives. Section 59 provided that 'near relatives' of any State child were liable to pay or contribute towards the maintenance of that child. Near relative was defined as the 'father, mother, step-father, step-mother, brother, sister, or any grand parent of the child'. In the case of an 'illegitimate child', near relative meant "the mother and the person admitting himself to be or adjudged by a competent Court to be the father of such child, and the husband of the mother of such child, if born before their marriage". (The term 'near relative' continued to be used in Western Australian legislation until the 2004 *Children and Community Services Act 2004* which replaced the term with the more general descriptor: 'relative'.

The State Children Act contains some provisions that a reader today would find astonishing. But in 1907, it was seen to be very modern and progressive. The State Librarian, JS Battye wrote in 1911 that the State Children Act was based on South Australian legislation and that it was 'doubtful whether any better pattern could have been selected.' The *Western Mail* said in 1908 that the Act was based on 'months of deliberation and study' with 'a very genuine desire on behalf of the Government to enter into the perplexing difficulties and dangers which surround child life, and more particularly unwanted, and therefore unprotected, child life.'

The extent of danger to which children were exposed had been brought to public attention in the Alice Mitchell baby farming case in early 1907 and this no doubt acted as a spur to reforms that were already in the pipeline.

The values of the day were firmly entrenched in the Act, as Battye described:

It aims at providing for the waifs and strays who may properly be called the children of the State. Wherever possible it fastens responsibility on the parents, and does not sunder those natural ties. It cares for juvenile offenders, and seeks to prevent, so far as possible, the development of criminal inclinations in them. Those children who do wrong are charged in a separate Court from which all but those actually engaged in the case are excluded, and thus the demoralising effects of a public exhibition are avoided. page 504

The State Children Act built a system of out of home care around two approaches: institutional care and boarding-out. In doing this, it retained the role that had been played by private (religious) institutions since the 1860s and moved beyond the inadequate safeguards of the Infant Life Protection provisions in the Health Act 1898 which had covered children placed in private homes. The *Western Mail* outlines the 1908 view of this dual-system:

The fact has to be faced in dealing with unwanted and State children, that no system yet evolved is perfect, and the the two now known as tho institutional and the boarding-out system are both necessary to the well-being of children in their different spheres of activity. Both are responsible for failures as well as successes. Those people who have come into contact with any child that has suffered by being in an institution will naturally place more reliance in the system of boarding-out. while those who have known of cases of atrocious cruelty that have happened to a boarded-out child will lean favourably towards the institution where inspection is easier of attainment. Both systems must be judged without prejudice.

Clearly, inspection and regulation were important. An aspect of the Act which gained public approval was the appointment of voluntary inspectors. A consequence of the Mitchell baby-farming case had been the conviction of two Health Department inspectors, who failed to prevent or indeed inquire into multiple infant deaths. According to the *Western Mail*, the 'one danger that threatens paid inspection is that it can so easily become mechanical, whereas in the case of the work voluntarily performed for love it is lifted into an altogether different and often higher plane.' Certainly there was a belief at the time that voluntary inspectors had made a large contribution to the success of the South Australian legislation upon which the State Children Act was based.

Section 15 of the State Children Act 1907 enabled certain organisations to receive a subsidy for some of the children accommodated.

(1) The Government Industrial School at Subiaco, established before the commencement of this Act, is hereby declared to be a Government institution within the meaning and for the purposes of this Act. (2.) The orphanages and industrial and reformatory schools established before the commencement of this Act, specified in the Second Schedule, are hereby declared to be subsidised institutions within the meaning and for the purposes of this Act.' 'Section 15. SECOND SCHEDULE. The St. Joseph's Roman Catholic Orphanage, Subiaco ; the Church of England Girls' Orphanage, Adelaide Terrace, Perth ; the Swan Boys'

Orphanage, near Midland Junction ; the Clontarf Roman Catholic Orphanage, near Victoria Park ; the St. Kevin's Roman Catholic Industrial School, near Leederville ; the Red Hill Industrial School, near Midland Junction ; the Salvation Army Industrial Schools for Boys and Girls, near Collie.

The *State Children Act 1907* (s.11) required the Secretary, or head of, the department responsible for child welfare to 'keep records of all moneys received and paid, and so far as known of the names, ages, dates of reception, near relatives, nationality, sex, religion and dates of departure of all State Children, and of all dispositions of and dealings with such children'. Sections 106-107 required records to be kept by licensed foster-mothers, and the Governor (s.132h) could make regulations for record-keeping by institutions and licensees.

The Regulations for the Act were gazetted on 27 March 1908. In 1927, via the *State Children Act Amendment Act*, the *State Children Act* was renamed to the *Child Welfare Act*. Its main provisions did not change. The *State Children Act/Child Welfare Act 1907* was repealed by the *Child Welfare Act 1947*, which commenced on 10 January 1948.

More info

Chronology

- Industrial and Reformatory Schools Act 1893, Western Australia (1893 - 1907)
 - **State Children Act 1907, Western Australia (1907 – 1948)**
 - Child Welfare Act 1947, Western Australia (1948 - 2006)

Related Entries

Related Events

- [State Children Bill Select Committee \(31 October 1907 - 7 November 1907\)](#)

Related Organisations

- [Perth Girls' Orphanage \(1868 - 1942\)](#)
Perth Girls' Orphanage was classed as an orphanage within the meaning of the *State Children Act 1907*.
- [Swan Boys' Orphanage \(1876 - 1942\)](#)
Swan Boys' Orphanage was classed as an orphanage within the meaning of the *State Children Act 1907*.
- [Government Industrial School \(1893 - 1907\)](#)
The Government Industrial School was classed as an industrial school within the meaning of the *State Children Act 1907*.
- [St Kevin's Industrial School \(1897 - 1922\)](#)
St Kevin's Industrial School was classed as an industrial school within the meaning of the *State Children Act 1907*.
- [Clontarf \(8 September 1901 - 1983\)](#)
Clontarf was classed as an orphanage within the meaning of the *State Children Act 1907*.
- [Salvation Army Industrial School for Boys \[Collie\] \(1901 - 1920\)](#)
Salvation Army Industrial School for Boys [Collie] was classed as an Industrial School within the meaning of the *State Children Act 1907*.
- [St Joseph's Girls' Orphanage \(1901 - 1971\)](#)
St Joseph's Girls' Orphanage was classed as an orphanage within the meaning of the *State Children Act 1907*.
- [Salvation Army Industrial School for Girls, Collie \(1901 - 1920\)](#)
The Salvation Army Industrial School for Girls, Collie was classed as an industrial school within the meaning of the *State Children Act 1907*.
- [Collie Boys' Home \(1902 - 1920\)](#)
The Collie Boys' Home was classed as an orphanage within the meaning of the *State Children Act 1907*.

- [Redhill Reformatory School \(1903 - 1922\)](#)

Redhill Reformatory School was classed as a reformatory school within the meaning of the *State Children Act 1907*.

- [Children's Court of Western Australia \(1907 - current\)](#)
- [Government Receiving Depot \(1907 - 1935\)](#)

After the *State Children Act 1907* was proclaimed, the Government Receiving Depot was used for the 'temporary admission of all classes of children committed' under the Act.

Date: 1907 -

- [Public Charities and State Children Department, State of Western Australia \(1 January 1908 - 1 January 1917\)](#)
- [State Children Department, State of Western Australia \(1 January 1917 - 22 December 1927\)](#)

Related Legislation

- [Health Act 1898, Western Australia \(1898 - 1911\)](#)

The Infant Life Protection elements of the Health Act 1898 were repealed by the *State Children Act 1907*, which became the principal Act for the care and protection of children in Western Australia.

Date: 1907 -

- [Criminal Code Act 1902, Western Australia \(1902 - current\)](#)

There has always been a relationship between the Criminal Code and the legislation governing child welfare in WA.

- [Factories Act 1904, Western Australia \(1904 - 1920\)](#)
- [Health Act 1911, Western Australia \(1911 - current\)](#)

Children who were in out of home care were also covered by the public health provisions of the Health Act 1911.

Date: 1911 - 1947

- [Health Act Amendment Act 1918, Western Australia \(1918 - current\)](#)

The licensing provisions for maternity homes that had been in the *State Children Act 1907* were brought under the Health Act in 1918.

Is amended by

- [State Children Act Amendment Act 1915, Western Australia \(1915 - 1948\)](#)
- [State Children Act Amendment Act 1919, Western Australia \(1919 - 1948\)](#)
- [State Children Act Amendment Act 1921, Western Australia \(1921 - 1948\)](#)
- [State Children Act Amendment Act 1926, Western Australia \(1926 - 1948\)](#)
- [State Children Act Amendment Act 1927, Western Australia \(1927 - 1948\)](#)
- [Child Welfare Act Amendment Act 1941, Western Australia \(1942 - 1948\)](#)

Resources

- Western Australia. Charities Department, *Report by the Superintendent of Public Charities and Inspector of Industrial and Reformatory Schools*, 1899 - 1907. Relevance: 1907
- [AU WA A37 - State Children's Department](#), State Records Office of Western Australia - Organisations & People, 2015
- [Labour of Love](#), The West Australian, 23 January 1941
- Hetherington, Penelope, [Reformatories](#), Historical Encyclopedia of Western Australia, 2009
- [Bill - State Children. Second Reading moved \[Hansard p. 1173-1178\]](#), Hansard Archive 1870 to 1995, 3 December 1907

Other Resources



Title: General instructions

Type: Image

Date: 1907 - 1920

[Details](#)

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