

**A BILL
ENTITLED**

AN ACT to Validate and Confirm all acts done in good faith between the 26th day of March, 2004, and the commencement of this Act by the Resident Magistrate's and Justices of the Juvenile Court and other courts and by certain other persons in the purported exercise of the jurisdiction conferred upon them by the Juveniles Act (now repealed), and to indemnify the Justices and those other persons in respect of those acts; and for connected matters.

WHEREAS under the Juveniles Act, the Juvenile Court and other courts had jurisdiction to hear and determine charges against persons under the age of seventeen years:

AND WHEREAS, on the 26th day of March, 2004, the Child Care and Protection Act came into operation, which, inter alia, repealed the Juveniles Act and thereby the operation of Juvenile Courts and of other courts hearing and determining charges against persons under the age of seventeen years:

AND WHEREAS, under the Child Care and Protection Act the Minister responsible for justice is empowered to establish courts to be known as Children's Courts and to specify, by order, the place or places where the court shall sit:

AND WHEREAS, acting in good faith, the Resident Magistrates, Justices, Clerks and other officers of Juvenile Courts and of other courts continued, after the 26th day of March, 2004, to hear and determine charges against persons under the age of seventeen years:

AND WHEREAS it is desirable to validate and confirm all acts done in good faith by the said Resident Magistrates, Justices, Clerks and other persons in the purported exercise of the jurisdiction formerly vested in

them under the Juveniles Act during the period March 26, 2004 to the date of commencement of this Act:

NOW, THEREFORE, BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows: -

- Short title. 1. This Act may be cited as the Judicature (Juvenile Courts and other Courts)(Validation and Indemnity) Act, 2005.
- Validation and Indemnity. 2. Notwithstanding the provisions of section 71 of the Child Care and Protection Act, all acts done in good faith between the 26th day of March, 2004 and the commencement of this Act by the Judges, Resident Magistrates, Justices, Clerks of the Court and all other persons connected with Juvenile Courts and Resident Magistrate's Courts in the purported exercise of the jurisdiction and powers conferred upon, and vested in, them by the Juveniles Act (now repealed), are hereby declared to have been validly, properly and lawfully done and are hereby confirmed; and the aforesaid Judges, Resident Magistrates, Justices, Clerks of the Court and all other persons connected with Juvenile Courts and Resident Magistrate's Courts are hereby freed, acquitted, discharged and indemnified as well against The Queen's Most Gracious Majesty, Her Heirs and Successors as against all persons whatever from all legal proceedings of any kind, whether civil or criminal, in respect of or consequent on those acts.
- Cases transferred from Juveniles Court to 3. Notwithstanding the provisions of any other law, it shall be lawful for the Children's Court to hear and determine all cases transferred on the commencement of this Act from the Juveniles Court to the Children's Court whether the proceedings in respect of those cases were begun before,

Children's Court. on or after the 26th day of March, 2004, and the penalties consequent thereon enforced as if the said proceedings were begun in the aforesaid Children's Court.

Review of cases. 4. The Minister shall cause a Judge of the Court of Appeal to review the case of each person who -

(a) was over seventeen but below eighteen years of age between the 26th day of March, 2004 and the date of commencement of this Act; and

(b) was sentenced during the period referred to in paragraph (a), as if the Juveniles Act was still in force,

with a view to determining the appropriate order to be made by the Judge (from those listed in section 76 of the Child Care and Protection Act) that should be applied to the case.

MEMORANDUM OF OBJECTS AND REASONS

Under the Juveniles Act, Juvenile Courts had jurisdiction to hear and determine charges against persons under the age of seventeen years. On the 26th day of March, 2004, the Juveniles Act was repealed by the Child Care and Protection Act which -

(a) provided for the establishment of Children's Courts to hear and determine charges against persons under the age of eighteen years; and

(b) required the Minister responsible for Justice to establish such Courts and make an order specifying the place or places where the sittings of the Court are to be held.

However, after the 26th March, 2004, the Judges, Resident Magistrates and Justices continued to hear and determine charges against persons under the age of seventeen years.

This Bill therefore seeks to validate actions of and indemnify Judges, Resident Magistrates, Justices, Clerks of the Court and other persons in the purported exercise of the jurisdiction formerly vested in them under the Juveniles Act.

In addition, the Bill provides for a review of cases of persons between 17 and 18 years of age who were sentenced between 26th March, 2004 and the date when this Bill becomes law. Upon such a review, a decision will be made as to the appropriate order to be applied to each case in accordance with section 76(1) of the Child Care and Protection Act.

A. J. Nicholson, Q.C.
Minister of Justice