

JAMAICA

No. 11 – 2023

I assent,

[L.S.]

Sgd. P. L. Allen
Governor-General.

17th day of October 2023

AN ACT to Amend the Child Care and Protection Act.

~~to be notified by the Minister~~
[bringing the Act into operation]

BE IT ENACTED by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1.—(1) This Act may be cited as the Child Care and Protection (Amendment) Act, 2023, and shall be read and construed as one with the Child Care and Protection Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title,
construction
and
commence-
ment.

(2) This Act shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Amendment of
section 8 of
principal Act.

2. Section 8(1) of the principal Act is amended by—

- (a) deleting from paragraph (a) the words “, exposed to moral danger or beyond control” and substituting therefor the words “or is exposed to moral danger”;
- (b) deleting the word “or” at the end of paragraph (d);
- (c) deleting the full-stop at the end of paragraph (e) and substituting therefor the word “; or”; and
- (d) inserting the following as paragraph (f)—
“(f) is a child with behavioural challenges.”.

Amendment of
section 13 of
principal Act.

3.—(1) Section 13 of the principal Act is amended by deleting subsection (1) and substituting therefor the following—

- “(1) Any of the following persons may bring before a Children’s Court any child in need of care and protection—
- (a) a constable;
 - (b) an authorized person;
 - (c) in the case of a child brought before the Court on the ground that the child is a child with behavioural challenges, any person referred to in paragraph (a) or (b) or, pursuant to subsection (4), the government agency responsible for children.”.

(2) Section 13 of the principal Act is amended by inserting next after subsection (2) the following subsections—

“(3) Where a parent or guardian of a child alleges that the child has behavioural challenges, that parent or guardian may make an application, to the Government agency responsible for children, for the child to be assessed by a person having the qualifications and competency as a behavioural specialist to determine whether the child is in fact exhibiting behavioural challenges and the type of treatment or other support needed in respect thereof.

(4) On an application under subsection (3), the Government agency responsible for children shall cause the assessment to be

made and, in a case where the assessment determines that the child—

- (a) should be treated for behavioural challenges of a nature that requires the child to reside at a facility equipped to provide such treatment, the Government agency responsible for children shall bring the child before the Court to be dealt with in accordance with this Part on the ground that the child has behavioural challenges; or
- (b) should be treated for behavioural challenges of a nature that do not require the child to reside at a facility equipped to provide such treatment, the Government agency responsible for children shall—
 - (i) issue to the parent or guardian (as the case may be) a care plan, in respect of the child, that provides the details as to the period for which, and the time and place of which, the child should attend for the treatment; and
 - (ii) in any case where it comes to the attention of the Government agency responsible for children that the child is not receiving treatment in accordance with the care plan, that agency shall bring the child before the Court and the Court shall make any order that the Court is able to make under this Part and that the Court considers fit to resolve the matter in the best interests of the child.

(5) Where the Government agency responsible for children brings a child before the Court under subsection (4), that agency shall submit the following information in respect of the child to the Court—

- (a) a social enquiry report;
- (b) a copy of the report of the behavioural specialist on the assessment made under subsection (3);

- (c) a care plan; and
- (d) the Government agency responsible for children’s recommendations as to the period for which the treatment is required, which (subject to section 14(3)(b)) should not exceed one year.”.

Amendment of
section 14 of
principal Act

4.—(1) Section 14(2) of the principal Act is amended by—

- (a) deleting paragraph (c) and substituting therefor the following—

“(c) be a supervised placement order, being an order (either in addition to or without making any order under paragraph (a) or (b)) placing the child for a specified period, not exceeding three years, under the supervision of—

- (i) in the case of a child brought before the Court in relation to an allegation that the child committed an offence, a probation and after-care officer, or some other person to be selected for the purpose by the Minister; or
 - (ii) in any other case, a children’s officer;”;
- and

- (b) deleting the full-stop at the end of paragraph (g) and substituting therefor a semi-colon, and inserting next thereafter the following paragraphs—

“(h) having regard to the results of any report or assessment made under subsection (2A) or section 13(3) in respect of the child, make—

- (i) a residential therapeutic order if the results indicate that the child has behavioural challenges the treatment of which requires residence in a treatment facility; or

- (ii) a non-residential therapeutic order if the results indicate that the child has behavioural challenges the treatment of which requires the child to attend a treatment facility but does not require the child to reside at such a facility;
- (i) in the case of a child brought before the Court in relation to an allegation that the child committed an offence, make a reparation order, an order to make amends, an order requiring restitution or a child diversion referral order, under section 34 of the Child Diversion Act.”.

(2) Section 14 of the principal Act is amended by inserting next after subsection (2) the following subsections—

“ (2A) Before making an order under subsection (2) or (3) and without prejudice to any interim order that may be made under subsection (5) in respect of the child—

- (a) the Court shall direct the Government agency responsible for children to cause to be made and to submit to the Court a social enquiry report in respect of the child; and
- (b) if the ground on which the child is before the Court is that the child is a child with behavioural challenges, the Court shall order that the government agency responsible for children cause a psychological or psychiatric assessment to be made of the child.

(2B) Where a child is placed under the supervision of a children’s officer pursuant to subsection (2)(c)(ii), that children’s officer shall have—

- (a) the duty to conduct such visits and other checks as are necessary to ensure that the child is attending school, receiving counselling (if required), complying with all curfew orders applicable to the child, and that the child

is residing at the address given to the Court as being the child's place of residence and being cared for by the child's parent or guardian (as the case may be); and

(b) such other duties as the Court may direct."

(3) Section 14(3) of the principal Act is amended by deleting the words "if circumstances have changed significantly since the order was made." and substituting therefor the following—

"if—

- (a) circumstances have changed significantly since the order was made; or
- (b) in the case of a child in respect of whom a residential therapeutic order or non-residential therapeutic order is made, further treatment of the child pursuant to the order is warranted and therefore it is necessary to extend the period of treatment specified in the order."

(4) Section 14 of the principal Act is amended by inserting next after subsection (3) the following subsection—

" (3A) In any case where a child fails to adhere to a requirement to attend or reside at a facility for the purpose of receiving treatment under a non-residential therapeutic order or a residential therapeutic order (as the case may be), the parent or guardian of the child shall promptly inform the Court."

(5) Section 14 of the principal Act is amended by inserting next after subsection (5) the following subsection—

" (5A) Where the Court is satisfied that the child is exhibiting, or is likely to exhibit, behaviour that may cause harm to the child or to another person, an interim order under subsection (5) may include provision for the child to be transported to the place of safety or to the fit person (as the case may be) by the police."