

**Extract from Report of the Bills Committee on  
Juvenile Offenders (Amendment) Bill 2001**

X X X X X X X X X X

Review on the juvenile justice system and the consultancy study

61. Members have noted that LRC recommended in its "Report on the Age of Criminal Responsibility in Hong Kong" that the Administration should conduct a general review on the juvenile justice system. The purpose of the review is to ensure that there are effective alternatives to prosecution which on the one hand provide adequate security to the community, and on the other hand prevent errant youngsters from degenerating into hardened criminals.

62. The Administration has informed the Bills Committee that it has commissioned a consultancy study to provide information on measures adopted by overseas countries in handling unruly children below the minimum age of criminal responsibility and mischievous juveniles above the minimum age. The information will facilitate the Administration to identify measures to fill the gap of provision of services for children and juveniles at risk after the minimum age is raised to 10 years.

63. In response to members, the Administration has advised that the consultancy study commenced in September 2002 and is expected to complete in mid-2003. When the consultancy report is available, the Administration will consider the findings therein and conduct consultation as necessary before putting forward proposals for consideration by LegCo.

64. Some members of the Bills Committee have expressed concern that the present proceedings and procedures in juvenile courts would have adverse impact on the development of a child. They consider that the juvenile justice system should aim at re-integration and rehabilitation rather than criminalisation and punishment.

65. The Administration has provided information on the present proceedings of juvenile courts, in particular, how the interests of children and young persons who have to appear in courts are taken care of during court proceedings. The Administration has advised that the juvenile court has jurisdiction to hear charges against children (aged between 7-14) and young persons (aged over 14 and under 16) for any offence other than homicide. The juvenile court also has power to deal with care or protection cases involving children and young persons under the age of 18. Procedure in a juvenile court is less formal than in a magistrate's court, and the juvenile court has the duty to put to the witness such questions as appear to be necessary in the interests of the child or young person.

66. According to information provided by the Administration, in determining the method of dealing with a child or young person who has admitted an offence or the court is satisfied of his guilt, the juvenile court will obtain such information, may be by way of calling pre-sentencing reports, as to the defendant's general conduct, home surroundings, school record and medical history. The objective is to enable the court to deal with the case in the best interest of the child or the young person. Where a child or young person is found guilty of an offence punishable in the case of an adult with imprisonment and the court considers that no other method is suitable, the court may order the child or young person to be detained in a place of detention as DSW may determine.

67. As the review of juvenile justice system involves policy matters which are outside the scope of the Bill, the Bills Committee suggests that the Panel on Administration of Justice and Legal Services should be invited to consider what improvements should be made to the juvenile court system, and follow up on the findings of the consultancy study commissioned by the Administration.

#### Transitional arrangements

68. The Administration has informed members that it will move a CSA to the effect that no prosecution will be instituted against a child in respect of an offence committed before the Bill comes into operation, if at the time the offence was committed the child was of an age which would not be liable to prosecution had the offence been committed after the commencement of the Bill.

#### Consequential amendments

69. Under existing section 19(2) of the Reformatory School Ordinance (Cap.225), a young offender under the age of 10 who is sentenced to a Reformatory School may be boarded out of the School under specified conditions until he reaches the age of 10 years. Since the enactment of the Bill will irrebuttably presume children aged under 10 to be incapable of committing crime and therefore cannot be prosecuted, no children under the age of 10 will be admitted to a Reformatory School thereafter. The Administration has advised that section 19(2) of the Reformatory School Ordinance will become obsolete when the enacted Bill comes into operation, and a CSA will be made to repeal this section as a consequential amendment.

#### **Follow up actions required**

73. The Administration has undertaken to propose raising the age further from 10 to 12 years of age when it puts forward proposals to provide additional suggestion measures for unruly children below the minimum age (paragraph 32).

74. The Bills Committee has suggested that the Panel on Administration of Justice and Legal Services should follow up -

- (a) what improvements should be made to the existing juvenile court system and proceedings (paragraphs 64-67); and
- (b) the recommendations of the consultancy study on the review of services for juvenile offenders (paragraphs 61-63).

**X X X X X X X X X X**