

# Criminal Code Act 1902, Western Australia

1902 –

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## Details

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The Criminal Code Act 1902 (1 & 2 Edw. VII No. 14) was assented to on 19 February 1902. It defined crimes and penalties that had an impact on children. Some elements of the Criminal Code were brought into the State Children Act 1907 and there has continued to be a relationship between the Criminal Code and child welfare legislation.

In 1902 the Children's Court had not been established so children were dealt with in the adult courts, with the emphasis more on punishment than protection or reform. Detention in an industrial or reformatory school was one of the punishments which could be inflicted under the Criminal Code.

Overall, there were relatively few parts of the Criminal Code Act 1902 that were relevant to children who might come into contact with welfare authorities or the legal system. These included:

- The court could sentence a person not older than 16 years who was convicted of 'defilement' of a girl aged under 13 years to a term of imprisonment (which may or may not include whipping) in a reformatory or industrial school for a period not more than 3 years (s.185)
- Making it lawful for a judge to order that boys not more than 12 years of age be whipped – not more than 6 strokes and then in the presence of a police officer higher than the rank of constable and the boy's parents should they wish to be present (s.676)
- Giving the judge discretion whether to proceed to convict a child who was not more than 7 years old (s.676)
- Defining a judge's general powers to send a child to an industrial or reformatory school without being constrained by this Act (s.678)
- Making it lawful for parents, a person in place of a parent, a schoolmaster or master to use 'by way of correction' to the child, pupil or apprentice under his care 'such force as is reasonable under the circumstances' (s.255)
- Making it unlawful to abandon or expose a child under the age of seven years (s.302)
- Enabling the crime of aggravated assault to include a male 14 years or younger and all females (s.320)
- Defining and making child-stealing unlawful but allowing the defence of 'a right to possession of the child' or, in the case of an illegitimate child, its 'mother or claimed to be' father (s.341)
- Making parental desertion of a child unlawful (s.342)
- Making it unlawful for a father to use or threaten violence against his child (s.528)
- Deeming killing a newly born infant to be child homicide (s.574).

## More info

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### Chronology

- Criminal Law Amendment Act 1892, Western Australia (1892 - current)
  - **Criminal Code Act 1902, Western Australia (1902 – )**

## Related Entries

### Related Legislation

- [State Children Act 1907, Western Australia \(1907 - 1948\)](#)

There has always been a relationship between the Criminal Code and the legislation governing child welfare in WA.

### Is amended by

- [Criminal Code Amendment Act 1918, Western Australia \(1918 - current\)](#)
  - [Criminal Code Amendment Act \(No. 2\) 1956, Western Australia \(1956 - current\)](#)
  - [Criminal Code Amendment Act 1965, Western Australia \(1965 - current\)](#)
  - [Acts Amendment \(Sexual Offences\) Act 1992, Western Australia \(1992\)](#)
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