

CAYMAN ISLANDS



Penal Code

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**THE YOUTH JUSTICE LAW, 1995
(LAW 8 OF 1995)**

~~*Justice in Law 21 9/95*~~

(4) A copy of an order under section 20 or paragraph 4 of this Schedule requiring -

- (a) the attendance of an offender at a rehabilitation school, or
- (b) the detention of an offender at such a school, shall be sent to the person carrying on the school as evidence of the duty imposed by the order on that person with respect to the offender.

SCHEDULE 3

Section 34

AMENDMENTS, REPEALS, TRANSITIONAL PROVISIONS AND SAVINGS

PART I

AMENDMENTS AND REPEALS

The Criminal Procedure Code

1. (1) In the definition of "Summary Court" in section 2 of the Criminal Procedure Code there shall be added after the word "Law" the words "or, with respect to proceedings or applications in connection with young persons (as defined in the Youth Justice Law, 1995) under the provisions of that Law".

(2) For section 180 of the Criminal Procedure Code shall be substituted -

"Code does not limit powers of courts relating to probation or young persons.

180. Nothing in this Code shall be construed to limit the powers conferred on any court under the provisions of the Probation of Offenders Law or with respect to young persons under the Youth Justice Law, 1995."

The Penal Code

2. (1) In section 35A (1) of the Penal Code for the words "of or over the age of seventeen years" there shall be substituted the words ", including any young person,"; and in section 35C (2) of the Penal Code for "one hundred dollars" there shall be substituted "\$2,000".

(2) In section 140 of the Penal Code for the words "the lawful care or charge of" there shall be substituted "parental responsibility (within the meaning of the Children Law, 1995) or care of".

14 98
Reversing

S 42 →

S 44

S 150

2(31)

(3) In section 141 of the Penal Code for the words "the lawful care or charge of" there shall be substituted "parental responsibility (within the meaning of the Children Law, 1995) or care of".

3. After Part VI of the Penal Code there shall be inserted -

"PART VIA - Offences relating to children"

221A

~~221A~~

Definitions.

210A. (1) For the purposes of this Part "a child" means a person under the age of seventeen; and

(2) For the purposes of this Part, the following shall be presumed to have responsibility for a child -

- (a) any person who -
 - (i) has parental responsibility for him (within the meaning of the Children Law, 1995); or
 - (ii) is otherwise legally liable to maintain him; and
- (b) any person who has care of him.

(3) A person who is presumed to be responsible for a child or young person by virtue of subsection (1) (a) shall not be taken to have ceased to be responsible for him by reason only that he does not have care of him.

Cruelty to children.

221B

210B. (1) If any person who has attained the age of sixteen and has responsibility for any child under that age -

- (a) wilfully assaults, ill-treats, neglects, abandons, or exposes him; or
- (b) causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence.

(2) A person guilty of an offence under

subsection (1) shall be liable -

- (a) on conviction on indictment to a fine or to imprisonment for a term not exceeding five years or to both;
- (b) on conviction by a summary court to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding six months or to both.

(3) Where the court has convicted a person of an offence under subsection (1) it may, in addition to or in lieu of any penalty imposed on that person under subsection (2), order that person to attend such counselling services as may be prescribed in the order for a period not exceeding two years and subject to such conditions as may be so prescribed.

(4) Where -

- (a) an order has been made under subsection (3) with respect to a person convicted of an offence under subsection (1); and
- (b) it appears on information in writing and on oath to a justice of the peace that the offender has failed to comply with the order or with any conditions prescribed in the order,

the justice may issue a summons requiring the offender to appear before a court, at the place and time specified in the summons.

(5) Where an information in sub-paragraph (4) is laid the justice may issue a warrant for the offender's arrest requiring him to be brought before a court.

(6) Where the court, before which an offender appears or is brought for failure to comply with an order made under subsection (3) or with any conditions prescribed in the order, is satisfied that he has failed to comply with the order or any of those conditions, it may -

- (a) order that the offender be required to attend such counselling services as may be prescribed in the order for such further period as may be so prescribed; or

- (b) where the offender was not subject to any penalty for the offence with respect to which the order under subsection (3) was made, deal with the offender for that offence in any manner it could deal with him if he had just been convicted by or before that court of that offence.

Provisions
supplementary to
section 210B.

221 c
210C. (1) For the purposes of section 210B - ^{211 B}

- (a) a parent or other person legally liable to maintain a child, shall be deemed to have neglected him in a manner likely to cause injury to his health he has failed to provide adequate food, clothing, or lodging for him, and having been unable otherwise to provide such food, clothing, or lodging, he has failed to take steps to procure it to be provided; or
 - (i) being able to do so, he has failed to provide such medical treatment which is specified as necessary for him by an appropriately qualified health practitioner duly registered in respect of that qualification under the Health Practitioners' Law, 1974;
- (b) where it is proved that the death of a child under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the child) while the child was in bed with the person who, at the time of going to bed was under the influence of drink or any drug, then that person shall be deemed to have neglected the child in a manner likely to cause injury to the child's health;
- (c) if a person having responsibility for any child under the age of eight -
 - (i) allows that child to be in any room or yard containing a gas,

oil or petrol stove, or open fireplace or fire which is not sufficiently protected to guard against the risk of that child being burnt or scalded; and

(ii) has failed to take reasonable precautions against that risk, he shall be deemed to have neglected the child in a manner likely to cause injury to his health; and

(d) any person having responsibility for a child shall be deemed to have abandoned him in a manner likely to cause him unnecessary suffering or injury to health if he has failed to provide, or failed to make arrangements for the provision of, reasonable supervision of the child.

(2) The provisions of section ^{210B}210B, and any proceedings taken under them, shall not affect the liability of any person to be proceeded against for any other offence.

(3) A person may be convicted of an offence under section 210B -

(a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;

(b) notwithstanding the death of the child in question.

(4) Where any person who has the custody, charge or care of a child is tried for any offence other than an offence under section ^{210B}210B, he may be convicted of an offence under that section whether or not he is convicted of that other offence.

(5) If it is proved that a person convicted under section ^{210B}210B was directly or indirectly interested in any sum of money accruing or payable in the event of the death of the child, and had knowledge that the sum of money was accruing or becoming payable, then -

(a) in the case of a conviction on

indictment the court may, in lieu of imposing any other penalty, sentence that person to imprisonment for a term not exceeding 20 years; and

(b) in the case of a summary conviction, the court may -

(i) where it has not sentenced that person to imprisonment for the offence, and in addition to any fine it has imposed, order that person to perform community service for a maximum of 240 hours; or

(ii) in lieu of any other penalty, sentence that person to imprisonment for a term not exceeding two years.

(6) For the purposes of subsection (5) -

(a) a person shall be deemed to be directly or indirectly interested in a sum of money if he has any share in or benefit from the payment of that money, notwithstanding that he may not be a person to whom it is legally payable; and

(b) a copy of a policy of insurance, certified to be a true copy by an officer or agent of the insurance company granting the policy, shall be evidence -

(i) that the child stated in that policy to be insured has in fact been so insured; and

(ii) that the person in whose favour the policy has been granted is the person to whom the money thereby insured is legally payable.

(7) Nothing in section 210B shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to him.

221 D

Children not to be used for begging.

210D. (1) If any person causes any child under the age of sixteen, or (having responsibility for such a child) allows him to be in any street, premises or place for the purpose of -

- (a) begging or receiving alms; or
- (b) inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding six months or to both.

(2) If a person having responsibility for a child is charged with an offence under subsection (1), and it is proved that -

- (a) the child was in any street, premises or place for any purpose mentioned in that subsection; and
- (b) the person charged allowed that child to be there for that purpose,

he shall, unless the contrary is proved, be presumed to have allowed him to be there for that purpose.

(3) If any person, while singing, playing, performing or offering anything for sale in a street or public place has with him a child who has been lent or hired out to him, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving of alms.

221 E

Restrictions on employment of children.

210E. (1) No child under the age of ten shall be employed.

(2) Subject to subsection (5) a child of school age (within the meaning of the Education Law, 1983) shall not be employed -

- (a) during school hours on any day on which he is required to attend school; or
- (b) on any day on which he is required

to attend school, for more than two hours outside school hours; or

(c) to lift, carry or move anything so heavy as to be likely to cause injury to him; or

(d) during the night between the hours of ten o'clock in the evening and seven o'clock in the morning.

(4) A person who employs a child in contravention of this section shall be liable on summary conviction to a fine not exceeding \$10,000.

(5) This section shall not apply to any young person receiving instruction in any form of work in -

(a) any school within the meaning of the Education Law, 1983; or

(b) any rehabilitation school, in respect of his employment in that work for the purpose of that instruction."

The Court of Appeal Law

4. (1) Part III of the Court of Appeal Law shall be amended by inserting after section 5 the following section -

"Appeals against certain orders.

5A. (1) Subject to the provisions of this Law, the court shall have jurisdiction to hear and determine appeals from the Grand Court against any order of the Grand Court made under a provision of the Youth Justice Law, 1995 specified in subsection (2) below.

(2) The orders referred to in subsection (1) above are any order of the Grand Court made under sections 13, 20, 21 or 22 of the Youth Justice Law, 1995."

(2) Part IV of the Court of Appeal Law shall be amended by inserting after section 10 the following section -

"Time and procedure for appeals against certain orders.

10A. For the purposes of the application of this Part to appeals against any order referred to in section 5A above the appellant shall be treated as if he were a convicted person."

(3) Part V of the Court of Appeal Law shall be amended by inserting after subsection (1A) of section 26 the following subsection -