



SEANAD ÉIREANN

BILLE NA LEANAÍ (LEASÚ), 2015 CHILDREN (AMENDMENT) BILL 2015

LEASUITHE COISTE COMMITTEE AMENDMENTS

SEANAD ÉIREANN

BILLE NA LEANAÍ (LEASÚ), 2015 —AN COISTE

CHILDREN (AMENDMENT) BILL 2015 —COMMITTEE STAGE

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

SECTION 1

- *1. In page 5, lines 20 and 21, to delete “and for the repeal of different provisions of section 156A of the Principal Act effected by *section 3*”.

SECTION 3

- *2. In page 6, line 8, to delete “in custody”.
- *3. In page 6, line 22, to delete “one or more provisions of”.
- *4. In page 6, line 25, to delete “repeal of the provision or provisions concerned” and substitute “date of commencement of *subsection (1)(c)*”.
- *5. In page 6, lines 26 and 27, to delete “repeal of any of the provisions of section 156A of the Principal Act” and substitute “commencement of *subsection (1)(c)*”.
- *6. In page 6, line 29, to delete “that provision of the said section 156A” and substitute “section 156A of the Principal Act”.
- *7. In page 6, line 30, to delete “such repeal” and substitute “that commencement”.
- *8. In page 6, line 31, to delete “repeal” and substitute “commencement”.
- *9. In page 6, lines 34 and 35, to delete “repeal of any of the provisions of section 156A of the Principal Act” and substitute “date of commencement of *subsection (1)(c)*”.
- *10. In page 6, between lines 37 and 38, to insert the following:
- “(9) Notwithstanding the repeal of section 156A by *subsection (1)(c)*, a person under the age of 18 years who is serving a period of detention in Saint Patrick’s Institution or a place of detention may, at any time on and after the date of such repeal, be transferred by the Minister for Justice and Equality, with the consent of the Minister, from Saint Patrick’s Institution or a place of detention, as the case may be, to a children detention school specified in an order under *subsection (10)*.”.
- *11. In page 6, line 40, to delete “in custody”.
- *12. In page 6, line 40, to delete “detained” and substitute “detained, including on foot of a transfer under *subsection (9)#*”.

[# *This is a reference to the subsection (9) proposed to be inserted by amendment 10.*]

[SECTION 3]

*13. In page 7, lines 3 and 4, to delete “repeal of any of the provisions of section 156A of the Principal Act” and substitute “date of commencement of *subsection (1)(c)*”.

*14. In page 7, lines 4 and 5, to delete “*subsections (7) and (8)*” and substitute “*subsections (7), (8) and (9)#*”.

[# *This is a reference to the subsection (9) proposed to be inserted by amendment 10.*]

SECTION 5

15. In page 7, after line 34, to insert the following:

“(a) by the insertion of the following subsection after subsection (2):

“(2A) Remanded children shall be kept separate from sentenced children where it is in the best interests of the child.”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

*16. In page 8, line 3, to delete “in custody”.

*17. In page 8, line 6, to delete “in custody”.

18. In page 8, between lines 6 and 7, to insert the following:

“(b) by the insertion of the following subsection after subsection (7):

“(7A) Where a child is convicted of an offence and a period of detention is imposed on the child by a court, the period of detention shall not exceed the term of detention or imprisonment that the court could have imposed on a person of full age and capacity who is convicted of such an offence, and may be less. The Court shall have regard to the age, level of maturity, best interests of the child and the principle of imprisonment as a last resort in determining the nature of any penalty imposed.”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

19. In page 8, between lines 7 and 8, to insert the following:

“(c) in subsection (8), by inserting “best” between “where it is in the” and “interests of the child”.”.

—*Senator Terry Leyden.*

SECTION 6

*20. In page 8, line 20, to delete “in custody”.

*21. In page 8, lines 23 and 24, to delete “in custody”.

*22. In page 8, line 39, to delete “in custody”.

SECTION 8

23. In page 10, to delete lines 1 and 2 and substitute the following:

“(2) The Court shall not impose a period of detention in excess of three years. Where a court imposes any period of detention on a child it

[SECTION 8]

shall give its reasons for doing so in writing.”.”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

SECTION 10

- *24. In page 11, line 19, to delete “shall,” and substitute “shall, or in the case of a cessation of engagement referred to in paragraph (a)(ii), may,”.

SECTION 12

- *25. In page 13, line 30, to delete “in custody”.
- *26. In page 13, line 36, to delete “any”.
- *27. In page 14, line 12, to delete “on” and substitute “immediately before”.
- *28. In page 14, line 13, to delete “before” and substitute “by”.
- *29. In page 14, line 24, to delete “on” and substitute “immediately before”.
- *30. In page 14, line 25, to delete “before” and substitute “by”.
- *31. In page 14, line 32, to delete “on” and substitute “immediately before”.
- *32. In page 14, line 33, to delete “before” and substitute “by”.
- *33. In page 15, line 21, to delete “on” and substitute “immediately before”.
- *34. In page 15, line 22, to delete “before” and substitute “by”.
- *35. In page 16, line 8, to delete “in custody”.

SECTION 13

- *36. In page 17, line 5, to delete “in custody”.
- *37. In page 17, line 23, to delete “in custody”.
- *38. In page 18, line 1, to delete “in custody”.
- *39. In page 18, line 10, to delete “on” and substitute “immediately before”.
- *40. In page 18, line 11, to delete “before” and substitute “by”.
- *41. In page 18, line 18, to delete “on” and substitute “immediately before”.
- *42. In page 18, line 19, to delete “before” and substitute “by”.
- *43. In page 18, line 24, to delete “on” and substitute “immediately before”.
- *44. In page 18, line 25, to delete “before” and substitute “by”.
- *45. In page 19, line 4, to delete “on” and substitute “immediately before”.
- *46. In page 19, line 5, to delete “before” and substitute “by”.

[SECTION 17]

SECTION 17

47. In page 24, between lines 19 and 20, to insert the following:

“(2A) Where an inquiry is held under subsection (1) the child shall be provided with an opportunity to be heard and to respond to any allegation of disciplinary breach orally or in writing.”.

—*Senators Terry Leyden, David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

*48. In page 24, between lines 28 and 29, to insert the following:

“(2) The amendments to section 201 of the Principal Act effected by this section shall not apply to breaches or alleged breaches of the rules of a children detention school committed or alleged to have been committed before the commencement of this section and section 201 of the Principal Act shall apply to such breaches or alleged breaches as if *subsection (1)#* had not been enacted.”.

[#*This is the appropriate reference if this amendment is accepted.*]

SECTION 18

49. In page 25, between lines 10 and 11, to insert the following:

“(1A) Any child who breaches the rules of a children detention school may be disciplined on the instructions of the Director of the school in a way that is both reasonable, proportionate and within the prescribed limits.

(1B) Without prejudice to the power of the Minister to prescribe limits for the disciplining of children detained in children detention schools, the following forms of discipline shall be prohibited—

- (a) corporal punishment or any other form of physical violence,
- (b) deprivation of food or drink,
- (c) treatment that could reasonably be expected to be detrimental to physical, psychological or emotional wellbeing, or
- (d) treatment that is cruel, inhuman or degrading.”.

—*Senators Terry Leyden, David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

*50. In page 26, to delete lines 4 to 10 and substitute the following:

“**201B.** (1) A child who is found by a Director to have committed a disciplinary breach under section 201 (amended by *section 17* of the *Children (Amendment) Act 2015*) may, not later than 7 days after the date the child was informed of the finding and the imposition of any sanction, send to the Director, for”.

*51. In page 26, to delete lines 17 to 19 and substitute the following:

“petition—

- (a) where the finding is a subject of the petition, affirm, modify or revoke the finding, and

[SECTION 18]

- (b) where the sanction is a subject of the petition, affirm, modify, suspend (subject to any terms or conditions as he or she may specify), or revoke the sanction,

and shall cause the child concerned to be notified accordingly.”.

- 52.** In page 26, line 18, after “sanction” to insert “and/or finding”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

SECTION 22

- *53.** In page 31, line 32, to delete “shall immediately” and substitute “shall, as soon as may be,”.

SECTION 24

- *54.** In page 32, line 8, to delete “in custody”.

SECTION 25

- *55.** In page 32, lines 23 to 27, to delete all words from and including “breaches,” on line 23, down to and including “and” on line 27 and substitute “breaches and”.

SECTION 30

- *56.** In page 33, to delete lines 19 and 20 and substitute the following:

“ ‘board of management’ in relation to a remand centre that is not situated in a children detention school, means the board of management of the remand centre appointed under section 88(9) of the Act of 2001;”.

- *57.** In page 33, to delete lines 21 and 22 and substitute the following:

“ ‘child detainee’ means a person who—

- (a) is detained in a children detention school, or on remand in a remand centre, pursuant to the Act of 2001, or
- (b) is under the age of 18 years and is detained or remanded in a place of detention;”.

- *58.** In page 33, between lines 26 and 27, to insert the following:

“ ‘place of detention’ means—

- (a) Saint Patrick’s Institution, or
- (b) a place of detention provided under section 2 of the Prisons Act 1970;”.

- *59.** In page 33, to delete line 29.

- *60.** In page 33, between lines 29 and 30, to insert the following:

“(ii) in the definition of “prison”, by the substitution of “place of custody, other than a place of detention in respect of the detention or remand of child detainees therein,” for “place of custody”, and”.

[SECTION 30]

- *61. In page 33, lines 33 and 34, to delete “or detained or remanded” and substitute “detained or remanded, as the case may be”.
- *62. In page 34, lines 2 and 3, to delete “in a children detention school or remand in a remand centre under the Act of 2001” and substitute “or remand, as the case may be,”.
- *63. In page 34, line 9, to delete “subsection (3)(a)” and substitute “subsection (3)(a),”.
- *64. In page 34, between lines 15 and 16, to insert the following:
 - “(b) the governor of the place of detention where the child detainee was detained or remanded, as the case may be, at the time of the arrest,”.
- *65. In page 34, line 16, to delete “(b) the Director” and substitute “(c) the Director”.
- *66. In page 34, line 23, to delete “(c) the board” and substitute “(d) the board”.

SECTION 31

- *67. In page 35, line 9, to delete “on” and substitute “immediately before”.
- *68. In page 35, line 10, to delete “before” and substitute “by”.
- *69. In page 35, lines 20 and 21, to delete “remanded in custody” and substitute “remanded”.