

# Children, Youth and Families Act 2005

2007 –

URL: <https://content.legislation.vic.gov.au/sites/default/files/2020-06/05-96aa120%20authorised.pdf>

## Details

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The Children, Youth and Families Act was passed by the Victorian parliament in late 2005, and its provisions came into effect on 23 April 2007. The Act required that there was a Charter for children and young people in care in Victoria, to provide a framework for promoting the wellbeing of these children and young people. The establishment of a Children's Charter in Victoria was first considered in a discussion paper from 1983, reflecting a shift in philosophy in child welfare towards recognising and enshrining the 'rights of the child'.

The Children Youth and Families Act 2005 consolidated and replaced the Children and Young Persons Act 1989 and Community Services Act 1970. The Act exists within the overarching framework of the Child Wellbeing and Safety Act 2005. The introduction of this Act was accompanied by reforms, given the name 'every child every chance'.

Under the Children, Youth and Families Act, a child or young person comes into 'care' under one of eight orders available to the court.

### Undertaking (s.278)

An undertaking may require: the child, the child's parent(s), the person with whom the child is living to undertake in writing to do or refrain from doing actions specified in the undertaking. An undertaking can only be made where the person consents to the making of the order. An undertaking may be appropriate when the family has demonstrated a willingness to address protective concerns through involvement with community agencies or in other satisfactory ways.

### Supervision order (s.280)

A supervision order gives statutory responsibility for the supervision of a child to the Secretary, does not affect the custody or guardianship of the child and provides for the child to be placed in the day to day care of one or both of the child's parents. A supervision order is designed to support and monitor the child's safety within the family and can be made to one or both parents. A supervision order is generally made for a period not exceeding 12 months.

### Custody to third party order (s. 283)

A custody to third party order is usually made to someone in the community able to care for the child, not to professionals. In practice, it is expected that relatives would be the main custodians under these orders. The order grants sole or joint custody to the person or persons named in the order.

### Supervised custody order (s. 284)

A supervised custody order gives custody of the child to a person other than a parent and gives powers or duties to the Secretary or otherwise involves the Secretary in the supervision of the order. The order must provide that at any time whilst the order is in force, the Secretary may in writing direct that the child return to the sole or joint custody of the parent or parents if satisfied that it is in the child's best interests to do so.

## Custody to Secretary order (s. 287)

A custody to the Secretary order grants sole custody of the child to the Secretary without affecting the guardianship of the child. Whilst the Secretary is responsible for day-to-day decision making in respect of the child, the parents still have participation in decision making in guardianship matters, such as determining religion, consenting to overseas trips, the young person's marriage, medical consent or education.

## Guardianship to Secretary order (s. 289)

A Guardianship to Secretary order (GSO) grants custody and guardianship to the Secretary to the exclusion of all others. The Secretary has responsibility for the long term welfare of the child and has all the rights and duties that are usually associated with parental responsibility. A GSO remains in force for the period (not exceeding two years) specified in the order (if not extended).

## Long-term guardianship to Secretary order (s. 290)

A long term GSO grants custody and guardianship to the Secretary to the exclusion of all others. The Secretary has responsibility for the long-term welfare of the child and has all the rights and duties that are usually associated with parental responsibility. A long term GSO remains in force until the child reaches 18 years or marries, whichever ever happens first.

## Interim protection order (s.291)

An interim protection order (IPO) provides for a period of supervision and placement of a child if the court considers it necessary to test out a course of action. An IPO is appropriate when the initial assessment has identified a course of action but testing the appropriateness of this action is desirable. An IPO remains in force for a period not exceeding three months.

## More info

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### Chronology

- Children (Guardianship and Custody) Act 1984, Victoria (1985 - 1991)
  - Children and Young Persons Act 1989, Victoria (1991 - 2007)
- **Children, Youth and Families Act 2005 (2007 – )**

### Related Entries

#### Related Glossary Terms

- [Convention on the Rights of the Child \(1989\)](#)
- [Declaration of the Rights of the Child \(1959\)](#)

#### Related Organisations

- [Department of Human Services, State Government of Victoria \(1995 - December 2014\)](#)
- [Children's Court Clinic \(1942 - current\)](#)

- [Children's Court of Victoria \(1906 - current\)](#)

**Amends**

- [Social Welfare Act 1970, Victoria \(1971 - 1978\)](#)
- [Child Wellbeing and Safety Act 2005, Victoria \(2005 - current\)](#)

**Is amended by**

- [Education and Training Reform Act 2006, Victoria \(2007 - current\)](#)
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