

Children, Youth and Families (Raise the Age) Amendment Bill 2021

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Introduced in the Council by Samantha Ratnam

Children, Youth and Families (Raise the Age) Amendment Bill 2021

A Bill for an Act to amend the **Children, Youth and Families Act 2005**, to make consequential amendments to the **Crimes Act 1958**, the **Fines Reform Act 2014** and the **Infringements Act 2006** and for other purposes.

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purpose

The purposes of this Act are—

- 5
- (a) to amend the **Children, Youth and Families Act 2005** to increase the minimum age of criminal responsibility from 10 years of age to 14 years of age; and
 - (b) to make consequential amendments to the **Crimes Act 1958**, **Fines Reform Act 2014** and **Infringements Act 2006**.
- 10

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 7 November 2022, it comes into operation on that day.

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3 Principal Act

In this Act, the **Children, Youth and Families Act 2005** is called the Principal Act.

Part 2—Amendment of Principal Act

4 Definitions

In section 3(1) of the Principal Act, in the definition of *child*—

- 5 (a) in paragraph (a), for "10 years" **substitute** "14 years";
- (b) in paragraph (ae), for "10 years" **substitute** "14 years".

5 Section 344 amended

- 10 (1) In the heading to section 344 of the Principal Act, for "**10 years**" **substitute** "**14 years**".
- (2) In section 344 of the Principal Act, for "10 years" **substitute** "14 years".

6 Court may make youth residential centre order

15 In section 410(1)(b) of the Principal Act, for "aged 10 years or more but under 15 years" **substitute** "14 years of age".

7 Power of Youth Parole Board to transfer person to a youth justice centre

20 In section 464 of the Principal Act, for "may, subject to section 465," **substitute** "may".

8 Section 465 repealed

Section 465 of the Principal Act is **repealed**.

9 New section 632 inserted

25 After section 631 of the Principal Act **insert**—

"632 Transitional provision—Children, Youth and Families (Raise the Age) Amendment Act 2021

- 30 (1) The definition of *child* in section 3(1), as in force immediately before the commencement day, continues to apply for the purposes of a

proceeding commenced under this Act
before the commencement day.

5

- (2) Sections 344 and 410, as in force
immediately before the commencement day,
continue to apply for the purposes of a
proceeding commenced under this Act
before the commencement day.

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- (3) Section 465, as in force immediately before
the commencement day, continues to apply
for the purposes of making a direction under
section 464 in respect of a person against
whom a proceeding is commenced under this
Act before the commencement day.

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- (4) The definition of *child* in clause 2 of
Schedule 3, as in force immediately before
the commencement day, continues to apply
for the purposes of an infringement offence
alleged to have been committed before the
commencement day.

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- (5) In this section—

commencement day means the day on which
Part 2 of the **Children, Youth and
Families (Raise the Age) Amendment
Act 2021** comes into operation."

25

10 Schedule 3 amended

In Schedule 3 to the Principal Act, in clause 2, in
the definition of *child*, for "10 years" substitute
"14 years".

Part 3—Consequential amendments to other Acts

Division 1—Amendment of Crimes Act 1958

11 Section 464L amended

- 5 (1) In the heading to section 464L of the **Crimes Act 1958**, for "aged 14 or under" substitute "under 15 years of age".
- (2) In section 464L(1) of the **Crimes Act 1958**, for "10 years" substitute "14 years".
- 10 (3) In section 464L(2) of the **Crimes Act 1958**, for "aged 10 years or more but under 15 years" substitute "who is 14 years of age".

12 Children's Court may order fingerprinting

- 15 In section 464M(5) of the **Crimes Act 1958**, for "aged 10 years or more but under 15 years" substitute "who is 14 years of age".

13 Forensic procedure on child

- (1) In section 464U(1)(a) of the **Crimes Act 1958**, for "10 years" substitute "14 years".
- 20 (2) In section 464U(2) of the **Crimes Act 1958**, for "10 years" substitute "14 years".
- (3) In section 464U(7) of the **Crimes Act 1958**, for "10 years" substitute "14 years".

14 Forensic procedure following the commission of forensic sample offence

- 25 In section 464ZF(1) of the **Crimes Act 1958**, in the definition of *child*, for "10 years" substitute "14 years".

15 Forensic procedure following finding of not guilty because of mental impairment

5 In section 464ZFAAA(1) of the **Crimes Act 1958**, in the definition of *child*, for "10 years" substitute "14 years".

16 New section 638 inserted

After section 637 of the **Crimes Act 1958** insert—

10 "**638 Transitional provision—Children, Youth and Families (Raise the Age) Amendment Act 2021**

- 15 (1) Sections 464L, 464M and 464U, as in force immediately before the commencement day, continue to apply for the purposes of a proceeding commenced before the commencement day.
- 20 (2) The definition of *child* in section 464ZF(1), as in force immediately before the commencement day, continues to apply for the purposes of a finding of guilt made in a proceeding commenced before the commencement day.
- 25 (3) The definition of *child* in section 464ZFAAA(1), as in force immediately before the commencement day, continues to apply for the purposes of a finding of not guilty because of mental impairment made in a proceeding commenced before the commencement day.
- 30 (4) In this section—
commencement day means the day on which Part 3 of the **Children, Youth and Families (Raise the Age) Amendment Act 2021** comes into operation."

Division 2—Amendment of Fines Reform Act 2014

17 Definitions

5 In section 3 of the **Fines Reform Act 2014**, in the definition of *child*, for "10 years" substitute "14 years".

18 New section 201C inserted

After section 201B of the **Fines Reform Act 2014** insert—

10 **"201C Transitional provision—Children, Youth and Families (Raise the Age) Amendment Act 2021**

15 The definition of *child* in section 3, as in force immediately before the commencement of section 17 of the **Children, Youth and Families (Raise the Age) Amendment Act 2021**, continues to apply for the purposes of an infringement offence alleged to have been committed before that date of commencement."

Division 3—Amendment of Infringements Act 2006

19 Definitions

20 In section 3(1) of the **Infringements Act 2006**, in the definition of *child*, for "10 years" substitute "14 years".

20 New Division 4 of Part 16 inserted

After Division 3 of Part 16 of the **Infringements Act 2006** insert—

30 **"Division 4—Children, Youth and Families (Raise the Age) Amendment Act 2021**

218 Definition of *child*

The definition of *child* in section 3(1), as in force immediately before the commencement of section 19 of the **Children, Youth and Families (Raise the Age) Amendment Act 2021**, continues to apply for the purposes of an infringement offence alleged to have been committed before that date of commencement."

Part 4—Repeal of this Act

21 Repeal of this Act

This Act is **repealed** on 7 November 2023.

Note

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The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).



Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.