History of child protection legislation

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Project team
The Royal Commission into Institutional Responses to Child Sexual Abuse commissioned and funded this research project. It was carried out by the following researcher:

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Disclaimer
The views and findings expressed in this report are those of the author(s) and do not necessarily reflect those of the Royal Commission. Any errors are the author's responsibility.

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Royal Commission
into Institutional Responses
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Preface

On Friday, 11 January 2013, the Governor-General appointed a six-member Royal Commission to inquire into how institutions with a responsibility for children have managed and responded to allegations and instances of child sexual abuse.

The Royal Commission is tasked with investigating where systems have failed to protect children, and making recommendations on how to improve laws, policies and practices to prevent and better respond to child sexual abuse in institutions.

The Royal Commission has developed a comprehensive research program to support its work and to inform its findings and recommendations. The program focuses on eight themes:

1. Why does child sexual abuse occur in institutions?
2. How can child sexual abuse in institutions be prevented?
3. How can child sexual abuse be better identified?
4. How should institutions respond where child sexual abuse has occurred?
5. How should government and statutory authorities respond?
6. What are the treatment and support needs of victims/survivors and their families?
7. What is the history of particular institutions of interest?
8. How do we ensure the Royal Commission has a positive impact?

This research report falls within theme four.

The research program means the Royal Commission can:

- obtain relevant background information
- fill key evidence gaps
- explore what is known and what works
- develop recommendations that are informed by evidence, can be implemented and respond to contemporary issues.

For more on this program, please visit www.childabuseroyalcommission.gov.au/research

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Executive summary

This paper surveys the legislation relating to the out-of-home care of children. It identifies four chronological but overlapping waves of legislation. The first, beginning in the 1860s, documents the ways in which different jurisdictions structured their child welfare system, initially influenced by concerns around vagrancy, but later revised in the light of the child rescue movement. The second, dating from the 1860s, focuses on regulating care providers, establishing systems of inspection and regulations covering punishment and employment. The third concerns the ways in which legislation constructed the children's parents, initially seeking to deter them from 'foisting their children on the state' but, from the 1880s, introducing measures designed to keep families together. The fourth covers legislation designed to deal with children seen as requiring special provision: child migrants, Aboriginal children, infants, and children with disabilities. The survey concludes that child welfare provision in Australia is better described as a patchwork than a coordinated model. Poorly resourced and often slow to respond to international developments in the field, it left children exposed to a system which had more interest in economy and deterrence than in ensuring their rights and best interests.

Overview of the legislative responses

Scope and sources

This document provides a survey of the legislative responses concerning children and institutions across Australia, from European colonisation to the first decade of the 21st century. Although isolated Acts were passed in different jurisdictions in the first half of the 19th century, it was not until the 1860s that the colonies systematically engaged with this issue. This engagement began with the construction of a regime of child removal which survived largely unchallenged until the beginnings of deinstitutionalisation in the 1970s. This paper focuses on the period 1860 to 1990, although the impact and aftermath of deinstitutionalisation from the 1990s on is briefly touched on at various points.

Legislation was as often a response to changed practice as it was the impetus for policy change, but its timing nevertheless gives some indication of changing attitudes to children, and particularly poor children, over that time. The full list of legislation is included in Appendix 1. It was compiled from the Find & Connect Web Resource[1], augmented by a detailed reading of some of the most important pieces of legislation, and the major scholarly histories of child welfare in Australia.[2] It has also drawn on the knowledge of the state-based historians employed in the development of the Find & Connect Web Resource and the work undertaken by research assistant Jill Barnard. Given that Find & Connect is still in a state of development, it does not claim to be comprehensive but does cover the major legislative changes in all states and territories.

The time frame for completion of this report did not allow for the more detailed research into the full legislation, parliamentary debates and other archival or governmental papers, including the regulations that helped public servants interpret the legislation, which is often where details of interpretation and implementation of legislation would be found. The absence of state legislation in any specific area identified below does not mean that the change of practice did not also occur in that jurisdiction. There may have been legislation not yet identified, clauses amended to an Act in a related area, or a change by regulation. A more detailed research project, which provided the resources necessary to access such material, would allow a skilled historian to identify these changes.

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[1] http://www.findandconnect.gov.au/. The Find & Connect web resource was developed as part of the Federal Government's response to Senate inquiries into the abuse of child migrants and non-immigrant children who grew up in institutional care in Australia during the 20th century. It includes histories of all institutions involved in out-of-home care from colonisation through to the 1980s, with links to primary and secondary source material, and the relevant inquiries and legislation.

[2] Margaret Barbalet, *Far From a Low Gutter Girl: The Forgotten World of State Wards in South Australia 1887–1940,* Melbourne: Oxford University Press, 1983; Penelope Hetherington, *Paupers, Poor Relief and Poor Houses in Western Australia 1829–1910,* Perth: University of Western Australia Press, 2009; Donella Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, Melbourne: Phillip Institute of Technology, 1986; Nell Musgrove, *The Scars Remain: A Long History of Forgotten Australians and Children's Institutions*, Melbourne: Australian Scholarly Publishing, 2013; John Ramsland, *Children of the Backlanes: Destitute & Neglected Children in Colonial New South Wales*, Sydney: University of New South Wales Press, 1986; Dorothy Scott and Shurlee Swain, *Confronting Cruelty: Historical Perspectives on Child Protection in Australia*, Melbourne: Melbourne University Press, 2002.

Historical context

The Australian states had their origins in British colonies established around the coastline from 1788, all of which were granted self-government in the second half of the 19th century. Initially, they were governed according to the law of England, but as soon as they had their own legislative councils each began to develop its own law. The two territories, carved out of existing states in the early 20th century, inherited the welfare systems of the state from which they had come. However, once the territories had their own legislatures, they had to develop systems of their own.

In the early convict colonies of New South Wales and Tasmania, the children of convicts were the responsibility of the Imperial Government. Given the gender imbalance among convicts, children formed a much smaller proportion of the population than in the countries from which they had come and commanded little legislative attention. In the colonies, populated primarily through free settlement, immigrants were predominantly male, so it was not until after the gold rushes of the 1850s that the presence of children who were not provided for came to be seen as a problem. It took until the 1860s for the beginnings of a child welfare system to be constructed through legislation.

The focus of this paper is on the shape of those emerging systems. It begins by looking at the process through which child welfare systems were established, and the steps governments took to manage the institutions that they had sanctioned. It then explains the ways in which children moved into and out of the system, and the government provisions introduced in attempts to ensure their safety. The focus then moves to the children's families, examining both the way in which they were positioned by legislation, and the growing number of alternative measures designed to avoid the need for institutionalising children. Finally, the paper discusses the groups of children separated out for special legislative attention.

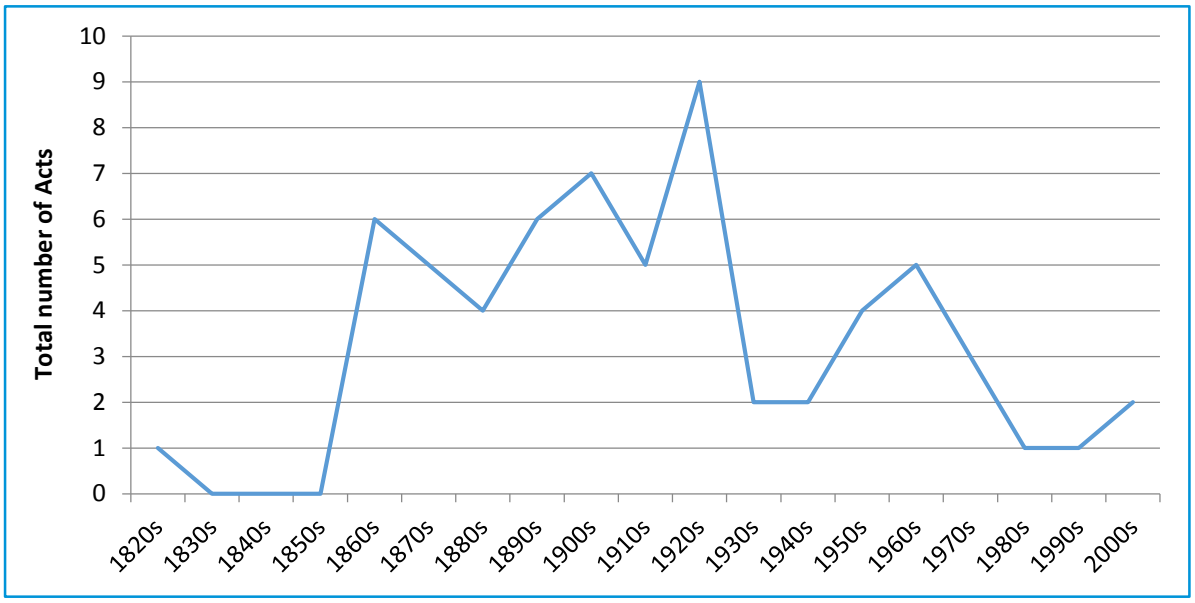
Establishment and regulation

In English law, the child was the property of the father, and the state only intervened when guardianship failed. United by a desire not to replicate the English Poor Law, the colonies were reluctant to make public provision for poor children, preferring to replicate the voluntary charity system, even though in many cases the government became the major subscriber.[3] The first identified legislation (NSW 1826)[4] was designed to reduce government involvement, moving the Female Orphan School from government to church control, vesting the building and its operation in the Church and Schools Lands Corporation. This, however, was an isolated case, specific to NSW. Overall, this survey of legislation suggests that there were three key points of change in the establishment of Australia's Australia's child welfare systems: the 1860s, 1887–1900 and the 1950s–60s. Legislation in the intervening years was largely concerned with refining and regulating the practices introduced at these points of change.

[3] A subscriber charity was a voluntary organisation controlled by a committee elected by subscribers, who were also entitled to a set number of 'tickets' each year which allowed them to recommend 'fit objects for relief'.

[4] A guide to the legislation is included in Appendix 1.

Figure 1: Legislation relating to the establishment and regulation of child welfare systems by decade



1850–79 State children's departments[5]

In the early colonial period, children without parents or guardians who could not be accommodated in an orphanage were placed in generic asylums along with destitute adults, or committed to prison under vagrancy laws. The first child welfare legislation was designed to remove children from such environments which, as romantic and sentimentalised understandings of children and childhood spread across class barriers, came to be seen as potentially 'polluting'. Legislation in Tasmania (1861) initially reconstituted the Queen's Orphan School, which had been established under the convict system as an asylum for destitute children. Victoria introduced the British model of industrial and reformatory schools in 1864. These institutions were mostly government run, but with a provision for religious organisations to cater for children of their own denominations. Within a decade, the other colonies had all passed similar legislation (Qld 1865, NSW 1866a and 1866b, SA 1866–67, Tasmania 1867 and WA 1874) and an era of mass institution building had begun.

The primary purpose of this initial raft of legislation was to protect the state from the danger believed to be posed by destitute children. They were to be brought before magistrates, charged with being neglected and committed to an institution, in some cases for seven years but more usually until the age of 18, with the state as their legal guardian. The definitions of neglect encoded in the legislation (see History of institutions providing out-of-home residential care for children, Appendix 1) essentially positioned the children as being in need of control rather than care. While the 1861 Tasmanian Act included some of the categories for institutionalisation that had governed eligibility for admission to an orphanage (such as voluntary surrender; being orphaned, deserted or destitute; or left with parents or guardians who were drunkards or unfit), the legislation in Victoria and the other colonies drew more on a vagrancy model (found begging or wandering, having no

[5] This generic term relates to departments that took different names in different states and at different times.

fixed place of abode or visible means of support, living with thieves or prostitutes, brought before the courts on a criminal offence or already dependent on the public purse). Queensland added an extra clause, classifying all children born to an Aboriginal or half-caste mother as neglected. Under this legislation there was little active removal of children from their families. Rather it was designed to take control of children assumed to be destitute because of their visibility either on the streets or in charitable institutions and prisons. However, in most colonies there was also evidence that poor parents saw the legislation as a way of finding places for children for whom they were unable or unwilling to provide. This created a fear among governments that, if conditions in state care were better than the poorest working class family could provide, parents would clamour to have their children admitted.[6]

1880–1910 The rise of child rescue

Much of the legislation passed from 1870 to the early 1880s was designed to refine the system that the 1860s legislation had established, placing boys under six in female-staffed rather than male-staffed schools (NSW 1870), limiting parental contact (SA 1872, WA 1877, SA 1881) – in part as a deterrent to parents believed to be 'foisting their children on the state' – and clarifying the state's responsibility to regulate institutions to which its wards had been entrusted (SA 1872, WA 1877, Qld 1879). A major discursive shift began in Victoria from the late 1880s. Influenced by the child rescue movement which had spread to the colonies from Britain over the previous decade, the focus now moved to the child's need for protection from parents or guardians who were failing in what were now defined as their core responsibilities.[7] The legislation (Vic 1887b) introduced new categories of neglect (found soliciting and street trading) which, while still focused on the behaviour of the child, understood this behaviour as evidence of parental neglect. The passage in England, two years later, of the National Society for the Prevention of Cruelty to Children (NSPCC) inspired legislation known popularly as the Children's Charter[8], gave colonial legislatures a new language in which to encode such concerns. The colonies/states moved quickly to add some or all of the NSPCC's definitions of child neglect (ill treatment or exposure; not provided with food, nursing, clothing, medical aid or lodging; taking part in a public exhibition or performance where life or limbs are endangered) to their own legislation (Vic 1890c, NSW 1892, WA 1893, SA 1895, Tas 1895, Qld 1906). In the aftermath of the introduction of compulsory education across the colonies after 1870, this new legislation often added truancy as an indicator of child neglect (Vic 1890b, WA 1893, Qld 1911, Tas 1918). Critical to such changes was the power they gave governments to proactively seek out

[6] This was a colonial adaptation of the Poor Law principle of less eligibility. For an explanation of this principle see http://www.victorianweb.org/history/poorlaw/eligible.html (accessed 16 December 2013).

[7] For a discussion of the development of the child rescue movement and its international influence see Shurlee Swain and Margot Hillel, *Child, nation, race and empire: child rescue discourse, England, Canada and Australia, 1850–1915* (Manchester: Manchester University Press, 2010).

[8] *A Pocket History of the* NSPCC: http://www.nspcc.org.uk/what-we-do/about-the-nspcc/history-of-NSPCC/history-of-nspcc-booklet_wdf75414.pdf (accessed 15 December 2013). For a discussion of the NSPCC's impact in Australia see Dorothy Scott and Shurlee Swain, *Confronting Cruelty: historical perspectives on child abuse* (Carlton, Vic: Melbourne University Press, 2002), ch. 2.

children in need of rescue, a power exercised by licensed individuals as well as the police in Victoria, but in the other colonies vested in the police and state children's department officials.[9]

1910–50 Consolidation

Legislation passed in the first half of the 20th century was aimed at refining and consolidating the existing systems rather than bringing about fundamental change (NSW 1905; Tas 1918; NSW 1923a, 1926a and 1926b; WA 1927; Vic 1928a and Vic 1933; WA 1947). Faced with an emerging problem as families moved into the Australian Capital Territory, the local assembly passed an ordinance which allowed children taken before its courts to be transferred to the New South Wales child welfare system (ACT 1941a). In 1953, the Northern Territory, which had come under Commonwealth control in 1910, formalised a similar transfer system for children deemed to be in need of care, allowing any of the state systems to be used (NT 1953).

Many of the legislative refinements at this time sought to formalise the extent to which responsible governments should supervise the institutions in which they had placed their wards. This topic was first broached in South Australia, where the 1872 legislation had made the Destitute Board explicitly responsible for overseeing industrial and reformatory schools. In 1877, the Western Australian legislature sought to limit the power of non-government industrial school managers, specifying that they could not assume guardianship until children had been in their care for 12 months, and that such children were not to be apprenticed out without a police officer inspecting the suggested home. In 1879, Queensland vested responsibility for the licensing and supervision of all public institutions in receipt of children in the Minister, while Tasmania (1888) also introduced licensing, for which the public service held responsibility. The establishment of Tasmania's Neglected Children's Department in 1896 saw the introduction of an inspector who would report on the various institutions in which children were placed.

Other states adopted similar models at the beginning of the new century (NSW 1901c and 1901d, Vic 1915c, WA 1920, SA 1926), with Victoria going further in 1926, specifying both that the state could remove a child from private institutions and that, during any such investigations, managers must answer fully and truthfully any inquiry made by the department. In 1935, the Tasmanian Children of the State Department further strengthened its regulatory control through legislation enabling it to prohibit any institution with which it was dissatisfied from admitting further children, as well as being able to remove its own wards from such places. New South Wales strengthened its oversight in 1939, establishing voluntary panels to augment its inspectorial system.

The inclusion of regulatory clauses in such legislation leaves little doubt that the various governments recognised their responsibility to safeguard the children in their care. However, an unwillingness to commit the resources necessary to adequately supervise the operation of institutions combined with a reliance on such institutions to provide the necessary accommodation, meant that the obligation was not always honoured.

[9] For convenience, the term state children's department is used in this paper to describe the different bureaucratic apparatus set up in each of the colonies to administer the systems established from the 1860s.

1950–75 From best interests to children's rights

Legislation in the 1950s and beyond suggested a changed attitude towards children in state 'care'. The notion that the best interests of the child rather than the state should guide policy making, first encoded in Western Australian legislation in 1919, provided the basis for a third raft of reform across the country. New legislation passed in Victoria in 1954 removed the need for children to be charged, describing them instead as being in need of care and protection, although the ways in which this need was identified changed little from the categories used to define neglect in the past. The language of the legislation in several of the other states was similarly moderated over the next two decades (Tas 1960, Qld 1965, SA 1965a, WA 1976). When the Northern Territory took responsibility for its own child welfare system in 1958 it drew upon similar discourses of welfare rather than criminality. This was moderated even further three years later with an ordinance declaring that the court would only approve the separation of a child from its parents if it was satisfied that the child would be offered a superior standard of care (NT 1961). Associated with this softer language was a new emphasis on prevention (Vic 1970, WA 1972b, SA 1972), the ultimate effect of which was a move away from a belief in the reformatory power of institutions (Vic 1989, Tas 1997). There was an overt recognition of children's rights in the planning of alternative provisions, which were now more likely to be measured in terms of their therapeutic rather than custodial value (Vic 2005, ACT 2008).[10]

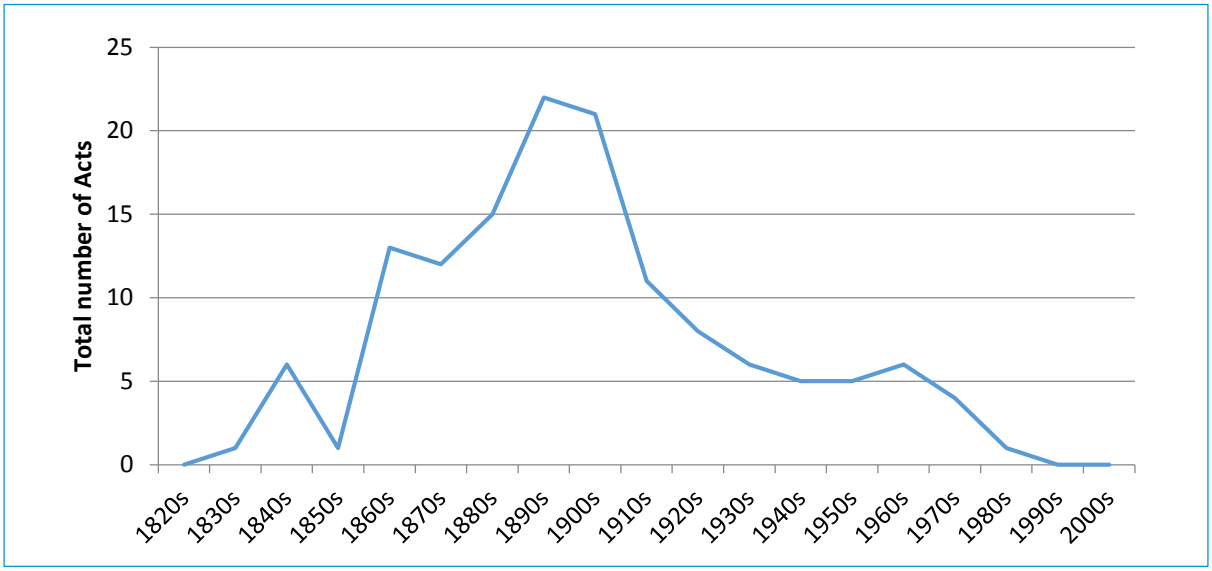
It would be naive to believe that these discursive shifts could have eliminated the risk to children who came to the attention of what, by the end of the 20th century, was described as the child protection system. However, the acceptance of the 'best interest' principle, and the resulting move towards supporting and preserving at-risk families, did reduce the absolute numbers of children exposed to the risk of institutional abuse.

The experience of 'care'

In legislating to accept responsibility for children deemed to be neglected, the colonial and later state authorities needed to decide how such children should be cared for. The elements of the legislation relating to the quality of 'care' would suggest that, when such legislation was under consideration, governments were more preoccupied with economy than with the best interests of the child.

[10] Although the language of the legislation changes, the change in the bases on which children can be removed from their families is less marked. The correspondence between the relative clauses in pre- and post-1977 legislation is shown in Appendix 2.

Figure 2: Legislation relating to the experience of care by decade



Embedded from the earliest legislation was a willingness to hand children over to anyone who was prepared to provide for their education and maintenance (NSW 1849, Vic 1887b, NSW 1894, Tas 1895 and 1896) although Queensland (1879) explicitly excluded publicans and boarding-house keepers from taking this role. This form of informal adoption clearly provided a mechanism for relatives or other guardians to take charge of a child without the child having to pass through the 'care' system. Nonetheless, the relief that it provided to government expenditure made it the placement of choice in some jurisdictions, with the state ceding all future responsibility for the child. A person prepared to take a child without charge was all but assured that no future inspections would take place.[11] In New South Wales this risk was ameliorated a little when legislation required the judge to ascertain whether such a placement was in the child's interests (1901a). Nevertheless the fact that this provision was still included when the Australian Capital Territory drafted its welfare ordinance in 1956 is a testament to its budgetary and administrative value.

Regulating boarding-out

One of the attractions of informal adoption was that it placed the child in a family setting. In England, disillusionment with the outcomes of institutional care led reformers to advocate for a system that had long prevailed in Scotland, of boarding-out destitute children with respectable working-class families. This system, the reformers argued, benefited both the children, who would learn habits of industry from their foster parents, and the state, which would save money – the amounts paid to foster parents being far less than the cost of maintaining institutions. The argument for boarding-out was advocated in Australia by South Australian Emily Clark, a cousin of the system's chief advocates in England, Florence and Rosamund Davenport-Hill[12]. Clark found a receptive audience among colonial child welfare officials disillusioned with the operations of their industrial

[11] *Sydney Morning Herald*, 10 January 1882, p. 5.

[12] Michael Horsburgh, "Her father's daughter: Florence Davenport-Hill, 1829–1919", *International Social Work* 26, no. 4 (1983): 1–13.

schools. Clark was most influential in South Australia where the initial child welfare legislation (1866) included a clause allowing for boarding-out alongside the establishment of other institutions.

From the 1870s, the other colonies began to follow this model (Tas 1873, Vic 1874, Qld 1879, NSW 1881, WA 1907) and over time it became the predominant form of 'care'.[13] Inspection was built into the legislation from the beginning, with most jurisdictions adopting a version of the Davenport-Hills' preferred model involving committees of philanthropic women. However, the status of these committees varied, with both South Australia and New South Wales giving them a direct role in developing policy (SA 1886 and 1895, NSW 1896). Others followed the Victorian model, using the voluntary labour of such women at the local level but centralising policy making in a small and very under-resourced section of the public service (Vic 1887b, Qld 1911). The voluntary element of supervision diminished over time with state governments appointing inspectors to fulfil this role (Tas 1896, NSW 1901e).

The shift to boarding-out led to the closure of many large 19th-century institutions (NSW 1916). In New South Wales, Queensland, South Australia and Tasmania, which had developed strong central bureaucracies, it increased the government's control over its wards. Victoria's decision to close all government institutions but rely on voluntary effort to maintain its boarding-out system left it vulnerable when available placements of care declined dramatically from the 1930s, forcing it to accept placements on the terms on which they were offered rather than demand minimum standards of 'care'. For the children, the outcomes of boarding-out were mixed. Some undoubtedly experienced care within a family but others felt isolated, exploited and deprived in a system that functioned to cut them off from their families of origin far more completely than had the industrial schools.[14]

Regulating employment

The central focus of both industrial schools and boarding-out was to ensure that the children would become self-supporting, avoiding what was considered their parents' failure to adequately provide and, consequently, their need to rely on the state. Training began in schools and foster homes, where all children were expected to work. After they had finished their education, they were licensed out to employers who were expected to provide them with both a job and a home. Initially, children could be apprenticed at an early age (10 years in WA in 1845; and 12 years in Tas 1861, WA 1874 and NSW 1901c), but the minimum age was increased after the introduction of compulsory school attendance (WA 1920). The procedures for licensing out destitute children are encoded in the earliest legislation identified (Tas 1838, WA 1842, SA 1844 and 1848, NSW 1850, Tas 1861 and 1863, Vic 1864, Qld 1865, SA 1866, Qld 1879) and continue unchanged through the shift to boarding-out (NSW 1881, SA 1881, Vic 1887, Tas 1896) and well into the 20th century (NSW 1923b, SA 1926, NSW 1943, Qld 1965). Although the placements are described as apprenticeships or indentures, they did not have the status of trade apprenticeships and employers were not required to instruct the children in any useful skill. Almost universally, boys were placed as farm labourers and girls as

[13] In most jurisdictions boarding-out had been trialled before these dates and the legislation functioned to make legal a pre-existing arrangement.

[14] For a rare example of life in Victoria's boarding-out system see Walter Jacobsen, *Dussa and the maiden's prayer* (Melbourne: Victoria Press, 1994).

domestic servants, although the Victorian 1887 legislation also made provision for boys to be apprenticed at sea.

One of the key ways in which the licensing out of wards varied from more formal trade apprenticeships related to the issue of wages. Unlike in formal employment situations, under licensing out arrangements wages were used as a tool for controlling the behaviour of employees. The wages were not paid in full to the apprentices but deposited in an account controlled by the department or institution which had arranged the placement, to be handed over when the child reached adulthood (SA 1886, Qld 1965). However, legislation in several jurisdictions entitled the controlling organisation to access these funds to compensate for any bad behaviour during the apprenticeship (Vic 1874, NSW 1896) and to hold them even after the child had reached adulthood until there was evidence of 12 months of good behaviour (Vic 1890b). In the case of juvenile migrants to NSW, the wages could also be used to defray the expenses of their passage (NSW 1923b). Even when the wages held in trust were not diminished in such ways, it was left to the ward to retrieve them, a task dependent on their remaining in good standing with their former guardians when they reached maturity.

The wording of much of the early legislation would suggest that the desire to place the children outweighed any concern for their welfare. The 1845 Western Australian legislation is an early exception, including a limited ability for the court to oversee wages, the 'reasonable provision' of clothing and 'proper and humane treatment'. In 1877, Western Australia added a clause requiring the child to consent before a placement could be arranged. In 1881, South Australia instituted thrice yearly inspections. However, it was the second half of the 20th century before there was any change. The Victorian 1954 legislation implemented prior approval for all placements involving a child residing with an employer. Western Australia finally outlawed apprenticeships in 1976.

The eventual shift away from licensing out reflects a very delayed reaction to fundamental changes in the Australian educational and employment landscapes. Domestic service was in steep decline from the 1930s and farm labour followed a similar path in the post-war era, removing any illusion that such placements prepared wards for future employment. The decline in these occupations coincided with rising levels of basic education, with participation in secondary and, most importantly, post-compulsory education increasing sharply in the post-war years. Legislation in Queensland entitled wards who were awarded state scholarships to continue to be supported for the term of the scholarship (1917), an entitlement which was extended in 1924 to every child who passed the high school entrance examination. However, in all other jurisdictions the legislation was silent on the right of wards to continue their education.

Regulating punishment

The supposed strength of all of these forms of family placement was also their greatest point of weakness. Separated from kin and despatched alone with little continuing contact from the department or institution that was their guardian, children were vulnerable to abuse. It is clear from provisions in the legislation that governments were not unaware of these risks. Standards of acceptable punishments were specified in most jurisdictions. In the 19th century, corporal punishment was allowed and at times prescribed for juvenile offenders (Tas 1875b, SA 1881, Vic 1887a, NSW 1901e, SA 1936) but for children admitted because of neglect, Victoria specified that only corporal punishment permitted in the public school system could be applied (Vic 1887b). In the 20th century, alternative punishments were tried. In 1905, New South Wales permitted absconders

to be transferred to the adult penal system, but later developed a detailed set of regulations as to what punishment was permissible and when (NSW 1939). Western Australia abolished whipping altogether in 1941, but other jurisdictions dealing with similar issues used regulations rather than legislation to soften their punishment regimes.

Despite such attempts to regulate punishment, the legislation also makes it clear that governments were aware that caregivers needed to be controlled. South Australia's first ordinance allowing for the licensing out of Aboriginal children included penalties to be applied to any employers who mistreated them (SA 1844). However, these penalties were made more explicit after legislation began to be shaped by child rescue ideals which transformed the neglected child from a risk to a victim. While this move placed the focus of guilt on the parent, governments were clearly aware of the dangers of placing the removed child at further risk. Victoria recognised this danger in the legislation passed to introduce the boarding-out system (Vic 1874), as did South Australia (1881).

Mistreating a child in care was first specified as an offence in Victoria (1890c), and other jurisdictions followed its lead over the next half-century (NSW 1892, 1901e and 1923; Qld 1911; Tas 1935). Proven mistreatment was recognised as a ground for removing a child from a placement and cancelling its indentures (NSW 1896, 1901d and 1905), while Western Australian legislation explicitly stated that guardians stood in place of parents and, in cases of abuse, the provisions of the Penal Code would be applied (WA 1919). South Australian courts investigating complaints from foster parents about a child's misbehaviour were explicitly instructed to enquire whether the child had been mistreated, although they were also empowered to punish the child if this proved not to be the case (SA 1895). The implied comparison between the neglectful parent and the abusive caregiver was at its most explicit in the Queensland 1965 legislation which applied to the caregiver exactly the same criteria as were used to establish that parents had failed in their role, a control which was strengthened in the aftermath of the Forde report (Qld 2000). Yet, despite these legislative provisions, there is little evidence that allegations of mistreatment were often raised, and in the few cases attracting media attention, these allegations were quickly denied.[15]

Attitudes to families

Punishing parents

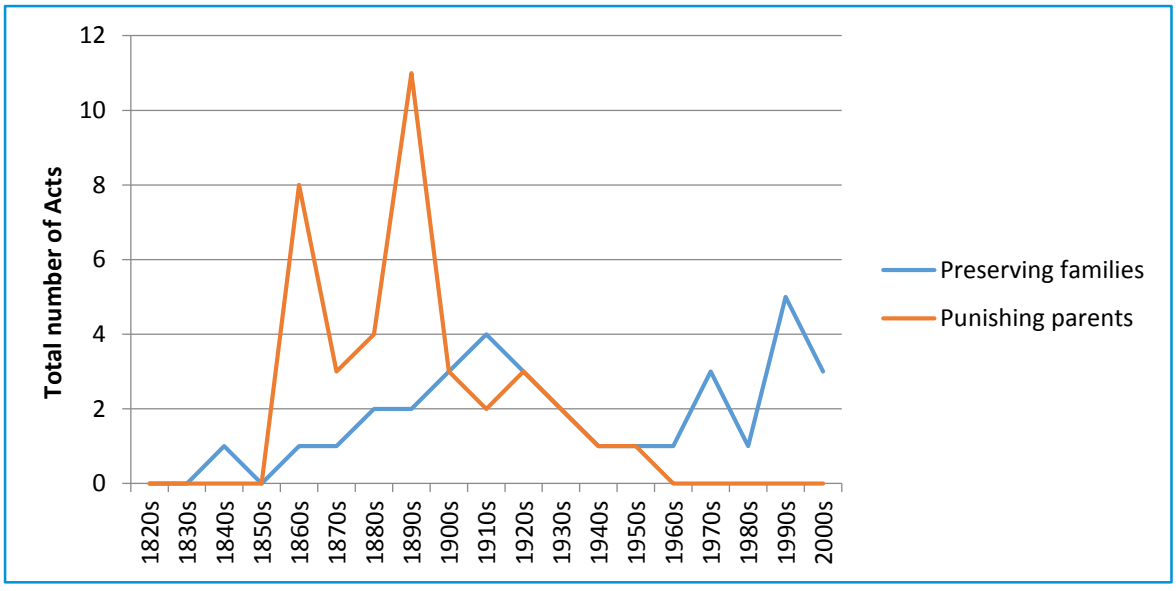
By the second half of the 20th century, governments, aware of the risks to children in out-of-home 'care', focused their attention on family preservation. However, this change was slow to evolve. The earliest legislation was intent on punishing parents for their perceived failure, and deterring others from following in their path. Destitution was understood as a moral rather than an economic or social problem and a fundamental aim of the child welfare system was to prevent this moral fault being passed on to the next generation. Almost all of the early legislation encoded an expectation that parents or relatives would contribute to the maintenance of their children where circumstances allowed (Tas 1861, SA 1863, NSW 1864, Vic 1864, Qld 1865, SA 1866, Tas 1867a and 1875a). The

[15] Examples include 'Alleged Brutal Treatment of Two Children in the Parramatta Orphan School by a Teacher', *Freeman's Journal*, Sydney (NSW: 1850–1932), 12 March 1870, p. 7, http://nla.gov.au/nla.news-article115294030 (accessed 16 December, 2013); 'Kincumber', *Goulburn Evening Penny Post* (NSW: 1881–1940), 31 August 1922, p. 3 Edition: EVENING, http://nla.gov.au/nla.news-article99213975 (accessed 16 December 2013).

common assumption, and often the language of the legislation, designated fathers as the likely contributors, as it was assumed poor women did not have the income to make any contribution (SA 1881, which also targets mothers, is a rare exception). Willingness to pay placed the parents in better standing with the authorities. This was evidence that they were resisting dependency and hence pauperisation, and increased their chances of retaining some contact with their children. The rule was never explicit but it was a brave parent who attempted to visit their child when their maintenance payments were in arrears.

There is little evidence that maintenance payments made a substantial contribution to the costs of the government department or private institution providing 'care'. However, the fact they continued to be a staple of child welfare legislation through to the mid-20th century (Qld 1879, SA 1881, Vic 1887b, Tas 1888, SA 1895, NSW 1896 and 1905, Qld 1911, SA 1926, NSW 1939, WA 1947 and 1952) is evidence of their disciplinary or punitive role. Even where the government took charge of children outside the formal 'care' system, courts were empowered to compel their 'errant' parents to provide for their maintenance (Tas 1891, Qld 1891, NSW 1894 and 1901b, WA 1920, SA 1926). Those parents whose children were removed as a result of mistreatment were particularly targeted (Tas 1895). The notion that parents could be tried for failing to meet their responsibilities towards their children was another outcome of the child rescue movement, and appears in Australian legislation from the 1870s. In 1871, Western Australia was intent on punishing the 'mothers of bastards' for failing to maintain them or leaving them in a public place. South Australia (1886) set a penalty for deserting fathers of imprisonment with hard labour for up to 12 months. However, most such provisions criminalised behaviours that came within the National Society for the Prevention of Cruelty to Children's definitions of cruelty or neglect (NSW 1892 and 1900; Tas 1895; Qld 1896, SA 1899, 1918 and 1936).

Figure 3: Legislation relating to punishing parents and preserving families by decade



Preserving families

Alongside such punitive provisions, there were also legislative clauses offering relief to 'worthy' parents whose plight was seen to be no fault of their own and over time, to support them financially

to care for their children. Several colonies acted early to give the courts the power to compel deserting husbands to support their wives and children (NSW 1840, Tas 1863, WA 1871, SA 1881, NSW 1901b). However, given the fluid population at the time it is unlikely that this legislation would have been fully enforced. In 1896, New South Wales became the first colony to make legislative provision for children to be boarded-out to their own mothers, although this practice had been permitted under regulation in Victoria since the 1880s. By the 20th century this practice had become the most common outcome for children taken into 'care' in all the states that had adopted it as an option (Qld 1911, SA 1926). When a court challenge forced Victoria to legislate to cover such boarding-out payments, it removed the requirement for children to be made wards in order to be eligible (Vic 1919 and 1924).

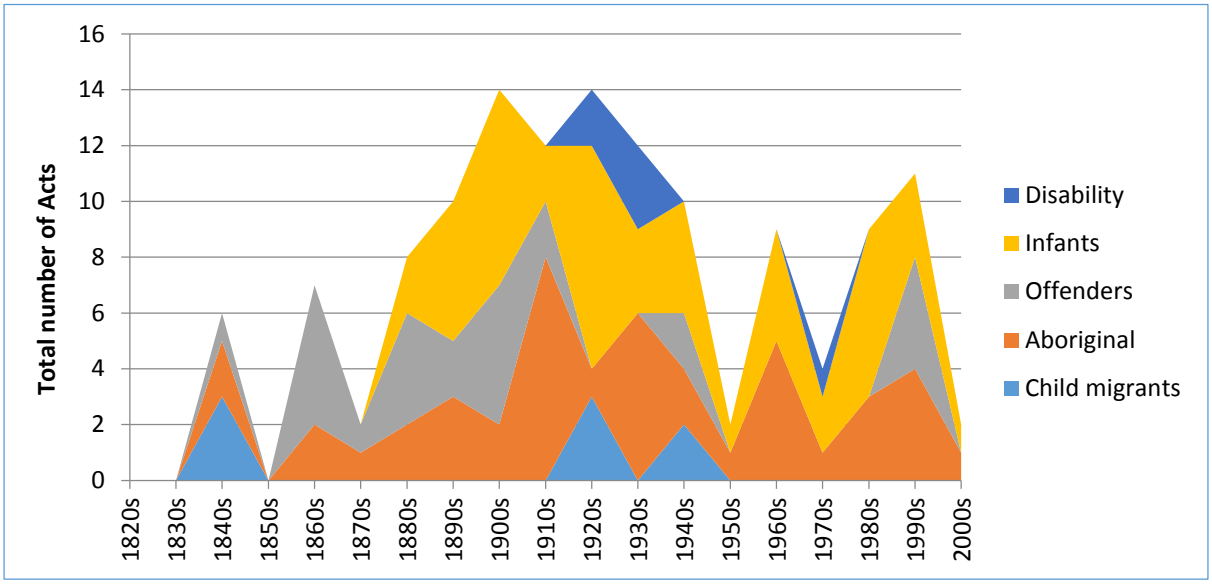
With the introduction of widow's pensions, initially in NSW (1926) and later nationally (1942), such payments became increasingly residual, designed to fill short-term gaps until applicants became eligible for the broader, and more generous, schemes (NSW 1939). They also provided for two groups that were not eligible for the national scheme, never-married mothers and supporting fathers (Qld 1943, Vic 1954). Such longer-term assistance usually gave the state the right to supervise the family but the guardianship of the child remained unchanged (Qld 1965).

The discursive shift that saw the dismantling of large institutions from the 1970s was built around an assumption that such support was central rather than residual. Legislation from this period commonly asserted that a child was best provided for within his or her family and community, and new services were developed to bring this ideal to fruition (WA 1972, SA 1972, Vic 1978, NT 1986 and 2007, NSW 1990 and 1998, Tas 1997a, ACT 1999, Qld 1999, WA 2004, Vic 2005). However, by the early 20th century there were also voices questioning whether family was always best positioned to provide for a child. All states introduced principles of permanency planning to provide greater certainty for foster parents caring for children whose own families were judged to be unable to provide them with a secure environment (NSW 2001, NT 2007).

Special provision

In addition to the legislation that governed the operation of the general child welfare system, there were particular groups of children who attracted the legislators' attention at different times. The final section of this paper deals with five groups who were singled out for special treatment: child migrants, Aboriginal children, offenders, infants and children with a disability.

Figure 4: Legislation relating to particular groups by decade



Child migrants

Britain had a long tradition dating back to the 17th century of exporting pauper children, and the Australian colonies were drawn into the program soon after their establishment. The first legislation related to child migration was passed in Western Australia in 1842, a mere 13 years after the establishment of the Swan River Colony. It authorised the Governor to appoint a guardian for the juvenile immigrants arriving from Britain and to arrange for them to be apprenticed, one of the earliest examples of this practice in Australia. South Australia passed similar legislation in 1848, only 12 years after that colony was founded. While the Western Australian legislation covered all juvenile immigrants, the South Australian legislation referred specifically to children sent out by charitable organisations, a group that was also the focus of an amendment to the Western Australian Act in 1849.

This first phase of child migration ended abruptly with the discovery of gold. Philanthropists in Britain believed that gold rush society did not create the proper environment for their wards, who they preferred to see settled in stable rural employment. Additionally, the cessation of assisted migration schemes made the cost of the passage prohibitive. However, the idea was revived in the 1920s when a new generation of philanthropists saw in such migration an opportunity both to remove Britain's excess population and to strengthen the bonds of Empire by filling the 'empty spaces' with young white settlers. With the destination of choice, Canada, then severely limiting its intake, Australia again became the focus. Facilitated by the passage of the Commonwealth *Empire Settlement Act* in 1922, Kingsley Fairbridge and Dr Barnardo's were able to develop farm schools in Western Australia and New South Wales, accommodating English children who were to be trained for farm labour and domestic work. These schemes existed outside state child welfare schemes but in 1923 New South Wales (1923b) legislated to cover older juvenile immigrants as well, establishing guardianship and apprenticeship schemes which differed little from those passed in Western Australia and South Australia in the previous century. Within three years, the Act was repealed amidst accusations of child slavery and replaced with another giving the government a far greater role in providing training institutions and regulating the apprenticeships of these young workers (NSW 1926b).

Although World War II temporarily halted child migration schemes, they were embraced with gusto as part of the Commonwealth Government's post-war reconstruction planning. Federal legislation passed in 1946 envisaged a major transfer of war 'orphans', appointing the Minister for Immigration as their legal guardian and empowering him to delegate his powers to local child welfare departments. Churches and charities embraced the new scheme with enthusiasm, drafting children into new and existing institutions but, apart from an Act in Western Australia, facilitating the operations of the Fairbridge Society (1948), child migration has left little trace in legislation. Absorbed into the established regulatory systems, these child immigrants were cut off from their families and often subject to harsh treatment and excessive work demands, forming a particularly vulnerable group for whom no one took particular responsibility.[16]

Aboriginal children[17]

Aboriginal children also attracted the attention of legislators early in the colonial period. Although legislation sometimes used a language of protection, its primary purpose was always to make these children industrious, removing them from the indolence that was believed to mark their parents' lives. The full story of the development and impact of Aboriginal child removal policies is documented in the *Bringing Them Home* report.[18] While for non-Indigenous children, parental failure had to be proved before they could be removed, for Aboriginal children it was increasingly assumed on the basis of their race. The earliest legislation was concerned with placing Aboriginal children in apprenticeships. A South Australian Act of 1844 gave the Protector of Aborigines this power for orphans, but required the consent of at least one parent for other children. A Western Australian Act passed in the same year applied only to girls, appointing a local board to register and regulate their placement in private homes.

When the colonies established their initial child welfare systems they reached different decisions as to how to deal with Aboriginal children. In Queensland (1865), any child born to an Aboriginal 'half-caste' mother could be taken into 'care'. Victoria's initial legislation was silent on this matter, but in 1869 the power to make arrangements for the care, custody and education of Aboriginal children was vested in the new Board of Protection. Seventeen years later the Board was instructed to begin removing people of mixed descent from the Aboriginal reserves (Vic 1886) and four years later this practice was extended to cover children, giving the Board the power to transfer them to the guardianship of the state children's department without the need to go before a court (Vic 1890a). As a result of this legislation, Victoria never developed a separate institutional system for Aboriginal children. Nor did Tasmania, which officially denied that any Indigenous people had survived. Tasmania also dealt with children of mixed descent within its mainstream system, a practice for which it later apologised, becoming the first state to set up a compensation scheme for members of the Stolen Generations (Tas 2006). The Australian Capital Territory similarly never developed a

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[16] A more comprehensive account, particularly of post-war child migration, can be found in Australian Senate Community Affairs References Committee's *Lost Innocents: Righting the record report on child migration* report (Canberra: Senate Printing Unit, 2001).

[17] Please note that the legislation did not specifically mention Torres Strait Islander children.

[18] Human Rights and Equal Opportunity Commission, *Bringing Them Home: Report of the National Inquiry into the separation of Aboriginal and Torres Strait Islander children from their families* (Sydney: HREOC, 1997). See also Anna Haebich, *Broken Circles* (Fremantle: Fremantle Arts Centre Press, 2000).

separate system for the small number of Indigenous children in its area, but recognised their presence in 1999 (ACT 1999).

The colonies that had larger surviving Indigenous populations established parallel systems for Aboriginal children. Western Australia's initial child welfare legislation (1874) included Aboriginal children alongside orphans and necessitous children in the categories to be assisted, but the *Aborigines Protection Act* (1886) marked the beginning of a separate system, empowering resident magistrates to arrange for the apprenticeship of Aboriginal children. Further legislation in 1897 centralised this power in the new Aborigines Department. Systematic child removal began in 1905 with the appointment of a Chief Protector who was the legal guardian of every Aboriginal and half-caste child to the age of 16 years (WA 1905), and to 21 years in later legislation (WA 1936). Aboriginal institutions exercised the same power over their children as state institutions, but parental rights were explicitly denied (WA 1911). Western Australian historian Penelope Hetherington has argued that throughout the 20th century the two systems increasingly diverged. While, over time, the child welfare system came to recognise the importance of education in developing children into citizens, the Aboriginal system remained firmly wedded to using these children as labourers.[19] This legislation remained in place until 1963 when the Commissioner of Native Affairs ceased to be the guardian of all Aboriginal children (WA 1963).

Queensland's protection scheme (Qld 1897) gave the Governor-in-Council extensive powers over Aboriginal children, laying the basis for extensive child removal. The system established by the new Protector of Aborigines was explicitly exempted from regulations covering other state children when that law was revised (Qld 1911), setting in train a model very similar to that operating in Western Australia where Aboriginal people could be moved at will to different reserves and institutions across the state (Qld 1934). On the eve of World War II, the Director of Native Affairs was officially designated the guardian of all Aboriginal children under the age of 21 and empowered to arrange for their placement without any regard to their parents' wishes (Qld 1939), a situation which remained in place until the mid-1960s (Qld 1965b). Shirleene Robinson has published a comprehensive history of the impact of Queensland's policies towards Indigenous children, arguing that they had more in common with slavery than with emerging notions of child welfare.[20] In 1999, Queensland finally acknowledged the need to involve Indigenous parents and communities in planning for their children (Qld 1999).

In 1909, New South Wales embarked upon the protection path, giving the Aborigines Protection Board the power to apprentice Aboriginal and mixed-descent adolescents aged from 14 to 21, under the provisions then in place for other neglected children (NSW 1909). These powers were extended to cover all Indigenous children in 1915, removing the requirement to obtain parental consent and take the child before the court. This clearly distinguished the rights of Aboriginal children from those of other state children (NSW 1915). NSW historian Naomi Parry has argued that the creation of a parallel system allowed the Board to continue with practices that had been discredited and

[19] Penelope Hetherington, *Settlers, Servants and Slaves: Aboriginal and European Children in Western Australia*, Perth: University of Western Australia Press, 2002.

[20] Shirleene Robinson, *Something Like Slavery: Queensland's Aboriginal Child Workers, 1842–1945*, Melbourne: Australian Scholarly Publishing, 2008.

discarded long before by the state children's department.[21] These powers were further strengthened over time (NSW 1936, 1940 and 1943) and only began to be relaxed from the mid-1960s (NSW 1963) until the parallel systems were finally amalgamated at the end of that decade (NSW 1969). In 1987, New South Wales child welfare law incorporated into its child welfare practice (NSW 1987) the Aboriginal Child Placement Principle that Indigenous children are best placed with Aboriginal families and raised within a culturally appropriate environment.[22]

South Australia pursued a similar protection policy from the early years of the 20th century, vesting guardianship of all Aboriginal children, irrespective of their parental status, in the Chief Protector (1911). The Protector was later empowered to remove children for 'training' and had the sole power to decide which children were to be considered as neglected (SA 1923 and 1934). The language was softened from the 1960s in line with the shift towards assimilation (SA 1962) and brought more into line with policies operating amongst the non-Indigenous population (SA 1972), with the state adopting the Aboriginal Child Placement Principle from the 1980s (SA 1988 and 1993).

Child welfare in the Northern Territory was almost exclusively concerned with Indigenous children. Its initial legislation created the position of Chief Protector and invested it with the powers operating in the adjoining states (NT 1910, 1911, 1918, 1939 and 1953a). Later legislation empowered the renamed Director of Native Affairs to remove children from the Territory to institutions or adoptive placements in other states (NT 1953b). The Northern Territory incorporated the Aboriginal Child Placement Principle in its legislation from the 1980s (NT 1983 and 1994), reversing the policies that had been operating until that point.

Child offenders

The same forces which gave rise to concern about the presence of neglected children in asylums and prisons also brought a focus onto the plight of child offenders. Always understood more as a danger than a victim, they nevertheless were seen as being capable of reform if dealt with apart from 'hardened' criminals. The Australian colonies were influenced by the British reformatory movement, adapting its policies to local conditions.[23] New South Wales ventured into this field well before the development of its child welfare system, making provision for 'infant convicts' to be lodged with any individual willing to provide for their maintenance and education (NSW 1849). As the colonies legislated to establish industrial schools, most added a parallel system of reformatories for young offenders (Vic 1864, Qld 1865, NSW 1866b, SA 1866, Tas 1867b). Over time this legislation was amended to allow for children to be transferred between industrial and reformatory schools and gaols and reformatories without the need to return to court (Vic 1878 and 1890, WA 1894, NSW 1901d), and to extend government control over privately run reformatories (SA 1881, Vic 1887a, Qld 1911, Tas 1918). The Australian Capital Territory sent its offenders to New South Wales reformatories (ACT 1941b).

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[21] Naomi Parry, '"Such a longing": black and white children in welfare in New South Wales and Tasmania, 1880–1940' (UNSW, 2007).

[22] For an explanation of the Aboriginal Child Placement Principle see http://www.cyf.vic.gov.au/__data/assets/pdf_file/0019/17083/placement_aboriginal_cppguide_2002.pdf (accessed 18 December 2013).

[23] For a discussion of this movement see John Ramsland, 'Mary Carpenter and the Child Saving Movement', *Australian Social Work*, vol. 33, no. 2, 1980, pp. 33–41.

There was continuing indecision as to whether the emphasis of the reformatory should be on punishment or rehabilitation. Western Australia (1882) legislated to designate Rottnest Island as a juvenile reformatory. Tasmania (1883) gave justices the power to send offenders to prison for a short time before they were transferred to a reformatory or training school. It was also in the reformatories that the harsher punishments were allowed (Vic 1887a). Yet, in a contrasting move, New South Wales experimented with allowing respectable individuals to adopt 'infant convicts' if they were willing to provide for them (NSW 1901a). The introduction of children's courts from the late 19th century was designed to spare children the shame of appearing in a public court, and deal with them in a more therapeutic manner (SA 1895, NSW 1904, Tas 1905 and 1918, Vic 1906, Qld 1907, WA 1907, NT 1958).[24]

The notion of treatment rather than punishment came to dominate moves in various jurisdictions to deal with juvenile offenders without confining them within reformatories. In most states, the option of probation as an alternative to a custodial sentence was included either in the legislation establishing the children's court or a later amendment (SA 1895, Vic 1906, Tas 1918, NSW 1939, WA 1947). Although Queensland's legislation (1907) did not include probation, it did let representatives of religious and charitable organisations have access to the closed courtroom, and allowed the magistrate to admonish rather than convict the child, perhaps in the hope that one of these organisations would offer help towards reform. From the 1990s a wider range of sentencing options, including the use of various forms of alternative dispute resolution, was introduced (Qld 1992, SA 1993, Tas 1997b). However, the tension between the desire to reform and the need to contain and deter remains. Legislation in some jurisdictions took a harsher turn towards the end of the century, moving responsibility for young offenders from welfare to justice departments (WA 1994).

Infants

The fate of infants who were not provided for was of little concern to legislators when they first established their child welfare systems. Only South Australian legislation (1881) identified an illegitimate child whose mother was not in a position to maintain it as a fit subject for admission to 'care'. However, by the 1880s, a growing concern about the fall in the white birth rate combined with lurid stories from Britain of baby farmers – women who charged parents to take care of their infants whom they then allowed to die – led the media, doctors and ultimately parliamentarians to campaign for the saving of infant lives.[25] Drawing on British models, the various jurisdictions passed legislation which registered and inspected homes where ex-nuptial children were delivered, and where women took in young children to nurse. This was initially achieved by amending existing public health Acts (Vic 1883, WA 1898) but later in specifically named Infant Life Protection legislation (Vic 1890c, Qld 1905, Tas 1907) or in more general child welfare laws (NSW 1892, SA 1895, NSW 1902a, WA 1907).

[24] Although the idea of establishing separate courts for children is usually credited to the United States, the South Australian legislation recommending separate hearings for children predates the establishment of the first juvenile court in the United States (Cook County, Illinois) by four years.

[25] For a more measured account of baby farming in the Australian context see: Jan Kociumbas, 'Azaria's antecedents: stereotyping infanticide in late nineteenth-century Australia,' *Gender & History* 13, no. 1 (2001); Shurlee Swain, 'Towards a social geography of baby farming,' *The History of the Family* 10 (2005).

At the same time, New South Wales tightened requirements for the parents of ex-nuptial children to contribute to their maintenance, with the child to be sent to the Destitute Asylum if its parents were considered unfit to provide for it (NSW 1901b and 1904). Infant life protection became a popular cause amongst philanthropic women's groups who blamed the apparent failure of the early legislation (all of Australia's major baby farming scandals occurred after the legislation was in place) on the reliance on the police rather than women to undertake the inspection.[26] However, even after responsibility moved from the police to the welfare department (Vic 1907, Qld 1911 and 1918), death rates did not fall substantially until the safety of artificial feeding was improved. This development also increased the willingness of church and charitable organisations to open homes for babies, providing a safer and more respectable environment than the world of the private nurse.

The babies' homes also facilitated a new method of disposing of ex-nuptial children, adoption, which was believed to offer a safer, more respectable and permanent outcome than the prevailing arrangements. The essence of adoption legislation was to change the legal status of the child, expunging its relationship to its birth parents and reconstituting it as the child of its adoptive parents who, once the order was signed, had uncontested custody with no continuing supervision.[27] Western Australia (1896) was the first Australian jurisdiction to introduce legal adoption. The other states waited until the 1920s, a decade in which the process was being increasingly discussed and finally legalised in the UK (Tas 1920a, Qld 1921 and 1935, NSW 1923a, SA 1925, Vic 1928b, NT 1935, ACT 1938). Later amendments were passed in most jurisdictions, increasing the level of secrecy and reducing the rights of birth parents to object to the arrangement (WA 1921 and 1926, NSW 1924).

In response to the rise in the demand for infants for adoption in the post-war era, the laws were further amended to completely erase the child's original identity (WA 1945, 1949 and 1953), a move that intensified after the Commonwealth's attempts to develop model adoption laws in the 1960s. The model laws also increasingly concentrated the control of adoption in the hands of social workers, eliminating the private adoptions that had been permitted in some jurisdictions in the past (Qld 1964, Vic 1964, WA 1964, 1971 and 1973, Tas 1968).

By the 1980s, the costs of maintaining such secrecy became apparent. Adults who had been adopted as children began to demand the right to knowledge of their origins, and mothers who had been separated from their children at birth also began to search, many making accusations that the processes by which the separation had taken place were illegal. Over time the states responded, passing legislation to open the sealed files and establishing services to facilitate contact (Vic 1980, WA 1985 and 1994, Tas 1988, NSW 1990, Qld 2009). The demands of these groups also led to a reconsideration of the underlying basis of adoption, with legislation passed to introduce open adoption, where all parties were aware of the others' identities, and some level of contact between a child and its original parents was considered to be the norm (Vic 1984, NT 1994b). The Aboriginal Child Placement Principle was also incorporated into adoption practice at this time (Qld 1987, SA

[26] Shurlee Swain '"The supervision of ... babies is women's work, and cannot be rightly done by men": Victorian women's organisations and female child welfare inspectors 1890–1915,' *Victorian Historical Journal* 79, no. 2 (2008).

[27] The major stumbling block in the introduction of legal adoption was defining the right to inherit, with different jurisdictions reaching different resolutions in their initial legislation.

1988, WA 1994). Despite the abuses disclosed in the Senate Inquiry into Former Forced Adoptions[28], prospective adoptive parents continue to pressure state and federal governments to make more children available for adoption, a call to which conservative governments in Queensland and New South Wales and nationally are eager to respond.

Children with disabilities

Although the care of children with disabilities was primarily the domain of charitable organisations or mental health authorities, in the inter-war years, when the influence of eugenics was at its height, several state governments passed legislation in this area. The primary goal of such legislation was to control children with intellectual disability, separating them from the rest of the community (Tas 1920, Qld 1938, NSW 1939, Vic 1939). The stated purpose of the legislation was to empower the state to provide education for such children. However, the fact that such education was generally delivered in closed institutions designed to lead to a lifetime of 'care' in mental health facilities would suggest that, in line with eugenic theory, the aim was to prevent people with disabilities from reproducing. This sector, too, was caught up in the deinstitutionalisation movement of the 1970s, leading to legislation which aimed to assist people with disabilities to live independent lives in the community (Tas 1970).

Conclusion

As child welfare in Australia was a state rather than federal responsibility, the legislation that has governed it is better described as a patchwork than a coordinated model. Within the states, child welfare was rarely a high priority for legislators, leaving public servants and charitable institutions with considerable latitude in deciding where and how policies should be implemented. In the 19th century, the ideas that underwrote the system came primarily from Britain. These were passed on sometimes through the visits of travelling 'experts', less often when Australians had the opportunity to visit facilities or attend conferences overseas. However, the primary method of cultural transmission was through reading. In the 20th century, the United States became an increasingly important influence, although Australians were limited in their opportunity to access such new ideas until after World War II. Consequently, the lives of children in 'care' were governed by a mix of legislation, regulation and accepted practice, which, until recent years, was more concerned with costs and deterrence than with the rights and best interests of the children.

[28] Australia Senate Community Affairs References Committee, *Commonwealth contribution to former forced adoption policies and practices* (Canberra: Senate Printing Unit, Parliament House, 2012).

Appendix 1: Legislation related to child protection

Date	Jurisdiction	Name of Act	Description
1826	NSW	*Orphan Schools Estate Act*	• Vested the property and management of the Female Orphan School (established in 1801) in the Church and School Lands Corporation.
1838	Tas (VDL)	*An Act for Apprenticing the Children of the Queen's Orphan Schools in this Island*	• Allowed the Lieutenant-Governor to indenture out children admitted to the Queen's Orphan Schools.
1840	NSW	*Deserted Wives and Children Act*	• Gave the Supreme Court the power to direct deserting husbands to provide for the maintenance of their children • Gave the court the power to make children under such a maintenance order apprentices if they were over the age of 13 or under 21.
1842	WA	*Guardians to child immigrants Act*	• Stipulated that the governor may appoint a guardian for 'juvenile immigrants' sent to the colony for the purpose of apprenticeship and may make these juveniles apprentices for not less than two years and no more than five years.
1844	SA	*Aboriginal Orphans (An Ordinance to Provide for the Protection, Maintenance and Up-Bringing of Orphans*	• Allowed the Protector of Aborigines to apprentice out orphan Aboriginal children and, with the consent of either parent, other Aboriginal children until the age of 21 • Gave the Protector of Aborigines the right to visit children • Imposed penalties on employers who mistreated the apprentices.

Date	Jurisdiction	Name of Act	Description
		and Other Destitute Children of the Aborigines)	
1844	WA	*Aboriginal Girls Protection Act*	• Made local boards responsible for overseeing the registration of children placed in the homes of people other than their families.
1845	WA	*Destitute Persons Relief Ordinance*	• Allowed children over the age of 10 who were subject to an order of maintenance under the Ordinance to be 'indentured' to work as an apprentice to 'any master or mistress willing to receive' them in any 'suitable' trade, business or employment until they were 18 years old • There was a limited ability for the court to oversee wages, the 'reasonable provision' of clothing and 'proper and humane treatment' of these children.
1848	SA	*Children's Apprenticeship Act*	• Allowed the governor to establish the Children Apprenticeship Board to apprentice out orphan emigrant children sent to the province, at public expense or at the expense of charitable institutions, when the children arrived at a suitable age.
1849	WA	*Guardians To Child Immigrants (Amendment)*	• Extended the *Guardians To Child Act Immigrants (1842)* to other children such as poor children sent out by the British Government or parishes or charitable bodies.
1849	NSW	*Infant Convicts Act*	• Allowed persons under the age of 19 who had been convicted of a misdemeanour or felony to be placed by the Supreme Court with any person or persons willing to take charge of the infant and provide for his maintenance and education • This was not to affect the sentence that the infant had received.
1850	NSW	*Female School of Industry Act*	• Stipulated that the Secretary of the Female School of Industry may have children apprenticed to them and may apprentice the children to other people.

Date	Jurisdiction	Name of Act	Description
1861	Tas	*The Queen's Asylum Act*	• Renamed the Queen's Orphan Schools, New Town, as the Queen's Asylum for Destitute Children • Allowed for the Governor to appoint three guardians over all the children • Defined neglect (see Appendix 2: a, b, c, d, e) • Stipulated that children over the age of 12 could be apprenticed out by the guardians • Persons who mistreated or neglected to provide proper food, clothing shelter and medical attention to their apprentice would be liable to a penalty not exceeding £50 • Able fathers or stepfathers were required to contribute to the maintenance of their children in the institution • This Act applied to any further similar institutions that may be established.
1863	SA	*Destitute Asylum Act*	• Established an asylum for the destitute poor • Those assisted by the asylum or their relatives were asked to repay maintenance if their circumstances allowed.
1863	Tas	*Deserted Wives and Children Maintenance Act (1863)*	• If JPs were satisfied that any man left a wife or child or a woman left a child without any visible means of support, they could be summonsed and ordered to pay maintenance • Justices could order children for whom maintenance had been sought, with the permission of the mother, to the Queen's Asylum • They could also commit the child if the parent/s were vicious and abandoned characters, or habitual drunkards • The justices could also allow the child to be apprenticed out.
1864	NSW	*Destitute Children's Society Incorporation Act Amendment Act 1864*	• Fathers (and mothers, where the fathers are dead) should contribute to the support of children voluntarily surrendered to the Society for the Relief of Destitute Children.

Date	Jurisdiction	Name of Act	Description
1864	Vic	*Neglected and Criminal Children's Act 1864*	• Establishes government and non-government industrial schools and reformatory schools • Defined a child as being under 15 years of age • Defined neglect (see Appendix 2: f, g, h, i, j) • Provided for constables to detain children without warrant and be brought before two justices who could send the child to industrial school for no less than a year and no more than seven years • Stipulated that convicted children could, in addition to any punishment, be sent to reformatory school for no less than one year and no more than seven years • Children could be placed out in service • Deemed parents liable to contribute to the child's support.
1865	Qld	*Industrial and Reformatory Schools Act 1865*	• Established industrial and reformatory schools • Defined a child as being under 15 years of age • Defined neglect (see Appendix 2: a, f, g, h, i, j, k) • Two justices could determine that a neglected child be sent to an industrial school for not less than a year nor more than seven years • Stipulated that a judge or two justices could direct a convicted child to a reformatory in addition to or in lieu of the sentence that would be passed for the crime • Children could be placed into service • Deemed parents liable to contribute to the maintenance of children.
1866 (a)	NSW	*Act for the Relief of Destitute Children (Industrial Schools Act) 1866*	• Allowed children under the age of 16 to be sent to a public industrial school by order of two justices of the peace • Defined neglect (see Appendix 2: f, g, h, i)

Date	Jurisdiction	Name of Act	Description
1866 (b)	NSW	*An Act to Establish Juvenile Reformatories*	• People under 16 years of age found guilty of an office could be sent to reformatory school
1866 (c)	NSW	*Public Institutions Inspection Act*	• The government could inspect hospitals, infirmaries, orphan schools and charitable institutions that were supported by grants from the public revenue
1866	SA	*Destitute Persons Relief Act 1866*	• Made relatives responsible for supporting the destitute poor • Gave the Destitute Board control over asylums, schools and other places • Established government and approved private industrial schools and reformatories • Defined a child as being under 16 years of age • Defined neglect (see Appendix 2: a, f, g, h, i, j) • Directed that two or more justices could direct children to industrial school for no less than six months and no more than seven years • Children convicted of a crime, in addition to serving their penalty, could be directed to a reformatory school for no less than one year • Children in industrial schools could be boarded out or apprenticed out. • Deserting husbands/fathers were required to pay maintenance for their children.
1867a	Tas	*Industrial Schools Act*	• Established approved industrial and reformatory schools for the education and training of vagrant and unprotected children and youthful offenders • Defined neglect (see Appendix 2: a, f, g, h, i) as: - found begging or receiving alms - found wandering or with no fixed place of abode or guardian - found destitute, with no living parent or parent in gaol - that frequents the company of thieves

Date	Jurisdiction	Name of Act	Description
			• Stipulated that children could be brought before two justices who could order them to an industrial school for no longer than they attain the age of 16 • Justices may also send children under 12 years to industrial school if they have been charged with an offence punishable by imprisonment • Fathers could be asked to pay five shillings weekly towards child maintenance • Allowed the Inspector of Industrial Schools to inspect the schools annually
1867b	Tas	*Training Schools Act*	• Established separate training schools for youthful offenders.
1869	Vic	*Aborigines Protection Act*	• Gave the government, through the Aborigines Protection Board, the power to make arrangements about the 'care, custody and education' of Aboriginal children.
1870	NSW	*Industrial Schools Amendment Act*	• Stipulated that boys under the age of six be placed in female industrial schools.
1871	WA	Maintenance of bastard children	• Allowed two justices of the peace, on application and proof of the identity of the father of an illegitimate child, to order the father to pay maintenance to the mother until the child was 14 years old or the mother died or remarried. The justices could also appoint another guardian and receive the maintenance if the mother was dead, insane or in gaol • Allowed for the punishment of mothers of bastard children who neglected to maintain the children or deserted them.
1872	SA	*Destitute Persons Relief and Industrial and Reformatory Schools Act 1872*	• Defined more closely the role of the Destitute Board in overseeing industrial and reformatory schools • If parent/s signed consent surrendering care and custody of a child to the Board, the child would remain in the industrial school until the age of 16, except where permission of the Board was obtained.
1873	Tas	*Public Charities Act*	• Introduced boarding out and Boarding Out Committees for Destitute Children.

Date	Jurisdiction	Name of Act	Description
1874	Vic	*Neglected and Criminal Children's (Amending) Act*	• Introduced boarding out • Detailed penalties for mistreating or neglecting boarded-out children • Allowed industrial or reformatory school children to be apprenticed out. Their wages were deposited in a bank account for their credit but could also be used to pay for any expenses incurred by their ill-behaviour.
1874	WA	*Industrial Schools Act*	• Any manager or supervisor of any school, orphanage or institution providing for orphan or necessitous children, or children of or descendants of Aboriginal race, could apply to the Governor for a certificate of approval. The Governor, on satisfaction that the school was bona fide, could supply such a certificate, but could also withdraw it • Certificates had to be renewed if a new manager took over the institution • The manager of the institution was deemed the lawful guardian of the child until the age of 21 • Managers could apprentice out children over the age of 12 • Any infant in the care of the manager for more than three months was deemed to be under the guardianship of the manager • Institutions could also be used as reformatory schools • As far as possible, youthful offenders were to be sent to institutions of the same religious persuasion • Institutions that received public money for the maintenance of children were to be inspected by a person authorised by the government.
1875a	Tas	*An Act to Amend the Law Relating to Destitute Children*	• Compelled parents to contribute to the maintenance of children in certified training schools.

Date	Jurisdiction	Name of Act	Description
1875b	Tas	*Juvenile Offenders Act*	• Allowed justices to order juvenile offenders under the age of 19 who had committed assaults or acts of indecency to be whipped before being sent to industrial or training school.
1877	WA	*Industrial Schools Amendment Act*	• Stipulated that managers of institutions were not to become guardians of children until the children had been in their institution for one year • Children were not be apprenticed out without the child's consent and the report of a police officer from the district where the proposed master resides.
1878	Vic	*Neglected and Criminal Children's Amendment Act*	• Allowed for the Governor in Council to transfer any child in an industrial school to a reformatory school and vice versa for the period of their term of detention.
1879	Qld	*Orphanages Act*	• Aimed to better manage the diverse orphanages and asylums established for the care and reception of orphans, and deserted and neglected children, and maintained at public expense, and also to establish further such institutions • Named the Secretary of Public Instruction as the responsible Minister • Designated Public Orphanages as managed by government but overseen by Committees of Management • Noted that institutions established by private benevolence would be licensed • The managers of those licensed institutions would have the whole management of these institutions, and would receive funds voted by Parliament, provided they gave accounts of expenditure • Licences could be withdrawn by the Minister • Stipulated that any destitute, deserted or orphaned child, or child whose parent could not support it, under the age of 12, could be sent to an orphanage • Children would remain in an orphanage till the age of 12, but did not have to remain there after that age

Date	Jurisdiction	Name of Act	Description
			• Parents who could do so, were expected to contribute to maintenance • Orphanage children could be lodged with 'trustworthy and respectable people' (not publicans or lodging or boarding house keepers) • Children could be licensed to be boarded-out but would still be regarded as an inmate of the orphanage • Children could be hired out to work or bound as apprentices.
1881	NSW	*State Children Relief Act 1881*	• Established State Children's Relief Board • Stipulated that children could be removed from asylums to be boarded out with approved persons, and later apprenticed.
1881	SA	*Destitute Persons Act 1881*	• Repealed the *Destitute Persons and Industrial and Reformatory Schools Act 1872* • Defined a child as a boy under 16 years of age or a girl under 18 • Defined neglect (see Appendix 2: a, f, g, h, i, l) • Defined a neglected child • Allowed for any police officer to bring, without warrant, a neglected or destitute child to the court to be dealt with • Required relatives to support their indigent relatives, and a husband to support any children that his wife already had at the time of marriage, whether legitimate or illegitimate • Deserting husbands could be summonsed to show cause as to why they should not support wife and children, whether legitimate or not • Deemed mothers liable to contribute to a child's support if they were able • Allowed for destitute and neglected children to be placed into industrial schools until the ages of 16 and 18 respectively, but if a parent applied to have them released earlier, and they could satisfy the Board that they were able to maintain them, the Board would release the child, provided the parent was not a prostitute, thief, vagrant or drunkard • Convicted children only were to be sent to reformatory schools

Date	Jurisdiction	Name of Act	Description
			• Allowed judges to, in addition to any sentence for crime, send convicted children to reformatory school until the age of 16 or 18 respectively or for less time, but no less than one year • Introduced boarding-out to mothers, other relatives or foster parents • Allowed for the Destitute Board to also apprentice the child out • Listed penalties for masters or licensed people who ill-treated or neglected to discharge their duties to the child • The Board would visit each child licensed out or apprenticed every four months • Inmates of industrial or reformatory schools who wilfully disobeyed rules could be punished by whipping or by being confined to bread and water for up to seven days. Close confinement for up to 48 hours was also allowed • Stipulated that the Board also controlled lying-in hospitals, where mothers were required to stay for six months after their confinement, and retained custody of infants unless the mother could provide for it • The Board would license foster mothers or wet nurses for children not born in one of its establishments; and there are provisions to inspect the foster mothers and wet nurses • Noted the penalties for parents who left their children with an unlicensed foster.
1882	WA	*Industrial Schools Amendment Act 1882*	• Named Rottnest Reformatory as a place for receiving and maintaining juvenile offenders.
1883	Tas	*Training Schools Amendment Act*	• Juveniles convicted of a crime punishable by imprisonment could be sent by justices to a named Training School for no less than three years and no more than five, unless the juvenile was under the age of 10 (unless they had offended before) • Justices could order offenders to be imprisoned for a short time before being sent to training school.

Date	Jurisdiction	Name of Act	Description
1883	Vic	*Public Health Amendment Act*	• Made local boards responsible for overseeing the registration of children placed in the homes of people other than their families.
1886	SA	*Destitute Persons Act Amendment Act 1886*	• Stipulated that the State Children's Council, an honorary board, would have care, management and control of industrial schools, reformatories and houses of reception and be the authority for boarding out, licensing, apprenticing and adoption of state children, as well as their removal, recall or return to their parents • The Council would also be responsible for closing industrial and reformatory schools when children were all provided for (boarded-out, licensed or apprenticed) • The Council would be responsible for establishing a house of reception and cottage homes whenever necessary and practicable • Stipulated that neglected, destitute and convicted children be called 'state' children • No wages or money deposited on a child's behalf in a bank account would be available to the child until they turned 18 • Any father deserting or not adequately maintaining wife and children and any mother deserting a child would be liable to up to 12 months' imprisonment with hard labour.
1886	Vic	*Aborigines Protection Act*	• Commenced the policy of forcibly removing 'half-caste' Aboriginal people from missions and reserves.
1886	WA	*Aborigines Protection Act*	• Gave resident Magistrates the authority to apprentice any 'Aboriginal' or 'half-caste' child of a 'suitable age' until the age of 21 years, provided that 'due and reasonable provision is made for [the child's] maintenance, clothing and proper and humane treatment'.
1887 (a)	Vic	*Juvenile Offenders Act*	• Established Department of Reformatory Schools, replacing Department of Industrial and Reformatory Schools • Allowed that reformatory schools could be government or private • Gave the Governor power to withdraw approval for unsatisfactory schools

Date	Jurisdiction	Name of Act	Description
			• Stipulated that the Inspector of Reformatory Schools would visit and report on schools • Children between 12 and 17 could be admitted by justices to a reformatory school in lieu of punishment on being convicted of an offence punishable by imprisonment • Stipulated that anyone under the age of 18 in prison should be transferred to a reformatory school • Wards of the Department could be transferred to the care of the Department for Neglected Children, apprenticed out or placed in employment or with some suitable person who had given sureties for the good behaviour of the child • Gave judges the power to release juveniles on bail instead of sentencing them • Detailed strong penalties for anyone inducing female wards to prostitution or having carnal knowledge of them, or aiding or abetting in these offences while the child was in their custody or apprenticed to them • Allowed the whipping of boys under the age of 16 convicted of offences.
1887 (b)	Vic	*Neglected Children's Act*	• Established the Department for Neglected Children, replacing the Department of Industrial and Reformatory Schools • Stipulated that children under the care of the Department were wards of the Department • Defined a child as a person under the age of 21 • Allowed receiving depots and probationary schools to be established by the government or private organisations • Approval for these schools could be revoked by the Minister and all wards of the Department removed • Stipulated that if a child was committed to the care of the state without objection of the father, the father could not remove the child without the consent of the committee or Governor unless he could show he was ignorant of the child being so detained and prove that he had not been negligent • Noted that industrial and reformatory schools, receiving depots and places where children were boarded-out could be inspected

Date	Jurisdiction	Name of Act	Description
			• Broadened definition of neglect (see Appendix 2: a, h, m, n) • Allowed that a police officer or officer of the Department could apprehend a neglected child and bring it before two justices • The Secretary of the Department was to be the guardian of all children committed to the Department's care • Local visiting committees would be appointed to visit and inspect institutions and report to the Minister • Made all parents liable to pay maintenance • Disallowed the use of corporal punishment for the control of children in the care of the Department, except such as may be lawfully inflicted by schoolmasters.
1888	Tas	*Charitable Institutions Act*	• Stipulated that all charitable institutions were to be registered with the Registrar-General • Registered charitable institutions could seek repayment of maintenance costs or part thereof from indigent persons or their relatives, if they were of sufficient means.
1890 (a)	Vic	*Aborigines Act*	• Solidified the link between the government's mainstream child welfare system and systematic removal of Aboriginal children.
1890 (b)	Vic	*Neglected Children's Act*	• Established probationary schools • Brought reformatory schools within the ambit of the Department for Neglected Children • Allowed for children to be committed to the care of the Department, or voluntarily placed by parents into the care of private individuals or institutions, but if approval of the person or institution was revoked by the Governor in Council, the manager of the institution ceased to be guardian of any child admitted under an order or by the written agreement of its guardian • If a person or manager desired to be relieved of the care of a child and could show just reasons to two justices, the justices may order the child to be committed to the care of the Department • Required any child under the school leaving age to register with a clerk of petty sessions and show proof of attaining the required school certificate or of days of school attendance for the

Date	Jurisdiction	Name of Act	Description
			preceding year, and only these registered children could be employed in casual employment. Anyone employing unregistered children under school leaving age would be fined • Detailed penalties for communicating with inmates without permission, entering the grounds of institutions without permission, withdrawing or encouraging wards or other children to abscond, or ill-treating or neglecting a child licensed, apprenticed or boarded-out with them • The Minister could withhold the earnings of any ward who misbehaved and could continue to withhold them after the ward had come of age until there was proof of the good conduct of the ward for 12 months.
1890 (c)	Vic	*Infant Life Protection Act*	• Stipulated that the occupier of a house where an illegitimate baby was born must inform the Registrar General within three days • Persons receiving any infant under the age of two for payment must be registered under the Act • Deemed offenders liable to six months imprisonment, and noted that anyone convicted of an offence under this Act would have their name removed from the register • The Chief Commissioner of Police would keep a register of licensed persons and registered premises and could refuse to register or re-register unsatisfactory premises • Any such premises could be inspected at any time • Licensed persons were impelled to keep a roll of the infants in their care along with details of the person who left the child in their care • Gave the Chief Inspector the power to remove children from registered premises and place them in the care of the Department for Neglected Children until their parents could be found or they were returned to the registered premises • Stipulated that every registered person must report the death of a child in their care to the police within 24 hours and an inquest held • Any private hospital or home into which women were received for medical or surgical reasons needed to be registered under the *Health Act*

Date	Jurisdiction	Name of Act	Description
			• Any person wilfully mistreating, neglecting or exposing a child in their care or custody would be guilty of an offence under the Act • Any person who caused a child under 14 to take part in a performance that could be dangerous to the child had committed an offence under the Act.
1890 d	Vic	*Crimes Act*	• Provided for youth to be transferred from gaol to the Department of Reformatory Schools.
1891	Tas	*Custody of Children Act*	• Where a parent applied to the Supreme Court for the custody of a child, the Court could decline to make the order if it considered that the parent had deserted or abandoned the child or otherwise conducted himself in a way that the Court should refuse the custody • Gave the court powers to order that the parent pay all costs properly incurred by another person (including institutions) in raising the child if the court had ordered that the child be given up to the parent • Stipulated that parents who had abandoned or deserted their child or had been unmindful of their duties had to prove to the court that they were fit to have custody of the child • The Court, in refusing to grant custody of the child, could ensure that the child was being brought up in the religion of the parent's choosing.
1891	Qld	*Guardianship and Custody of Infants Act*	• Where a parent applied to the Supreme Court for the custody of a child, the Court could decline to make the order if it considered that the parent had deserted or abandoned the child or otherwise conducted himself in a way that the Court should refuse the custody • If the court ordered that the child be given up to the parent, the Court could also order that the parent pay all costs properly incurred by another person (including institutions) in raising the child • Parents who had abandoned or deserted their child or had been unmindful of their duties had to prove to the court that they were fit to have custody of the child • The Court, in refusing to grant custody of the child, could ensure that the child was being brought up in the religion of the parent's choosing.

Date	Jurisdiction	Name of Act	Description
1892	NSW	*Children's Protection Act 1892*	• Stipulated that children under three years of age taken into care (away from their parents) were to be registered • Detailed penalties for caregivers ill-treating a child • Prohibited employment of children in dangerous performances • Detailed punishments for parents ill-treating a child.
1893	WA	*Industrial and Reformatory Schools Act 1893*	• Gave the government power to establish industrial and reformatory schools • Defined a child as under 16 years of age • Defined neglect (see Appendix 2: a, f, g, h, i, o) • Allowed any police constable to bring a child before two justices.
1894	NSW	*Custody of Children's Settlement Act*	• If a parent applied for custody of a child, the court had the right to refuse custody if the parent had neglected, deserted or abandoned the child or if the tender age of the child or its state of health made it expedient that it stay with its mother • If the child was being boarded-out or cared for in an institution, the court could order that the parent seeking custody of the child pay all costs incurred in raising the child to the person or Board who has been rearing the child, if the court granted custody to the parent • Where a parent had neglected or abandoned the child or had allowed it to be brought up at another's expense, the court would not grant custody of the child to the parent making the application unless it was satisfied that the parent was fit to have custody of the child • Gave the court power to ensure that the child was brought up in the religion of the parents' choosing, if a parent applied for custody of the child and the child was being brought up in another religion • Gave the court the power, to order that the child be brought up by a relative or other person and the cost of the child's maintenance be charged to parent if the parent has been neglectful or cruel to a child.

Date	Jurisdiction	Name of Act	Description
1894	WA	*Colonial Prisoners Removal Act*	• Enabled the transfer of inmates between industrial and reformatory schools.
1895	SA	*State Children Act*	• Transferred the control of state children, licensing of foster mothers, etc. from the Destitute Board to the State Children's Council • Allowed for both state-established or privately established institutions. Privately-established institutions would be 'proclaimed' by the Governor • If the Council was dissatisfied with the running of a private institution, the Governor could 'abolish it' and have all state children from the institution sent to another institution or otherwise dealt with under the Act • Broadened the definition of neglect (see Appendix 2: a, e, n, p) • Stipulated that any court hearings for children may not be held in courthouses or police stations, but, if they had to take place in a courthouse, they were to be scheduled when ordinary trials did not take place • Judges could place uncontrollable children on probation as an alternative to sending them to an institution or probationary school or having them whipped • Children convicted of an offence could be sent to reformatory school, or let go if parents offered security for their good behaviour, or have their court case adjourned if a relative offered to punish the child in a reasonable manner • Continues boarding-out and apprenticing • Stipulated that every state child over seven placed out should attend school until the age of 13 or until passing the compulsory standard required by the Education Act (foster parents were liable for a penalty) • If foster parents complained that a child had misbehaved, the justices could investigate whether the foster parent had ill-treated the child and bring a charge against them. The justices could also order the child to be punished

Date	Jurisdiction	Name of Act	Description
			• Gave Council the responsibility of supervising children placed out or in private institutions, and or appointing others to visit the children and inspect their circumstances. There were penalties for non-compliance. • Relatives were liable to pay for maintenance of children according to their abilities • Stipulated that lying-in houses had to be licensed by the Council • Nobody could foster a child under the age of two for reward or gain without a licence, which would stipulate the number of children allowed.
1895	Tas	*Prevention of Cruelty to and Protection of Children Act*	• Added definitions of neglect (see Appendix 2: p, r) • Allowed justices to that if a person who had charge of the child was convicted, the child was to be taken from their custody and placed with a relative or other person willing to take charge of the child • Allowed the Attorney-General to remove the child from this custody at any time. • A parent was to pay maintenance for the child

1896	NSW	*State Children Relief Act*	• This amendment to an Act established a system of boarding out children
			• Increased the age to which children could be retained to 14
			• Stipulated that the Governor may frame regulations
			  ○ exempting boarded-out children from apprenticeships
			  ○ prescribing the terms and conditions of indentures for boarded-out children
			  ○ transfer or cancel their indentures in cases of ill-treatment
			  ○ authorise the State Children's Relief Board board to deduct from apprentices' wages in cases of misconduct
			  ○ define the mode of procedure for recovery of lost wages for apprentices
			• The Board had the power to visit all boarded-out and apprenticed children for up to two years after their official boarding out or apprenticeship has ended
			• Stipulated that parents who had surrendered their children to the Board for adoption would have no further control over them

Date	Jurisdiction	Name of Act	Description
			• The Board could board children out to their widowed or deserted mothers • The Board could institute proceedings against the parents of illegitimate children for the recovery of maintenance money.
1896	Qld	*Children's Protection Act*	• Added definitions of neglect (see Appendix 2: p, r) • Stipulated that police constables could arrest offenders and also take a child to a place of safety.
1896	WA	*Adoption of Children Act*	• Allowed for legal adoption of children through the courts, with permission required where parents/guardians were still alive.
1896	Tas	*Youthful offenders, Destitute and Neglected Children Act 1896*	• Established Department for Neglected Children • Defined neglect (see Appendix 2: b, c, d, f, h, i, m, n) • Introduced the term 'ward of the department' • Allowed for the Department of Neglected Children to establish receiving depots and probationary schools for girls and boys • Noted that an Inspector would be appointed • Introduced boarding out in addition to receiving depots, industrial schools, training schools and probationary schools • Stipulated that any ward who had been leading an immoral or depraved life was to be placed in a training school • Judges could commit children to the care of private citizens or private institutions appointed by the Governor • Children were not to be committed to care of people or institutions of religions to which the father of the child would object • Treasury would pay maintenance to these citizens or institutions in addition to any maintenance the person or institution received from the children's relatives

Date	Jurisdiction	Name of Act	Description
			• The responsible Minister could withdraw the certificate of approval for institutions at any time • Directors of any training school or industrial school could permit any inmate to live with any trustworthy and respectable person named in the licence, willing to receive and take charge of them • Directors could also apprentice out inmates • The Governor would appoint committees for boarding out neglected children and also visiting committees to visit boarded-out children in receiving depots and schools • Parents of wards were liable to pay 10 shillings per week for the child's maintenance but the Court could use discretion in enforcing this.
1897	Qld	*Aboriginal Protection and Restriction of the Sale of Opium Act 1897*	• Covered the restriction of Queensland Aborigines to reserves and the powers of the Protector of Aborigines to move Aborigines to reserves, restrict their movements, etc. • Some clauses allowed the Governor in Council to make regulation for the 'care, custody and education of children of Aboriginals', and the transfer of any orphaned or deserted half-caste child to an orphanage, as well as prescribe the conditions on which Aboriginal children may be apprenticed out or placed in service with suitable people
1897	WA	*Aborigines Act*	• Abolished the Aborigines Protection Board and the powers and duties of existing protectors of Aborigines. Created the WA Aborigines Department, which had similar duties to the former Board as well as providing for the custody, maintenance and education of the children of Aborigines.
1898	WA	*Health Act*	• Anyone who 'took in' infants (children under two years of age) for more than 24 hours had to be registered and had to register the names and other details of the children in their care.
1899	NSW	*Infants Custody and Settlement Act*	• Much the same as the 1894 Act but specifying that the child's wishes would be taken into account by the Court and favouring the mother having custody of the child until the age of 16.

Date	Jurisdiction	Name of Act	Description
1899	SA	*Children's Protection Act 1899*	• Raised the age of consent from 16 to 17 • Stipulated that anyone, including parents, who ill-treated, neglected, abandoned or exposed a child would be liable to one year's imprisonment • Magistrates could authorise the police or a State Children's Council officer to enter any premises and remove a child • It was an offence for a child under 13 years of age to sell in a public place • Anyone who sold, or permitted a child to sell or exhibit, obscene publications was liable to imprisonment.
1900	NSW	*Children's Protection Act Amendment (1900)*	• Amended the *Children's Protection Act 1892,* adding the terms 'assaults' and 'ill-treated' • Gave the police the power to take into custody anyone who had committed such an offence. • Allowed the police to take a child against whom an offence had been committed to a place of safety • The Court could order a child against whom an offence had been committed into the care of a relative or any other person in lieu of being boarded out or sent to an industrial school • Charges under this Act applied to any parent or step-parent who: procured the child (boy under 14, girl under 16) for begging or caused them to be in a place of entertainment between 10 pm and 6 am or allowed any child under the age of 10 to be in places of public amusement to which the public pays for admittance for the purpose of performing or offering anything for sale.
1901a	NSW	*Infant Convicts Adoption Act*	• Allowed the Court or a judge to assign the care or custody of a infant aged up to 19 years who had been convicted of a misdemeanour or felony to any applicant willing to take charge of him and provide for his maintenance and education • The Court or judge would have consideration for the age of the infant, the prevention of crime and the character and habits of his parents or guardians.

Date	Jurisdiction	Name of Act	Description
1901b	NSW	*Deserted Wives and Children*	• Gave justices the authority to issue a warrant for the arrest of any father who had deserted his wife and child or any mother of an illegitimate child, or left them without visible means of support, if it appeared he is leaving NSW • Justices could order the father to pay for the maintenance of his child and, in the case of an illegitimate child, order both father and mother to pay for maintenance. In cases where only the mother was judged able to contribute, justices could deem her liable to contribute to the maintenance of her child • Any two justices could cause such a child without means, or whose parent was vicious or abandoned character or an habitual drunkard, to be placed in the Destitute Children's Asylum or in any public institution approved by them. The justices could order that maintenance of the child was paid to the institution.
1901c	NSW	*Destitute Children's Society Act 1901*	• Designated the Society for the Relief of Destitute Children as body corporate • Stipulated that any land that the Crown had granted to the society could not be sold or mortgaged without the approval of the Governor and Chief Secretary • As long as the Society was in receipt of contributions from the Treasury, the Governor could appoint inspectors to inspect the buildings and the state of the children (once a year or more often if thought fit) • Children could be voluntarily placed in the Society's care or compulsorily placed in its care under a particular Act • A mother could lawfully submit a child to the Society's care (under permission from a justice of the peace) if the father, through drunkenness, felony or absence for prolonged periods, was unable or unwilling to care for the infant • Allowed directors pf the Society to apprentice boys and girls as farm labourers or domestic servants as long as they were over the age of 12 and under 19. Note that an apprenticeship ended if a girl was married before 19. • It was deemed a misdemeanour for a person to encourage a child to escape from the institution or an apprenticeship placement.

Date	Jurisdiction	Name of Act	Description
			• Fathers who were able could be required to pay maintenance of up to 20 shillings a week; and, in the absence of fathers, mothers would be required to pay the maintenance if they could afford it • If a parent or relative could satisfy the directors of the Society that they were willing and able to care for the child, the directors would surrender the child on payment of all or part of the amount that had been spent on the child.
1901d	NSW	*Reformatory and Industrial Schools Act 1901*	• Allowed the Governor to declare any ship, land, building or enclosure a reformatory or public industrial school and make regulations for its conduct, management and supervision • Managers of any industrial training establishment where children were clothed, fed, lodged and taught, could apply to the Minister (Colonial Secretary) to review the establishment with a view to becoming a private industrial school under the Act • Every such school would be inspected at least annually • The Colonial Treasurer would contribute money for the maintenance of children in private industrial schools, in amounts set by Parliament. **Reformatory Schools** • Persons under 16 years of age convicted of an offence punishable by more than 14 days imprisonment could be sent to reformatory school for no less than 12 months and no more than five years (in addition to their sentence) • The superintendent of prison in which the offender had served his sentence was to forward the offender to the reformatory school. **Industrial Schools** • Defined neglect (see Appendix 2: b, c, d, i)

Date	Jurisdiction	Name of Act	Description
			• Allowed the Governor to order any child sent to an industrial school to be discharged at any time and stipulated that children should not be detained past the age of 18 • The Minister could direct that any male child under the age of six be placed in a female industrial school. At the age of seven boys would be moved to a male industrial school • The father (or the mother, if father was is dead) of any child sent to a reformatory or industrial school could be summoned to show just cause as to why they should not pay a sum of up to 10 shillings weekly for the maintenance of their child • Superintendents of industrial schools could indenture children out as apprentices. Justices could order that the child be returned to the industrial school if superintendents reported that those who had indentured the child were not fit employers.
1901e	NSW	*State Children Relief Act 1901* (consolidating Acts relating to a system of boarding out for children)	• Stipulated that a State Children's Relief Board was to be established • One or two boarding out officers were to be appointed • Boarding out officers could remove a child from an asylum and place the child in the house of a licensed person for any period until the age of 12, but with discretion and in special circumstances up to the age of 14 • At the direction of the Minister a boarding out officer could remove a child from a reformatory school and place them in the house of a person licensed to board children out • The State Children's Relief Board may place invalid or sick children in cottage homes in approved locations and make the necessary directions for their management • Any boarded out boy who absconded or refused to return to his original place of detention (if any) before their period of detention had expired could be whipped with a birch rod or be confined to bread and water. Girls in this situation could only be confined to bread and water. • Any person who neglected to perform his duty or mis-used any child boarded-out to them was liable to a penalty of up to £10 or imprisonment (with or without hard labour) of up to two months.

Date	Jurisdiction	Name of Act	Description
1902a	NSW	*Children's Protection Act 1902*	• Stipulated that no person could take a child under the age of three into their care to adopt, rear, nurse or otherwise maintain away from its parents in consideration for money, apart from periodical instalments. Instalments would be received more than four weeks in advance and would not exceed 20 shillings a week. This did not apply to legal or natural guardians of the child, public institutions supported by public subscription or private charity open to inspection by the state, nor to institutions operated by the state nor to any person exempted by the Minister • People who received children under the age of three into their care were bound to report the particulars to the office of the registrar of births, deaths and marriages. Their premises could be inspected at any time by an departmental officer, who could also be accompanied by a doctor • Imposed a penalty of £50 or imprisonment of up to 12 months for those with children in their care who wilfully neglected to provide adequate food, lodging, etc. to the children or who assaulted, ill-treated or exposed any child • Deaths of such children were to be reported to the Chief Minister or local police, and children were not to be buried before a certificate showing the cause of death was produced • Anyone receiving two or more children under the age of three needed to register their details and renew their registration annually. The Chief Officer could remove children from the care of the registered care-giver at any time • Persons in charge of lying-in homes had to report each birth within two weeks to the registrar of the district • No child was to be permitted to leave the lying-in home, unless in the care of its mother, without obtaining the written consent of the Chief Minister or an officer appointed by him • Stillborn children could not be interred before a medical officer or police officer had made a report on the death

Date	Jurisdiction	Name of Act	Description
			• Imposed penalties on those allowing boys under the age of 14 and girls under 16s to beg or perform in public places or premises licensed for public entertainment, unless they had obtained a licence • Managers of industrial schools or homes for destitute children to which justices had committed children brought before the court could permit the children's adoption or apprenticeship • Magistrates and justices could authorise officers and police offices to enter any premises and remove a child if there was evidence that the child was being neglected or ill-treated.
1902b	NSW	*Sydney Female School of Industry Act*	• Changed the operation of the Sydney Female School of Industry, including allowing it to apprentice children who were not residents.
1903	Tas	*Public Health Act*	• Part XVI (Infant Life Protection) of this Act provided for the registration and inspection of premises where more than one infant under the age of two was kept apart from its parents for more than 24 hours for payment. Local authorities were responsible for inspecting the premises, checking the register and striking off the register anyone who neglected child in their care, or were unable to adequately care for them, or their premises had become unsuitable • These regulations didn't apply to institutions.
1904	NSW	*Infant Protection Act 1904*	• Allowed single women who were pregnant or had given birth to an illegitimate child and were not being supported by the father of the child to apply under oath to a magistrate that the father had not made adequate provision for her support. The father could be summonsed or apprehended to appear before the court and asked to pay surety for expenses, or jailed if he did not pay expenses, and released once he had complied • Established the Children's Court • Stipulated that any person in charge of any institution used for the reception and care of two or more infants under the age of seven away from their mothers had to apply to the Minister

Date	Jurisdiction	Name of Act	Description
			for a licence. The premises had to be inspected by the State Children's Relief Board before the licence was granted. Members of the Board or their officers could enter the premises at any time to inspect them. Licences were to be withdrawn if conditions are unsatisfactory.
1905	NSW	*Neglected Children and Juvenile Offenders Act 1905*	• Established children's courts to hear cases under the *Child Protection Act* and the *Infant Life Protection Act* • People could apply to have 'uncontrollable' children admitted to an institution. The child was to be detained at a shelter pending the court's decision • Defined neglect (see Appendix 2: a, d, f, g, h, m, n, p, q, r, s, t) • Established shelters for reception and temporary detention and maintenance of children in addition to industrial schools and reformatories • Every institution was to be visited and inspected at least every three months • The court can order relatives of a child in an institution to pay maintenance for the child if they had the means to do so • Stipulated penalties for people who ill-treated, terrorised or injured any child in an institution • Stipulated penalties for people who aided and abetted any child in absconding from an institution or concealed or prevented a child from returning to an institution • Any child who absconded from or disobeyed the rules of a reformatory school could be sent by the court to gaol for up to three months • Male children over the age of 10 could apply for a licence for street trading • Penalties applied for people employing children without a licence.
1905	Qld	*Infant Life Protection Act*	• Stipulated that those caring for any infant under the age of three away from their parents for more than 48 hours for payment or for adoption must be registered, and that their home must be registered as a nursing home. Payment received for the care of any infant were to be made in instalments for no more than four weeks. Registered nursing homes were to keep records of when children were left in their care and when they were removed. Children who

Date	Jurisdiction	Name of Act	Description
			were not properly cared for in nursing homes would be removed to the care of a state inspector of orphanages until their relatives could be found • Anyone (apart from parents) who adopted or assumed the care of an infant under the age of three had to inform the Commissioner of Police • Fathers of illegitimate children were obliged to pay up to £10 for the mother's confinement expenses • Owners or occupiers of any place in which an illegitimate child was born were to notify the district registrar within three days • Owners or occupiers of any place in which an illegitimate child under the age of five died, were notify the district registrar within 24 hours.
1905	Tas	*Youthful Offenders, Destitute and Neglected Children Act 1905*	• Required that court hearings with reference to neglected children were not to be held in a police office or court unless they were held at a different time from the normal business of the court. Only people directly related to the case were to be present • The register of the cases was to be kept separately from the court register.
1905	WA	*Aborigines Act*	• Established the position of Chief Protector who was the legal guardian of 'every Aboriginal and half-caste child' to the age of 16 years.
1906	Qld	*Industrial and Reformatory Schools Act 1906*	• The definition of a child was changed from under 15 to under 17 • Added to the definition of neglect (see Appendix 2: d, j, m, n)
1906	Vic	*Children's Court Act 1906*	• Established children's courts • Stipulated that any person, police magistrate or two justices of the peace could be appointed special magistrates • Male and female probation officers were to be attached to every Children's Court to investigate any complaints or information regarding a child, furnish the court with

Date	Jurisdiction	Name of Act	Description
			information about the child's habits and mode of living, visit and supervise the child before and after the hearing, and represent the child in court • Gave the court the power to place a child on probation • Children's Court were to hear charges against children on felonies and misdemeanours and also hear charges related to neglected children • No one not directly connected to the case could be present at Children's Court.
1907	Qld	*Children's Courts Act*	• Established children's courts • Children charged with an offence were to be brought before the Children's Court. Parents or guardians of the children would be informed of the hearing time, along with any religious or charitable institution interested in the care or reform of the children. Pending the court hearing, no child was to be kept in prison or lockup. Notwithstanding proof, it was not necessary for the court to convict a child. The court could admonish the child and order parents or guardians to pay costs in lieu.
1907	Tas	*Infant Life Protection Act*	• Stipulated that houses and people must be registered to care for any infant under the age of five away from their parents for more than 24 hours for payment. Parents' payments to registered homes were to be made in instalments via the Clerk of Courts • Registered persons were to maintain registers of dates and names and addresses of parents • Deaths of infants in their care were to be reported within three days • The Commissioner of Police could cancel the registration of any home on the grounds of neglect or unfitness. Children in these cases could be placed in the care of the Department till their relatives could be found.
1907	Vic	*Infant Life Protection Act*	• Named the Secretary of the Department for Neglected Children instead of the Commissioner of Police as the responsible authority • Stipulated that no male person could be registered as the occupier of a house registered for Infant Life Protection

Date	Jurisdiction	Name of Act	Description
			• Gave government the power to establish maternity homes, infant asylums and cottage homes for the care of mothers and babies • The Minister could appoint visiting committees to inspect places registered under Infant Life Protection Act • Inspectors could enter any registered premises • Infants were to be boarded out for no less than 10 shillings a week, paid through the Secretary of the Department for Neglected Children. If payments fell into arrears for four consecutive weeks, the infant was to become a ward of the Neglected Children's Department.
1907	WA	*State Children Act 1907*	• Added to the definition of neglect (see Appendix 2: l, n, t, v) • Established the State Children's Department, to which inspectors were to be appointed • Visitors to Government institutions would also be appointed, and boarding-out committees established • Gave the state control over all children in state institutions and all children with foster mothers. Children in state care could be placed in receiving depots or institutions, or boarded out or apprenticed • Established state institutions and 'subsidised' institutions • Established children's courts (from which those not relevant to cases were excluded) • Allowed Officers of the Department and Police to apprehend a child • Uncontrollable children and children guilty of offences were to be sent to industrial schools • Destitute and neglected children would be sent to institutions other than industrial schools • Private people and societies could care for destitute children without subsidy but needed the approval of the Minister • Children over the age of 10 engaging in street trading were to be licensed • The Minister could contribute to the maintenance of women in lying-in homes and maintain government lying-in homes. These homes were to be licensed • Foster mothers of children under the age of three were to be licensed.

Date	Jurisdiction	Name of Act	Description
1909	NSW	*Aborigines Protection Act*	• Gave the Aborigines Protection Board the right to apprentice 'the child of any Aborigine, or the neglected child of any person apparently having an admixture of Aboriginal blood in his veins', so long as the child was between the ages of 14 and 21, acting in accordance with the *Neglected Children and Juvenile Offenders Act of 1905* and the *Apprentices Act 1901*.
1910	NT	*Northern Territory Aboriginals Act*	• Made the Chief Protector the legal guardian of every Aboriginal child. The Act allowed for regulations to be made for the 'care, custody and education of the children of Aboriginals', in including the power to transfer children to 'Aboriginal institutions' and 'industrial schools'.
1911	Qld	*State Children Act*	• Established the State Children Department, the director of which had control of all state children until the age of 18 and control of their property until they were 21 • Every Aboriginal or half-caste child in an institution remained under the control and supervision of the Protector of Aborigines • Added to the definition of neglect (see Appendix 2: a, e, o, t, w) • The Minister could appoint honorary visitors to assist in procuring and visiting boarding out homes, and supervise children who were on probation • The Director of the Department could place a child in a receiving depot, institution, boarding-out home or apprenticeship without informing the parents • Allowed for the continued establishment of state receiving depots, orphanages, industrial schools, reformatories, training homes and ships, farm schools and technical schools • The government could also consent to the same sorts of establishments being established by private benevolence and issue them with a licence. State children could be admitted to those licensed institutions, which would receive a capitation fee • Children removed from the private nurses with whom they had been placed by their parents under Infant Life Protection legislation and committed by courts could be put in the care of the state • Any authorised officer or police officer could, without warrant, take into custody any child that appeared to be a neglected

Date	Jurisdiction	Name of Act	Description
			• Convicted children over the age of 13 would be committed to an industrial or reformatory school. Those under 13, and neglected, would be sent to an institution other than a reformatory • State children could be placed out with their mother if she was of good repute, a widow or separated from her husband, and she could receive payment • There were penalties for mistreating or neglecting state children placed out in employment or apprenticeships • An officer of the Department would visit every state child every three months • Parents or near relatives were liable to pay maintenance for their children if they are able • Foster mothers to state children were to be licensed and paid by the Department .
1911	NT	*Aboriginal Ordinance*	• Outlined the powers of the Chief Protector in undertaking 'the care, custody, or control of any Aboriginal or half-caste if in his opinion it is necessary or desirable' in their 'interests'.
1911	SA	*Aborigines Act*	• Stipulated that the Aboriginals Department was to provide for the 'custody, maintenance and education of the children of Aboriginals' and to 'exercise a general supervision and care over all matters affecting the well-being of Aboriginals'. The Chief Protector was the legal guardian of 'every Aboriginal and half-caste child, notwithstanding that any such child has a parent or other relative living' until the age of 21 years, except while the child was a 'State child' within the meaning of the State. Each regional Protector was the local guardian of every child within his district • Allowed a medical practitioner to order the removal of an 'Aboriginal or half-caste' child to any 'lock-hospital'. Regulations could be made for the 'care, custody and education of the children of Aboriginals and half-castes'; 'enabling any Aboriginal or half-caste child to be sent to and detained in an Aboriginal institution or industrial school'; and prescribing the conditions on which 'Aboriginal or half-caste children' could be apprenticed.

Date	Jurisdiction	Name of Act	Description
1911	WA	*Aborigines Act Amendment Act*	• The Chief Protector was made the legal guardian of all illegitimate 'half-caste' children 'to the exclusion of the rights of a mother of an illegitimate half-caste child'. Aboriginal institutions exercised the same powers as State institutions in respect of State children.
1915	NSW	*Aborigines Protection Amending Act*	• Gave the Aborigines Protection Board the power to remove any child without parental consent and without a court order. It removed the requirement that an Aboriginal child had to be found to be neglected before the Board could remove him/her. The Act provided that 'the Board may assume full control and custody of the child of any Aborigine, if after due inquiry it is satisfied that such a course is in the interest of the moral or physical welfare of such child' and place the child in such care as it thought best. Apprenticeship of children by the Board was no longer subject to the *Apprentices Act 1901*.
1915a	Vic	*Neglected Children's Act*	• Defined a child as under 21 years of age • Stipulated that all approved institutions or people caring for wards of the Department must allow children to be visited. The Governor had the power to revoke the licence of and replace an approved institution or person caring for wards of the Department .
1915b	Vic	*Infant Life Protection Act*	• Gave the Secretary of the Neglected Children's Department greater powers to supervise the registered houses where infants (under the age of five) were boarded out, including refusing to register houses that were unsuitable or people not of good character.
1916	NSW	*Destitute Children's Society (Vesting) Act*	• Vested Destitute Children's Society's land and property with the Crown to be used as a home for invalid soldiers and sailors. The Society's funds were to be vested with the Public Trustee for establishing cottage homes for defective children, managed under the direction of a board appointed by the Governor.
1917	Qld	*State Children's Amendment Act*	• Raised the age of children who received State benefits through their natural or foster mothers from 13 to 14 years. If a State child gained a State scholarship, maintenance and assistance lasted for the term of the scholarship.

Date	Jurisdiction	Name of Act	Description
1918	NSW	*Aborigines Protection (Amendment) Act*	• Extended power of the Aborigines Protection Board to people 'apparently having an admixture of Aboriginal blood'.
1918	NT	*Aboriginal Ordinance*	• Allowed the Chief Protector to retain control over many aspects of Aboriginal lives and to continue to be the legal guardian of every Aboriginal child.
1918	SA	*Children's Protection Act Amendment Act 1918*	• Stipulated that no child under the age of six was to take part in any public entertainment or be employed in connection with any public entertainment. There were penalties for both parent and promoter.
1918	Qld	*Infant Life Protection Act Amendment Act 1918*	• Transferred the powers given to the Police Commissioner under the *Infant Life Protection Act 1911* to the Director of the State Children Department.
1918	Tas	*The Children of the State Act 1918* (short title is The Children's Charter)	• Added definitions of neglect (see Appendix 2: h, l, o) • Renamed the Department for Neglected Children as the Children of the State Department • Gave the Governor power to establish receiving homes, children's homes, foundling homes, industrial schools, probationary schools, reformatories and farm schools • Approved private institutions would be certified for the reception of children of the state • Established children's courts, which would not make an order in respect of a neglected child if a relative was willing and, in the court's opinion, suitable to take charge of the child • Probation officers were to be attached to each Children's Court, and could represent the interests of the child in court • A justice could order a warrant for a child to appear in court if an employee of the Department gave evidence that the child was neglected or uncontrollable or had committed an offence. The child was to be taken to a receiving home or some suitable place pending the court hearing, which was to be no more than 24 hours after their apprehension. If the court

Date	Jurisdiction	Name of Act	Description
			found that the child was uncontrollable, neglected or guilty of an offence, it could release the child on probation, commit the child to the care of the state or commit the child to an institution.
1919	Vic	*Children's Maintenance Act*	• Allowed any mother who could not financially support her child (whether legitimate or illegitimate) by legal means to apply to the Department for Neglected Children for financial assistance. Police Magistrates would investigate the case and, if recommended, the Department for Neglected Children would pay weekly allowance for the child under 14 years of age • Wards of the Department who had been previously boarded out with their mothers would, under this Act, no longer be wards, though the Department would continue to pay their mothers for their maintenance (not less than six shillings per week, not more than 10) • If the mother appeared to be 'unfit' or did not properly maintain the child, the payments would cease and the child would become a ward of the Neglected Children's Department.
1919	WA	*State Children Act Amendment Act*	• Stipulated that 'the future welfare of the child' should be taken into account when placing the child in out-of-home care, and gave the Children's Court the power to choose somewhere other than a 'scheduled institution' • Licensing (by the State Children Department) of people or institutions fostering more than two children under the age of six (schools and lodgers exempted) was compulsory • Any male manager of an institution (or husband of a licensed foster mother) was deemed to be the guardian of a female State child (and subject to special clauses relating to sexual offences by guardians in the Criminal Code)
1920a	Tas	*Adoption of Children Act*	• Allowed legal adoption – applications to adopt were made to the Police Magistrate • Natural parents' consent was required except if the child was a child of the state or deserted • Required consent from the Secretary of the Children of the State Department for the adoption of children of the state

Date	Jurisdiction	Name of Act	Description
			• A police magistrate need to be satisfied that the welfare and interests of the child would be promoted by the adoption.
1920b	Tas	*Mental Deficiency Act*	• Established the Mental Deficiency Board which oversaw the classification and management of children deemed mentally deficient.
1920	WA	*Guardianship of Infants Act*	• Covered wills and the provision for infants in case of the death of the father or divorce • An amendment in 1926 stipulated that if a parent had abandoned or deserted his child or had allowed his child to be brought up at another's expense, the court would not order that the child be delivered to the parent unless satisfied that he was a fit person to have custody of child • No child was to be placed in an apprenticeship if under the age of 14 • All children of the state were to be visited by the Department every three months • The Minister would pay foster mothers • Near relatives were expected to pay maintenance for children of the state.
1921	Qld	*Infant Life Protection Act Amendment Act 1921*	• Stipulated that anyone wishing to adopt a child under the age of 10 from its lawful parents or guardians, who weren't relatives of the child, must apply to the Director State Children Department.
1922	Comm	*Empire Settlement Act*	• Encouraged child and youth migration.
1923a	NSW	*Child Welfare Act*	• Amended and consolidated a range of previous Acts into one Act and introduced legal adoption • Abolished State Children's Relief Board transferred it power to the Minister • The Minister could remove any child from an asylum and have them boarded out, place invalid and sick children under his care into cottage homes, and establish shelters for

Date	Jurisdiction	Name of Act	Description
			temporary reception of children, industrial schools for children and homes for children committed to an institution but whose cases called for segregation or special treatment • Every institution was to be controlled by Minister and inspected at least every three months • Any person caring for a child who ill-treated, terrorised, overworked, injured or neglected a child committed to an institution was liable to a penalty of up to £100
1923b	NSW	*Juvenile Migrants Apprenticeship Act*	• Designated a juvenile as a minor as over the 14 and under 19 who came to NSW with the assistance of either state or commonwealth government • Gave the Minister care and control of the juvenile before placing out and at any time when he ceased to be placed out; and supervision of the juvenile while placed out • The Minister could appoint institutions for juveniles ; make provisions for their control, maintenance, education and employment while in institutions; place the juvenile to reside and board with a suitable person; and apprentice out juveniles to learn a trade, including domestic service. Farming apprenticeships were not to exceed three years and any apprenticeship was not to extend beyond the juvenile's 21st birthday • All or part of the juvenile's wages were to be paid to the Minister and used for expenses incurred in bringing the juvenile to NSW • Moneys held by the Minister would accrue interest (4 percent per annum) and would be paid to the juvenile when he reached 21 • The Minister could cancel indentures if the employer died, became insolvent, moved from the state or was 'guilty of such immoral or vicious conduct as to render him unsuitable' • The police could apprehend a juvenile who absconded or failed to comply with an order.

Date	Jurisdiction	Name of Act	Description
1923	SA	*Aborigines (Training of Children) Act*	Provided for the removal of an 'Aboriginal child' to an institution under the control of the State Children's Council. Applied to legitimate 'Aboriginal' children who had obtained a qualifying certificate under the Education Act 1915 or who were at least 14 years old and all illegitimate children irrespective of age who in the opinion of the Chief Protector and the State Children's Council were neglected
1924	Qld	*State Children Act Amendment Act 1924*	• Where a state child passed the State High School entrance exam, the state would maintain or assist in the maintenance of the child for as long as the Minister determined.
1924	NSW	*Child Welfare (Amendment) Act*	• Removed the need for consent of natural parents to adoption if the court was satisfied that the parent had deserted or abandoned the child • Enforced greater secrecy surrounding adoption – names were not to be published • The adopting parents' surname was to replace the child's own surname.
1924	Vic	*Children's Welfare Act 1924*	• Renamed the Department for Neglected Children as the Children's Welfare Department.
1924	Vic	*Children's Maintenance Act*	• Stipulated that weekly child maintenance payments would be made to mothers until their children reached the maximum age provided under the Education Acts • If the mother was dead, payment ceased and the child became a ward of the Department • Fathers of children for whom the Department was paying maintenance were required to pay the Department or pay maintenance for the child.
1925	SA	*Adoption of Children Act*	• Introduced legal adoption.

Date	Jurisdiction	Name of Act	Description
1926a	NSW	*Sydney Female School of Industry (Dissolution) Act*	• Dissolved the Sydney Female School of Industry society and vested its property with the (Anglican) Archbishop of Sydney to establish or carry on existing homes for orphans or neglected or necessitous children (both in Sydney and in parochial areas of NSW).
1926b	NSW	*Juvenile Migrants Act*	• Repealed *Juvenile Migrants Apprenticeship Act 1923* • Defined a juvenile is a minor over the age of 14 and under 18 who came to NSW with the assistance of either state or commonwealth government • Gave the Minister power to establish government training farms for the reception, control and training of juveniles for rural employment. The minister would have control of the juveniles before they were placed for employment or training • The minister could place the juvenile in a Government training farm, or with an employer for employment and would retain control of the juvenile • Juveniles or the Minister could sue for earnings owed to the juvenile.
1926	SA	*Maintenance Act*	• Constituted the Children's Welfare and Public Relief Board as a body corporate, with a chair and eight members, appointed by the Governor. At least four members were to be women and the chair would be appointed under the *Public Service Act*. • The Board would have power over the care, management and control of all state children; supervision of all children nursed by foster mothers; the power to apprentice and place out state children; and supervision of all illegitimate children under seven years of age and their homes. It also had the power to license foster mothers of children under seven; the responsibility to appoint institutions for the reception, detention, education, training and reformation of state children; and control and supervision of institutions and asylums • The Board could afford relief in money or commodities to destitute people or commit them to an asylum, and if they were able to repay the Board within six years they would be required to do so

Date	Jurisdiction	Name of Act	Description
			• Allowed a mother without adequate means of support and who could not gain support through legal proceedings to apply to the Board for a weekly payment. The Board would investigate and recommend to the Minister whether the applicant was deserving • Gave the Board the same powers with respect to such children whose mothers were receiving payments from the government (i.e., visiting) as they had over state children). Fathers of such children would be liable to periodically pay the Board a sum that they can afford (but not more than the allowance) • Relatives were still liable to support their relatives, but this did not apply to the relief and maintenance of any child • Married women could apply to the courts for summary protection if their husbands were cruel to them or any of her children, if they behaved indecently in front of the children, were adulterous, deserted the family, wilfully neglected to provide maintenance for her or her children, or was so intemperate that he could not manage his own affairs • Complaints about destitute, neglected or uncontrollable children or those who had committed misdemeanours were to be heard in rooms approved by the Chief Secretary • Any constable could apprehend a child without warrant and take them before a Court of Summary Jurisdiction • The Court could order a neglected or destitute child be sent to an institution until the age of 18 or place the child under the control of the Board until the age of 18, and punish the child's guardian if they were found to be at fault • State children could still be apprenticed or boarded out (including with relatives) • Those who assaulted, ill-treated or injures a state child were liable for a fine of up to £20 or imprisonment of six months • State children in foster care, in private institutions or apprenticed out were to be visited by visitors appointed by the Board to examine clothing, food and sleeping arrangements • The Board had the power to establish or abolish homes, reformatories, and other institutions and asylums for the relief of destitute people

Date	Jurisdiction	Name of Act	Description
			• The Governor could proclaim any private institution or reformatory school, after which the institution would be under Board control • If dissatisfied with the management or condition of a private reformatory or institution the Governor, on recommendation of the Board, could abolish it and the school or institution would cease to be an institution under the Act. State children from the institution would then be moved.
1926	Vic	*Children's Welfare Act*	• After due investigation by the Minister, the Governor in Council could order that a person or individual must cease to have custody of a child and therefore would no longer be guardian of the child • Any manager of an institution was to answer fully and truthfully any inquiry made by the Department about a child in the custody of the institution.
1926	WA	*Adoption of Children Act Amendment Act*	• Secrecy surrounding adoption was further increased by enabling a new birth certificate to be issued upon adoption.
1927	WA	*State Children Act*	• An amendment changed 'state child' to 'ward' and the State Children Department to Child Welfare Department • Stipulated that people keeping two or more children under the age of six in their care were to be licensed.
1928a	Vic	*Children's Welfare Act*	• Consolidated *Children's Welfare Act* and *Infant Life Protection Act* • Added definitions of neglect (see Appendix 2: g, w) within the definition of 'neglected child'.
1928b	Vic	*Adoption of Children Act*	• Introduced legal adoption.

Date	Jurisdiction	Name of Act	Description
1933	Vic	*Children's Welfare Act*	• Added definitions of neglect (see Appendix 2: e, f, m, t).
1934	Qld	*Aboriginals Protection and Restriction on the Sales of Opium Amendment Act*	• Allowed the Minister to direct any Aborigine or half-caste to be removed to any reserve or institution or district and kept there or to be removed from any reserve or institution or district to another reserve or institution or district and kept there.
1934	SA	*Aborigines Act*	• Allowed the Chief Protector to commit any 'Aboriginal child to any institution within the meaning of the *Maintenance Act 1926* … to be there detained or otherwise dealt with under the said Act until such child attains the age of 18 years'. The child may then be dealt with as a neglected child under the *Maintenance Act*. These provisions only apply to legitimate 'Aboriginal' children who have either obtained a qualifying certificate within the meaning of the *Education Act 1915* or attained the age of 14 years; and illegitimate 'Aboriginal' children who, in the opinion of the Chief Protector and the Children's Welfare and Public Relief Board are neglected or otherwise proper persons to be dealt with under this Act'.
1935	NT	*Adoption of Children Ordinance*	• Introduced legal adoption.
1935	Qld	*Adoption of Children Act*	• People could apply to the Director of the State Children Department to legally adopt children under certain provisions • Except as sanctioned by the Director, no payments would be made.
1935	Tas	*Infants' Welfare Act 1935*	• Stipulated that the 'care and custody and discipline of a child of the state shall approximate, as nearly as may be, that which should be given by its parents, and that, as far as practicable

Date	Jurisdiction	Name of Act	Description
			and expedient, every juvenile delinquent shall be treated not as a criminal, but as a misdirected and misguided child and one needing aid, encouragement, help and assistance.' (section 124) • The Department was renamed the Social Services Department • Added to definition of neglect (see Appendix 2: s, x) • As well as withdrawing certificates of approval from private institutions the minister could prohibit the admission of children of the state to the institution if he was dissatisfied with the institution • If an institution ceased to be a certified institution, children of the state would be withdrawn or discharged • Maintained state subsidies for children in certified institutions • Still allowed parents to apply to have children committed as children of the state • People having the custody or care of boys under 15 or girls under 16 who wilfully neglected, ill-treated, exposed , neglected or abandoned the child were liable to a penalty.
1936	NSW	*Aborigines Protection (Amendment) Act*	• Allowed to court to order the removal of an 'Aborigine' who was 'living in insanitary or undesirable conditions' to a reserve or a place controlled by the Board or to their state of origin.
1936	SA	*Children's Protection Act 1936*	• Defined a child as being under the age of 16 • Added definitions of neglect (see Appendix 2: n, r) • Noted penalties for people who employed children under the age of 13 in circuses or acrobatics or who sold or gave tobacco to children under 16 • The court still had the power to order that males under the age of 16 who were offensive, vandalous, threw stones, or were convicted as a 'rogue and vagabond' be whipped.
1936	WA	*Native Administration Act*	• The Commissioner of Native Affairs was made the legal guardian of all legitimate and illegitimate 'native' children to the age of 21 'notwithstanding that the child has a parent or other relative living'.

Date	Jurisdiction	Name of Act	Description
1938	ACT	*Adoption of Children Ordinance*	• Stipulated that consent to adoption was required of the parents or guardians, those with custody, or those liable to contribute to a child's support. Consent could be dispensed with where the infant was abandoned or deserted or where the parent could not be found, was incapable of giving consent, was persistently neglectful or refused to contribute to support of the infant where liable • Single males were prohibited from adopting female children.
1938	Qld	*Backward Persons Act*	• Made provision for the education and care, treatment and control of 'mentally deficient' people • Included special provisions related to children.
1939	NSW	*Child Welfare Act*	• Marked the first use of the definition 'ward' in NSW legislation to include any person admitted to state care, including hostels for expectant or nursing mothers and homes for mentally defective children • Defined a child as a person under 16 years of age • Defined a young person as between 16 and 18 years of age • Marked the establishment of the Child Welfare Department (CWD) • Gave the Minister power to appoint visitors who were not officers or employees of the CWD to inspect homes, institutions etc. (honorary welfare officers and honorary lady visitors) • The Governor could appoint an advisory council, with its secretary being an officer of the CWD • Named the Minister as the guardian of every child who was a ward. He had the power to establish homes for the temporary accommodation and maintenance of children and young persons, and the responsibility for the reception and maintenance of physically defective children or young persons; invalid or sick children or young persons; babies; young people admitted to state control and hostels for the accommodation of expectant and nursing mothers; as well as wards and ex-wards

Date	Jurisdiction	Name of Act	Description
			• In addition to being boarded out to foster parents, children and young people could be boarded out by the Minister to the person in charge of any home hostel or charitable depot and payments would be made in respect of these children • Where the child or young person's total weekly earnings were not enough to pay for their maintenance, pocket money and travel expenses, the Minister would subsidise the difference • Gave the Minister power to grant allowances for destitute children living with their mother or father in certain circumstances (e.g. widowed, divorced, deserted, incapacitated) • Kindergartens and day care centres were to be registered, as well as places for the reception and care of one or more children under the age of seven away from their mother • The Governor could establish homes for 'mentally defective children' whose cases called for segregation and special treatment. Even those mentally defective children who had reached the age of 18 could be kept in a home until the Minister was satisfied on medical or other evidence that the child could be discharged • Set out the misdemeanours for which children in institutions could be punished and the types of punishment allowed (including corporal punishment not exceeding a maximum of three strokes on each hand) • Fathers, stepfathers and mothers were liable to contribute to the maintenance of children who were wards, according to their ability to do so • Added definitions of neglect (see Appendix 2: e, o, x) • If a child or young person was found to be neglected or uncontrollable, the Children's Court could admonish the child, release it on probation, commit it to the care of a willing person, commit it to the care of the Minister as a ward or commit it to an institution either for a specified or non-specified time not exceeding three years. The same applied to children/young people found to have committed a summary offence • Children ordered to be admitted to an institution were to be sent first to a shelter (for boys or girls) and have a medical and mental examination • There are many clauses regarding maintenance of mothers and children by fathers, including the use of blood tests to establish paternity.

Date	Jurisdiction	Name of Act	Description
1939	NT	*Aboriginal Ordinance*	• The Chief Protector retained control over many aspects of Aboriginal lives and continued to be the legal guardian of every Aboriginal child.
1939	Qld	*Aboriginals Preservation and Protection Act*	• This Act made the Director of Native Affairs the legal guardian of every Aboriginal child under 21 in the state of Queensland, regardless of whether their parents were living • The Director was also able to execute agreements between or on behalf of Aborigines for the legal custody of children by Aborigines or others.
1939	Vic	*Mental Deficiency Act*	• Provided for the establishment of state institutions for the care of mental defectives and retarded children and for the licensing of privately run institutions.
1940	NSW	*Aborigines Protection (Amendment) Act*	• An Aboriginal child found to be neglected under the *Child Welfare Act 1939* was to be committed to the Aborigines Protection Board as a 'ward of the Board' • Duties of the Board included 'assisting Aborigines in obtaining employment' and 'maintaining or assisting to maintain them whilst so employed, or otherwise for the purpose of assisting Aborigines to become assimilated into the general life of the community' • The Board no longer had duty of education of Aboriginal children but still had custody and maintenance • It was an offence to try to communicate with a ward in a home or enter the home without the consent of the Board.
1941a	ACT	*Child Welfare Agreement Ordinance*	• Approved an agreement between the Commonwealth and the state of New South Wales for the reception, detention and maintenance in institutions in NSW of children committed to those institutions by courts of the ACT • Children were to be taken to a shelter in Sydney, where they came under the provisions of the *Child Welfare Act 1939 (NSW)* as if the child had been committed to a NSW institution by a NSW children's court.

Date	Jurisdiction	Name of Act	Description
1941b	ACT	*Juvenile Offenders Ordinance*	• Allowed children charged with offences to be placed in NSW institutions.
1941	*WA*	*Child Welfare Act Amendment Act*	• Removed the penalty of whipping.
1943	*NSW*	*Aborigines Protection (Amendment) Act*	• The Board could board out children admitted to its control • Once an Aboriginal child had attained the minimum school leaving age, the child was to be apprenticed or placed in employment • The Board had power over the removal and transfer of wards, apprenticing wards and approving custody of wards.
1943	*Qld*	*State Children Acts Amendment Act*	• Amended to allow state children to be placed out with their own father, where he was widowed or single. The father was to be paid an allowance.
1945	WA	*Adoption of Children Act Amendment Act*	• Restricted access to the original birth certificate of adopted children.
1946	Comm	*Commonwealth Migration (Guardianship of Children) Act*	• Brought child migrants under the guardianship of the Commonwealth Minister of Immigration, who delegated his powers to local authorities.
1947	WA	*Child Welfare Act*	• Neglected or destitute children brought before the court could be either admitted to the care of the Department, sent to an institution specified in the order and remain there till the age of 18, or be released on probation but under the supervision of the department until the age of 18 or another time as designated by the court

Date	Jurisdiction	Name of Act	Description
			• Uncontrollable or incorrigible children were to be either sent to an institution or released on probation but subject to Department supervision • Children guilty of an offence (punishable by imprisonment) could be sent to industrial school, or their parents ordered to give security for the child's good behaviour. The case could also be adjourned on a relative's undertaking to punish the child, or the child could be released on probation. Children found guilty of an offence were to be sent to industrial schools • Destitute and neglected children were to be sent to institutions than industrial schools, though the court could send them to industrial school in special circumstances • Female wards remained under the Department's supervision until they were aged 21 • Foster parents were still used • Parents were still liable to pay for the maintenance of their children if able to do so • The Governor could still approve individuals or societies to care for children without subsidy from the government • Lying-in homes and foster mothers continue to be licensed • The Department Secretary had to be notified when a child was placed for adoption.
1948	WA	*Fairbridge Farm School Act*	• Fairbridge Farm Schools (Incorporated) and the Kingsley Fairbridge Farm School Society of Western Australia were merged and the properties vested in the Fairbridge Society and Western Australian Society as joint tenants.
1949	ACT	*Neglected and Juvenile Offenders Ordinance*	• Added definitions of neglect (see Appendix 2: b, d, e, m, o).
1949	WA	*Adoption of Children Act (1949)*	• Amended the *1896 Adoption of Children Act* to allow the court to dispense with seeking permission of the natural parent for adoption of a child if the parent was unfit to have custody of child (including of bad character)

Date	Jurisdiction	Name of Act	Description
			• Allowed for a new birth registration entry to be made out and for secrecy regarding original birth certificates in the Registrar's office.
1952	WA	*Child Welfare Act Amendment Act*	• Decreed that before declaring a child destitute, the court must be satisfied that all available proceedings have been taken to obtain an order against near relatives for contributions.
1953a	NT	*Aboriginal Ordinance (no 2)*	• Made the 'Director of Native Affairs' the legal guardian of all 'Aboriginals' and oversaw many matters relevant to the lives of Aboriginal people.
1953b	NT	*Welfare Ordinance*	• Authorised the Director of Native Affairs to take a 'ward' into custody for placement on a reserve or in an institution. A 'ward' could also be moved from one institution to another if the Director considered it to be in his or her best interests. He could also authorise police to search for and remove children from their parents. The Ordinance also allowed the Director, or a welfare officer 'to take a ward from a place in the Territory to a place outside the Territory'.
1953	WA	*Adoption of Children Act Amendment Act*	• Further closed off information about people's 'origins'.
1954	Vic	*Children's Welfare Act*	• Non-government children's institutions were required to be registered with the Children's Welfare Department, and were subject to Departmental inspection • Abolished the Department for Reformatory Schools, transferring responsibility for juvenile offenders and reformatory schools (from 1954 known as juvenile schools) to the Children's Welfare Department • Replaced the term 'neglected child' by the term 'child in need of care and protection' • Appointed 'honorary welfare officers' as well as 'visitors' (not employees of the department), to visit children's homes, juvenile schools and juvenile hostels

Date	Jurisdiction	Name of Act	Description
			• Appointed a Children's Welfare Advisory Council (not more than 10 members), with some members from the Children's Welfare Association and some from the Victorian Council of Social Service. The Council would advise the Minister on desirable changes in practice for the welfare of children and young people • Allowed the Department to establish reception centres, children's homes, juvenile schools and juvenile hostels • Stipulated that no place could care for more than three children away from their parents (apart from guardians) unless they were approved under the Act • Added definitions of neglect (see Appendix 2: c, m, u) • If a parent paying to support a child in an institution who was not a ward of the state fell six months behind in their payments, the institution could apply for the child to come under the care of the Department • While the Secretary of the Department could still place 'wards' in employment, no 'child' could be placed in employment • No young person could be placed in employment requiring residence on the premises, unless there was agreement between the Department and the employer • Now fathers as well as mothers could apply to get weekly payments to support children.
1956	ACT	*Infants Custody and Settlement Ordinance*	• Gave the court the power to make alternative placements for children abandoned by their parents.
1957	WA	*Child Welfare Amendment Act*	• Cases of carnal knowledge or sexual assault of underage children were to be heard in the Children's Court.
1958	NT	*Child Welfare Ordinance*	• Replaced the *South Australian State Children's Act 1895* • Passed full responsibility for child welfare services into the hands of the local Welfare Branch • Established the Children's Court • Defined neglect (see Appendix 2: a, c, e).

Date	Jurisdiction	Name of Act	Description
1958	WA	*Child Welfare Act Amendment Act*	• Where it appeared to the Minister that a person placed a child in the care of another but maintenance was not paid, the Minister could commit the child to the care of the department.
1960	Tas	*Child Welfare Act*	• Set out the provisions by which a child who was 16 years or younger could be made a ward of the state • Introduced a general principle of administration that an erring child should not be treated as a criminal but as a child who was or may have been misguided or misdirected.
1960	WA	*Country High Schools Hostels Authority Act*	• Established and governed the operations of the Country High School Hostels Authority.
1961	NT	*Welfare Ordinance*	• Continued to allow for the separation of children from their parents, however it placed restrictions on the means with which this was done. For the separation of children under the age of 14, a court would grant permission based on its satisfaction with the care the child would receive upon removal.
1962	SA	*Aboriginal Affairs Act*	• 'To provide, in cases of need, when possible, for the maintenance and education of the children of Aborigines and persons of Aboriginal blood'; and 'to promote the social, economic and political development of Aborigines and persons of Aboriginal blood until their integration into the general community'.
1962	WA	*Child Welfare Amendment Act*	• Repealed the section of the Act that allowed for children not attending school to be committed to an institution.
1963	NSW	*Aborigines Protection (Amendment) Act*	• Repealed provisions allowing a magistrate to send 'mixed blood' Aboriginal people to a place controlled by the Board.

Date	Jurisdiction	Name of Act	Description
1963	WA	*Native Welfare Act*	• The Commissioner ceased to be the guardian of 'native minors'. The duties of the Department of Native Welfare included providing for 'the custody, maintenance and education of the children of natives'.
1964	Qld	*Adoption of Children Act*	• Stated that the welfare and interests of the children were the paramount consideration in making an order for adoption • The court could dispense with consent if it was satisfied that a parent or guardian had abandoned or neglected the child.
1964	Vic	*Adoption Act*	• Banned all private adoptions.
1964	WA	*Adoption of Children Act Amendment Act*	• Ensured that the Child Welfare Department must approve of the adoptive parents before an adoption order could be granted • Recognised the mother of an illegitimate child should have sole consent to the adoption, and not the putative father • Limited the period for revoking consent to 30 days, so as to decrease the uncertainty for adopting parents • Made medical (physical and mental health) checks compulsory for all children being considered for adoption • Allowed the Child Welfare Department to initiate adoption proceedings for children who had been placed in an institution for more than one year and whose parents had 'shown no interest' in their welfare.
1965a	Qld	*Children's Services Act 1965*	• Renamed the State Children Department as the Department of Children's Services • 'Neglected child' replaced with 'child in need of care and protection' • The government could still establish or abolish admission centres; homes; assessment, remand and treatment centres; and other types of institutions for the 'care, protection, education, treatment, training, control and welfare (including religious, moral and material) of children in care'

Date	Jurisdiction	Name of Act	Description
			• The Minister could continue to approve any institution conducted or to be conducted by any person or organisation for the care, protection, education treatment, training control or welfare of children • The Director of Department of Children's Services was to supervise the standard of care attained in each licensed institution • The Director of Department of Children's Services was to be notified by licensed institutions if a child was admitted who was not a child in care • Whether or not an institution was licensed under this Act, the governing authority of any institution with a child in its care had a duty to provide adequate food, clothing, lodging and care for the child, maintain the institution in a 'fit and proper state' for the care of a child, secure adequate education and religious training for the child as approved by the Director or in 'the best interests of the child' • The Director could give assistance to families in whatever form or for whatever period was necessary to maintain the child. This could be conditional on the family or child accepting supervision, but did not affect the guardianship of the people being assisted • The Director could give assistance to families for the purposes of ensuring that people could access full-time educational or vocational training • The definition of 'neglected' was modernised but not substantially altered. One new criterion was that the child was 'for any other reason in need of care' and this care could not be provided through assistance from the Department as outlined above • Parents could still apply to voluntarily place their children into care and protection, but an assessment would be made as to whether 'assistance' would help before the child was accepted into the care of the Department • Children's Court would not order that a child be placed in care and protection unless it was satisfied that the child was in need of care and protection and that such care and protection could not be achieved by any other order it might make • The court could order protective supervision • Children needing care and protection were not to be placed in training schools

Date	Jurisdiction	Name of Act	Description
			• Added definitions of neglect (see Appendix 2: a, m, t). • Males would not be approved as foster parents unless they were married and living with a wife • The Director could still arrange employment or apprenticeship for children in care, and could still demand that part or all of a child's wages be paid to the Director for deposit in a bank account for the child.
1965b	Qld	*Aboriginal and Torres Strait Islander Affairs Act*	• Replaced the position of Director of Native Welfare with that of Director of Aboriginal and Island Affairs. The Director was no longer the legal guardian of Aboriginal and Torres Strait Islander children.
1965	NSW	*Adoption of Children Act*	• Required courts making orders in matters relating to the child to regard the child's welfare as the paramount consideration • Banned people from arranging their own adoptions • Tightened secrecy around adoption, enabling adopted children to assume an entirely new identity that was tied to their adoptive parents.
1965a	SA	*Social Welfare Act*	• Replaced the Children's Welfare and Public Relief Department with the Department of Social Welfare. The head of this department, the Director of Social Welfare, was responsible to a new Minister of Social Welfare • Under the terms of the Social Welfare Act, the Minister became the 'legal guardian of each State child to the exclusion of his parents or other guardians, until the child ceased to be a State child'.
1965b	SA	*Juvenile Courts Act*	• A Juvenile Court could commit a child to an institution or to the care of the Minister if it proved a child neglected or uncontrollable.

Date	Jurisdiction	Name of Act	Description
1965	WA	*Child Welfare Act Amendment Act*	• Gave the Director the power to place children in places other than institutions.
1968	Tas	*Adoption of Children Act*	• Enacted the principle that the welfare and interests of the child must be the paramount consideration in approving adoptions • The Act also made private adoptions illegal. It formalised the transfer of responsibility for adoptions to the Department of Social Welfare and authorised adoption agencies.
1969	NSW	*Aborigines Act*	• Aboriginal children under the care of the Aborigines Welfare Board were to become wards of the state. Aboriginal children's institutions were deemed to be depots under child welfare legislation. The Aboriginal Welfare Services was established in the Department of Child Welfare and Social Welfare.
1970	Tas	*Handicapped Persons Assistance Act*	• Provided subsidies for the training and accommodation of people under the age of 21 with disabilities.
1970	Vic	*Social Welfare Act*	• Created Social Welfare Department • Emphasised the importance of preventative measures before removing children.
1971	WA	*Adoption of Children Act Amendment Act*	• A new section stated that the 'welfare and interest of the child shall be regarded as the paramount consideration' in adoption • The desirability of 'husband and wife' adoptions was emphasised, but some of the restrictions imposed on single applicants were removed • Clarified the criteria used to judge the suitability of applicants • Outlined the duties and responsibilities of the Director for Child Welfare, including that the Director would inform the court that an applicant was a suitable person to adopt • To fit with other WA legislation, the age of majority was reduced to 18 years • Adopted children were able to inherit in the same way as 'natural' children in the family

Date	Jurisdiction	Name of Act	Description
1972	SA	(*Community Welfare Act*) later called *Family and Community Services Act*	• A child committed to care could be placed with his/her parents, approved foster parents, a 'house', hospital or mental hospital or another place as the case may require. In the placement of children, the interests of the child were the paramount consideration. Assistance could be granted to families and persons in need • Changed definitions around Aboriginal child welfare.
1972a	WA	*Child Welfare Amendment Act*	• Renamed the Child Welfare Department as the Department for Community Welfare.
1972b	WA	*Community Welfare Act*	• Established the Department of Community Welfare to promote individual and family welfare; prevent disruption of the welfare of families and individuals in the community; mitigate the effects of any disruption of families; coordinate, encourage and assist in the provision of welfare services in the community; provide and manage community services; and provide assistance when the welfare of any family or individual was in jeopardy.
1973	WA	*Adoption of Children Act Amendment Act*	• Removed some of the flexibility to revoke consent to adopt, to further protect the interests of people who were adopting children • Extended the restrictions on publishing the identity of people directly involved in adoption processes.
1974	Tas	*Child Protection Act*	• Intended to protect children under the age of 12 from abuse.
1976	WA	*Child Welfare Amendment Act (1976)*	• Updated the language of the *Child Welfare Act 1947*: the neglected child was now described as 'in need of care and protection', and 'institutions' as 'facilities' or 'centres' • Definitions of industrial school and orphanage were deleted from the Act, as were references to apprenticeships and boarding out • Grounds for coming into care and protection remained similar, though language was updated. References to prostitutes were removed

Date	Jurisdiction	Name of Act	Description
			• Being in a place where any drug was used is added as a criterion for being classified as in need of care and protection.
1978	Vic	*Community Welfare Services Act*	• Defined the objectives and philosophies guiding child welfare in Victoria in the late 1970s, with an emphasis on prevention, and supporting and enhancing family life.
1979	SA	*Children's Protection and Young Offenders Act*	• Where the Minister was of the opinion that a child was in need of care due to maltreatment or neglect, or where the child's guardians were unwilling or unable to exercise supervision or to maintain the child, or the child's guardians had abandoned the child or could not be located, the Minister could apply to the Children's Court for a declaration that the child was in need of care.
1980	Vic	*Adoption of Children (Information) Act*	• Made provisions for access to information about adoptions.
1983	NT	*Community Welfare Act*	• Introduced Aboriginal Child Placement Principle.
1984	Vic	*Adoption Act*	• Focused on the needs of adopted children, and enshrined a child's right to access information about his or her family of origin.
1985	WA	*Adoption of Children Amendment Act*	• Private adoption agencies could register and arrange adoptions under the Act. Only those organisations that operated for 'religious, charitable or welfare purposes' could apply to register. Organisations that operated 'for profit' were excluded • People who had been adopted were allowed access to identifying information, with a requirement for counselling before being granted access.
1986	NT	*Children's Services Ordinance*	• Separated protection from corrective services • Emphasised importance of family and community.

Date	Jurisdiction	Name of Act	Description
1987	NSW	*Child (Care and Protection) Act*	• A child in need of care was defined as: a situation where provision is not being made for the child's care; the child is being or is likely to be abused; or there has been an irretrievable breakdown in the relationship between the child and parents • Concept of 'neglect' replaced by 'behaviour that harms the child' • Introduced the Aboriginal Child Placement Principle.
1987	NSW	*Community Welfare Act*	• Recognised Aboriginal culture, identity, community structures and standards, and the rights of Aborigines to raise and protect their own children and to be involved in decision-making processes that affected them and their children.
1987	Qld	*Adoption of Children (Amendment) Act*	• Provided that the Director should take into account the indigenous, ethnic or cultural background of the child put up for adoption.
1988	SA	*Adoption Act*	• Introduced the Aboriginal child placement principle to adoption.
1988	Tas	*Adoption of Children Act*	• Made the welfare of the child the first consideration in any adoption • Contained provisions enabling adult adoptees to obtain information about themselves.
1989	Vic	*Children and Young Person's Act*	• Separated protection from correctional services • Hastened deinstitutionalisation.
1990	NSW	*Adoption Information Act*	• Improved the rights of all people involved in adoption to access information and created registers so adoptees and relinquishing parents could express interest in contact, or veto contact.
1990	NSW	*Child (Care and Protection) Amendment Act*	• Introduced discretionary payment to nonparents caring for children.

Date	Jurisdiction	Name of Act	Description
1992	Qld	*Juvenile Justice Act*	• Established a new basis for the administration of juvenile justice, including a new range of sentencing options.
1993	SA	*Children's Protection Act*	• Introduced the Aboriginal Child Placement Principle.
1993	SA	*Young Offenders Act*	• Reconstituted the treatment of young offenders to introduce a wider range of sentencing options • Introduced the Aboriginal child placement principle.
1994a	NT	*Adoption of Children Act*	• Introduced the Aboriginal child placement principle.
1994b	NT	*Adoption of Children regulations*	• Provided a parent with the right to record wishes regarding the suitability of adoptive parents, access to the child and in giving or receiving information about the child.
1994	WA	*Adoption Act*	• Introduced the right to information • Recognised Aboriginal cultural norms • Deemed the Department the only authority to arrange adoptions.
1994	WA	*Young Offenders Act*	• Reflected the organisational changes that saw the responsibility for children in detention move from the Department for Community Development to the Ministry of Justice.
1997a	Tas	*Children, Young Persons and their Families Act*	• Promoted welfare of children in the context of their families and communities.

Date	Jurisdiction	Name of Act	Description
1997b	Tas	*Youth Justice Act*	• The guiding principles stated that a young person was to be dealt with, either formally or informally, in a way that encouraged the young person to act responsibly for his or her behaviour.
1998	NSW	*Children and Young Person's (Care and Protection) Act*	• Established rights of children and their families to be consulted in future planning • Mandated the use of the least intrusive intervention method • Preserved links with family and culture.
1999	ACT	*Children and Young People Act*	• Emphasised the importance of family and community • Introduced family group conferencing • Introduced the Aboriginal Child Placement Principle.
1999	Qld	*Child Protection Act*	• Deemed the welfare and best interests of the child paramount • The preferred way of ensuring a child's welfare was through support of the child's family • Intervention was not to exceed the level necessary to protect the child • Allowed family participation in planning and decision making for children • Allowed consultation with Aboriginal and Torres Strait Islander agencies in decision-making regarding Aboriginal and Torres Strait Islander children.
2000	Qld	*Commission for Children and Young People and Child Guardian Act*	• Increased regulation and accountability for care providers.
2001	NSW	*Children and Young People (Care and Protection) Amendment*	• Prioritised the safety, welfare and wellbeing of the child who had been removed over the rights of the parents from whom the child had been removed.

Date	Jurisdiction	Name of Act	Description
		(Permanency Planning) Act	
2002	WA	*Child Welfare Amendment Act 2002*	• Stipulated that 'in performing a function or exercising a power under this Act in relation to a child, a person or court shall have the best interests of the child as a paramount consideration' • Allowed the transfer of child protection orders to and from WA and other states.
2004	WA	*Children and Community Services Act 2004*	• Listed a number of criteria related to children to be used in determining the best interests of the child • Observed the principle that parents, family and community have the primary role in safeguarding and promoting the child's wellbeing • The preferred way of safeguarding and promoting the child's wellbeing was to support the parents, family and community in the care of the child.
2005	Vic	*Child, Youth and Families Act*	• Provided a framework for promoting the wellbeing of these children and young people, reflecting a shift in philosophy in child welfare towards recognising and enshrining the 'rights of the child'.
2006	Tas	*Stolen Generations of Aboriginal Children Tasmania Act*	• Established a $5 million fund to enable the Tasmanian Government to make ex-gratia payments to members of the Stolen Generations.
2007	NT	*Care and Protection of Children Act*	• Recognised the primary role of family • Noted that the best interests of the child were paramount • Recognised the right of the child to certainty and participation.

Date	Jurisdiction	Name of Act	Description
2008	ACT	*Children and Young Persons Act*	• Introduced the notion of therapeutic protection • Applied care standards to all providers.
2009	Qld	*Adoption Act*	• Provided for the adoption of children in Queensland, and for access to information about parties to adoptions in Queensland, in a way that promotes the wellbeing and best interests of adopted persons throughout their lives. • Supported efficient and accountable practice in the delivery of adoption services in compliance with Australia's obligations under the Hague Convention.

Appendix 2: Definitions of neglect

	Clause	Jurisdiction	Date
a	Voluntarily surrendered by parents (deemed uncontrollable)	Tas	1861, 1867, 1960
		Qld	1865, 1911, 1965
		SA	1866, 1881, 1895
		Vic	1887, 1890
		WA	1893
		NSW	1905
		NT	1958
b	Orphaned or deserted	Tas	1861, 1896
		NSW	1901
		ACT	1949
c	Destitution	Tas	1861, 1896
		NSW	1901
		Vic	1954
		ACT	1957
		NT	1958
d	Parents or responsible parent are drunkards	Tas	1861, 1896
		NSW	1901, 1905
		Qld	1906
		ACT	1949, 1957
		WA	1976
e	Parents or responsible parent unfit to retain care	Tas	1861, 1960
		SA	1895
		Qld	1911

		Vic	1933, 1970
		NSW	1939
		ACT	1949, 1957
		NT	1958
f	Begging, sleeping or wandering in a public place	Vic	1864, 1933, 1970
		Qld	1865
		NSW	1866, 1905
		SA	1866, 1881
		Tas	1867, 1896
		WA	1893
		ACT	1957
g	No visible means of support or no fixed place of abode	Vic	1864, 1928, 1970
		Qld	1865
		NSW	1866, 1905
		SA	1866, 1881
		Tas	1867, 1896, 1960
		WA	1893
		ACT	1957
h	In a brothel or lodges, lives, resides or wanders about with reputed thieves, persons who have no visible means of support, or common prostitutes	Vic	1864, 1887, 1970
		Qld	1865
		NSW	1866, 1905
		SA	1866, 1881
		Tas	1867, 1896 (thieves only)
			1918 (brothels)
			1960

		WA ACT	1893 (ref to prostitutes removed 1976)1957
i	Child found guilty of an offence	Vic Qld NSW SA Tas WA	1864 1865 1866, 1901 1866, 1881 1867, 1896 1893
j	Child currently being maintained by the public purse	Vic Qld SA	1864 1865, 1906 1866
k	Child of an Aboriginal or half-caste mother	Qld	1865
l	Illegitimate and mother unable to provide	SA WA Tas	1881 1907 1918
m	Found soliciting, or exposed to moral danger	Vic Tas NSW Qld ACT WA	1887, 1933, 1970 1896, 1960 1905 1906, 1965 1949, 1957 1976
n	Casual employment after dark/street trading	Vic SA Tas NSW Qld	1887, 1970 1895, 1936 1896 1900, 1905 1906

		WA	1907, 1976
		ACT	1957
o	Without lawful excuse, does not attend school regularly	Vic	1890, 1970
		WA	1893
		Qld	1911
		Tas	1918, 1960
		NSW	1939
		ACT	1949, 1957
p	Ill-treated or exposed	Tas	1895, 1974
		NSW	1902, 1905, 1987
		ACT	1957
q	Not provided with food, nursing, clothing, medical aid or lodging	Vic	1890, 1970
		NSW	1902, 1905, 1987
		ACT	1957
		Tas	1960
r	Taking part in a public exhibition or performance where life or limbs are endangered	Vic	1890, 1970
		NSW	1892, 1905
		Tas	1895
		SA	1918, 1936
		ACT	1957
		WA	1976
s	In a place where opium is smoked	NSW	1905
		Tas	1935
		ACT	1957
		WA	1976 (any drug)
t	Lapsing or likely to lapse into a life of vice or crime	NSW	1905

		WA	1907
		Qld	1911, 1965
		Vic	1933, 1970
		ACT	1957
		WA	1976
u	Arrears of payment to nurse or institution	Vic	1907, 1954
		WA	1958
v	Incompetent or improper guardianship	WA	1907, 1976
		ACT	1957
w	Repeatedly found on licensed premises	Qld	1911
		Vic	1928
x	Dwelling with a person who has VD or TB which risks child's health	Tas	1935
		NSW	1939
y	Suffering from venereal disease which is not being treated	ACT	1957

Post-1977

Pre-75 equiv	Clause	Jurisdiction	Date
b	Abandoned, orphaned and parents incapacitated	Vic	1978, 1989, 2005
		SA	1979, 1993
		NT	1983, 2007
		Tas	1997
		ACT	1999
		Qld	1999
		WA	2004
p	At risk of being physically or sexually abused or ill-treated	Vic	1978, 1989, 2005

		SA	1979, 1993
		NT	1983, 2007
		NSW	1987, 1998
		Tas	1997
		ACT	1999
		Qld	1999
		WA	2004
a	Parents unable or unwilling to control child	Vic	1978
		SA	1979, 1993
		NT	1983, 2007
		Tas	1997
c	Parents unwilling or unable to maintain child	SA	1979, 1993
		NT	1983
		Tas	1997
m	Sexually or financially exploited by person with parental responsibility	NT	1983, 2007
		ACT	1999
t	Persistently engaged in conduct harmful to community	NT	1983
q	Basic physiological or psychological needs at risk of not being met	NSW	1987, 1998
		Vic	1989
		SA	1993
		Tas	1997
		ACT	1999
		Qld	1999
		WA	2004
t	Serious and persistent conflict between child and person with parental responsibility for the child	NSW	1987
		ACT	1999

*no letter indicates a new definition	At risk of suffering serious psychological harm	Vic	1989, 2005
		NSW	1998
		ACT	1999
		Qld	1999
		WA	2004
q	Not receiving necessary medical care	Vic	1989, 2005
		NSW	1998
		ACT	1999
		WA	2002
	Living with a person who has threatened to kill or injure or has killed or injured a child	SA	1993
		Tas	1997
		ACT	1999
o	Not attending school	SA	1993
		Tas	1997
		NSW	1998
g	No fixed abode	SA	1993
	Living in a household where there have been incidents of domestic violence, placing child at risk of physical or psychological harm	NSW	1998
		ACT	1999
	Subject to a prenatal report and mother not engaging with services to prevent risk of harm	NSW	1998
	Parents unwilling or unable to prevent child from engaging in self-destructive behaviour	ACT	1999