

EXPLANATORY MEMORANDUM AND CLAUSE NOTES
YOUNG OFFENDERS LEGISLATION (RESEARCH INFORMATION)
AMENDMENT BILL 2010

EXPLANATORY MEMORANDUM

The object of this Bill is to amend the *Childrens Court of Western Australia Act 1988* to allow the use of Children's Court data for some forms of research, and to specifically allow for the data matching of Children's Court data to other records used in the Developmental Pathways Project which is being undertaken by the Telethon Institute for Child Health Research.

Rigorous controls and protocols will be in place so that there is no capacity for the researcher to obtain identified data and that the identity of young people who appear before the Children's Court is protected.

The Bill also includes a minor amendment to the *Young Offenders Act (1994)* to include reference to the Developmental Pathways Project conducted by the Telethon Institute for Child Health Research.

CLAUSE NOTES

Clause 1. Short title

Clause 1 provides that the name of the proposed Act will be the *Young Offenders Legislation (Research Information) Amendment Act 2010*.

Clause 2. Commencement

Clause 2 provides for the commencement of Part 1 of the proposed Act on the day on which it receives the Royal Assent and the rest of the Act on the day after that day.

Clause 3. Act amended

Clause 3 of Part 2 is a formal provision that provides that the Act amended is the *Childrens Court of Western Australia Act 1988*.

Clause 4. Section 35 amended

Clause 4 updates this section. Chapter XXXII of *The Criminal Code* was repealed by Act 48 of 1991 which commenced on 31 March 1992.

Clause 5. Section 36 amended

Clause 5 provides for the inclusion of a reference to section 36AA(1), Disclosure for certain research purposes.

Clause 6. Section 36AA inserted

Clause 6 provides for the inclusion of section 36AA which contains the following provisions:

- 36AA(1)** Allows for the disclosure of data in relation to young people charged with a criminal offence.
- 36AA(2)** Defines the terms “health department officer” and “research project” used in 36AA(1).
- 36AA(3)** Allows for information to be disclosed under 36AA(1) even in circumstances which may lead to identification of the child and overrides any existing confidentiality or secrecy laws.
- 36AA(4)** Allows for the chief executive officer of the Department of the Attorney General to establish the procedures for the disclosure of information under 36AA(1).

36AA(5) Describes what may be included in the regulations, eg, receipt and storage of information that has been disclosed under this section and restricting access to such information.

36AA(6) Provides that:

- no civil or criminal liability or liability to be punished for a contempt of court will apply if the information has been disclosed in good faith under section 36AA(1);
- disclosure is not to be regarded as a breach of confidentiality or secrecy laws; and
- disclosure is not to be regarded as a breach of ethics, standards or as unprofessional conduct.

Clause 7. Act amended

Clause 7 of Part 3 is a formal provision that provides that the Act amended is the *Young Offenders Act 1994*.

Clause 8. Section 16 amended

Clause 8 expands the definition of 'research' to include specific reference to the Developmental Pathways Project conducted by the Telethon Institute for Child Health Research.