

BELIZE

FAMILIES AND CHILDREN ACT
CHAPTER 173

REVISED EDITION 2020

SHOWING THE SUBSTANTIVE LAWS AS AT
31ST DECEMBER, 2020

This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2020.



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CHAPTER 173

FAMILIES AND CHILDREN

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FAMILIES AND CHILDREN

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PART I

Preliminary

Short title.

1. This Act may be cited as the Families and Children Act.

Interpretation.

2.-(1) In this Act, unless the context otherwise requires,

"approved children home" means a Government or non-government home approved by the Minister to provide substitute family care for a child;

"authorized person" means an official or other person authorized by the Minister to perform duties or to discharge responsibilities under this Act;

"care order" means a care order made under Part VIII of this Act and includes an interim care order;

"child" means, unless provided otherwise in any law, a person below the age of eighteen years;

"competent authority" means an official or body or other person authorized expressly or impliedly by this Act or any other enactment to perform the act in question;

"Department" means the Department of Human Development;

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"exclusion order" means an exclusion order made under section 113 of this Act;

"foster-care placement" means the placement of a child by order of the court with a person who is not his parent and who is willing to undertake the care and maintenance of the child;

"foster-parent" means a person not being the biological mother or father of the child who assumes responsibility of the child by way of a care order;

"guardian" means a person having parental responsibility for a child; "Government" means the Government of Belize;

"maintenance order" includes any order for the maintenance of a child whether born within or outside of wedlock and any order for the maintenance of a spouse or parent;

"Minister" means the Minister for the time being responsible for social services;

"Ministry" means the ministry responsible for social services;

"parent" means the biological mother or father or adoptive mother or father of a child and includes any person liable by law to maintain a child or entitled to his custody;

"parental responsibility" means all duties, responsibilities and authority which by law a parent of a child has under this Act in relation to the child;

"supervision order" means a supervision order made under Part VIII of this Act and includes an interim supervision order.

(2) In this Act, unless the context otherwise requires, a reference to a magistrates court shall be read and construed, as the case may be, to be a reference to,

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(a) a Summary Jurisdiction Court exercising criminal jurisdiction in accordance with the Inferior Courts Act, Cap.94, where such reference is in relation to criminal matters; and

(b) a District Court exercising civil jurisdiction in accordance with the Inferior Courts Act, Cap. 94, where such reference is in relation to civil matters, and maintenance and other related orders which such court is by this Act authorised to determine.

PART II

Rights of the Child

Guidelines.

3. The principles in regard to children's rights set out in the First Schedule to this Act shall be the guiding principles in the making of any decision affecting a child.

Child's right to stay with parents.

4.-(1) A child is entitled to live with his parents or guardian.

(2) Notwithstanding subsection (1) of this section, where a competent authority determines in accordance with the applicable laws and procedures that it is in the best interests of the child to separate the child from his parents or guardian, the best substitute alternative staying place shall be provided for the child.

Duty to maintain a child.

5.-(1) It shall be the duty of a parent, guardian or any person, with custody of a child to maintain that child, and in particular that duty gives a child the right to,

(a) education and counselling;

(b) immunization;

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(c) balanced diet;

(d) clothing;

(e) shelter; and

(f) medical attention.

(2) It shall be the duty of any person having custody of a child to use his best efforts to protect the child from discrimination, violence, abuse and neglect.

Parental responsibility.

6.-(1) Every parent shall have parental responsibility for his child.

(2) Where the parents of a child are deceased, parental responsibility may, on application to the court, and on the recommendation of a social services practitioner, be passed on to relatives of either parent or to any person designated by the court.

(3) Parental authority includes the rights, powers and duties which a guardian of the child's estate (appointed to act generally) would have had in relation to the child and his property.

(4) The rights referred to in subsection (3) of this section include, in particular, the right of the guardian to receive or recover as trustee, for the benefit of the child, property of whatever description and wherever situate which the child is entitled to receive or recover.

(5) The fact that a person has, or does not have, parental responsibility for a child shall not affect,

(a) any obligation which he may have in relation to the child (such as a statutory duty to maintain the child); or

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(b) any rights which, in the event of the child's death, he (or any other person) may have in relation to the child's property.

Harmful employment.

7. Subject to the provisions of the Labour Act, Cap. 297 and the District Courts (Procedure) Act, Cap. 97, no child shall be employed or engaged in any activity that may be detrimental to his health, education, or mental, physical or moral development.

Children with disabilities.

8.-(1) The parents of children with disabilities shall take appropriate steps to see that those children are,

(a) assessed as early as possible as to the extent and nature of their disabilities; and

(b) offered appropriate treatment.

(2) The State shall take appropriate steps to ensure that children with disabilities are afforded equal opportunities to education.

(3) A person who,

(a) does not have parental responsibility for a particular child; but

(b) has care of the child;

may, subject to the provisions of this Act, do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

Social inquiry reports.

9.-(1) A court considering any question with respect to a child under this Act may ask the Department to arrange for a social services practitioner or such other person as the court considers appropriate, to report to the court on such matters relating to the welfare of that child as are required to be dealt with in the report.

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(2) The report may be made in writing, or orally, as the court requires.

(3) If the report referred to in this section is in writing, a copy of such report shall be made available to the child or his legal representative.

(4) It shall be the duty of the Department or, as the case may be, any other person asked to furnish a report under subsection (1) of this section, to comply with any requests for a report under this section.

PART III

Legal Capacity, Disabilities, Guardianship and Custody of Children

Interpretation of words used in this Part.

10. In this Part, unless the context otherwise requires,

"court" means the Supreme Court, or the Family Court or a magistrates court, depending in each case on the court with some parent jurisdiction to hear the matters referred to the rein;

"maintenance" includes education;

"person" includes any local authority, school or institution.

Testamentary capacity of married child.

11. Notwithstanding anything to the contrary contained in any law relating to the wills of children, a married child may make a will relating to his property, real and personal, and of every kind whatever.

Child executors and administrators.

12.-(1) A child may be appointed an executor or a trustee but shall be incapable of exercising the office until he has attained the age of eighteen years.

(2 Letters of administration under any law relating to the administration of the estates of deceased persons shall not be

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granted to anyone before he has attained the age of eighteen years.

Capacity to take legal proceedings in certain cases.

13. Notwithstanding the provisions of any written law to the contrary, and notwithstanding that a child is at common law incapable of suing or authorizing any person to sue in his own name in any court of law, he may prosecute any action in any court for any sum of money which may be due to him for salary, wages or piece work, or for work as an employee, in the same manner as if he were of full age.

Rights of surviving parent as to guardianship.

14. On the death of one parent of a child, the surviving parent, if any, shall, subject to this Act, be guardian of the child,

Provided that if the parents were separated, and the deceased parent had custody of the child, the surviving parent may be guardian of the child either alone or jointly with any guardian appointed by the deceased parent, and

(a) where no guardian has been appointed by the deceased parent; or

(b) in the event of the death or refusal to act of the guardian or guardians appointed by the deceased parent,

the court may, if it thinks fit, appoint a guardian to act jointly with the surviving parent.

Power of father and mother to appoint testamentary guardians.

15.-(1) The father of a child may by deed or will appoint any person to be guardian of the child after his death, provided that the father of a child born out of wedlock may only appoint a guardian if he has been granted custody of such child pursuant to section 85 of this Act.

(2) The mother of a child may by deed or will appoint any person to be guardian of the child after her death where she was appointed guardian of the child during her lifetime.

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(3) Any guardian appointed in accordance with subsection (1) or (2) of this section, shall act jointly with the surviving parent, if any, unless the surviving parent objects to his so acting.

(4) If the surviving parent so objects, or if the guardian so appointed considers that the surviving parent is unfit to have the custody of the child, the guardian may apply to the court, and the court may either,

(a) refuse to make any order (in which case the surviving parent shall remain sole guardian); or

(b) make an order that the guardian so appointed shall,

(i) act jointly with the surviving parent; or

(ii) be the sole guardian of the child.

(5) Where the court makes an order under subsection (4) *(b) (ii)* of this section, that a person shall be the sole guardian of a child, the court may,

(a) make such order regarding,

(i) the custody of the child; and

(ii) the right of access to the child of the surviving parent,

as the court thinks fit, having regard to the welfare of the child; and

(b) make a further order requiring the surviving parent to pay to the guardian a weekly or other periodical sum towards the

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maintenance of the child as the court thinks reasonable having regard to the means of the surviving parent.

(6) The powers conferred by subsection (4) of this section may be exercised at any time and include powers to vary or discharge any order previously made under the said subsection.

(7) Where guardians are appointed jointly by both parents, the guardians so appointed shall after the death of the surviving parent act jointly.

(8) If under section 14 of this Act a guardian has been appointed by the court to act jointly with a surviving parent, he shall continue to act as guardian after the death of the surviving parent, but if the surviving parent has appointed a separate guardian, the guardian appointed by the court shall act jointly with the guardian appointed by the surviving parent.

Guardianship and custody of a child born to a single woman.

16.-(1) Subject to section 33 and section 84 of this Act, the mother of any child born out of shall be the guardian of that child and the court shall be capable of exercising with respect to the child born to a single woman all the powers conferred upon it by this Act with respect to a child born within wedlock.

(2) Subject to subsection (3) of this section, the mother of any child born out of *shall have and be entitled* to the custody of the said child, until it attains the age of eighteen years.

(3) The mother of any child born out of wedlock may be deprived of her guardianship or custody under this Act by order of the court where,

(a) such mother has deserted or abandoned the child in such a manner likely to endanger the health or well-being of the child;

(b) such mother is by reason of intemperate or immoral habits, (such as prostitution or

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drunkenness,) or for any other reason, unfit to have custody of the child;

(c) such mother does not exercise proper care and control of the child;

(d) the order depriving her of guardianship, if made, will be in the best interests of the child, and a social services practitioner employed by the court has so confirmed;

(e) the court is satisfied that there exists some other circumstances not provided under paragraphs *(a)* to *(d)* above which renders the mother unfit to exercise the rights and assume the duties of guardian; or

(f) the father applies for custody and proves to the satisfaction of the court that it is in the child's best interests for him to have custody.

Powers of child's parents.

17. Subject to this Act, a child's parent may appoint a guardian or guardians to his own child or children as if he were of full age.

Application to court for leave if joint guardians disagree.

18.-(1) Where two or more persons act as joint guardians of a child and they are unable to agree on any question affecting the welfare of the child, any of them may apply to the court for its directions, and the court may make such order regarding the matters of difference as it may think proper.

(2) The power of the court under subsection (1) of this section shall, where one of the joint guardians is the surviving parent of the child, include power,

(a) to make such order regarding,

(i) the custody of the child; and

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(ii) the right of access to the child of the surviving parent, as the court thinks fit, having regard to the welfare of the child;

(b) to make an order requiring the surviving parent to pay a weekly or other periodical sum towards the maintenance of the child as the court thinks reasonable having regard to the means of the surviving parent;

(c) to vary or discharge any order previously made under this section.

Powers of guardians.

19. Without prejudice to any other powers specifically vested on guardians by virtue of this Act, every guardian under this Act has all such powers over the estate and the person of a child as any guardian would have had prior to the coming into effect of this Act.

Court may make order as to custody.

20.-(1) The Court may, upon the application of any of the parents of a child, make such order as it may think fit regarding,

(a) the custody of the child;

(b) the right of access to the child of either parent; and

(c) any other matter affecting the child,

having regard to the age and the best interests of the child and taking into consideration the conduct and wishes of the parents and the child.

(2) Where the court makes an order under subsection (1) of this section giving the custody of the child to one parent, it may further order that the other parent pays to the parent having custody of the child a weekly or other periodical sum

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towards the maintenance of the child as the court thinks reasonable having regard to the means of the parents.

(3) Where any order as to custody of the child or payment to a parent of a periodical sum for the maintenance of the child had been previously made by a court of competent jurisdiction, the court may, if it thinks fit, in the exercise of its power to make an order for the custody or maintenance of the child under this section, discharge the previous order and substitute any order it may think fit.

(4) An order may be made under subsection (1) or (2) of this section notwithstanding that the parents of the child are then residing together.

(5) An order under subsection (1) or (2) of this section may be varied or discharged by a subsequent order made on the application of either parent or, in the case of an order under subsection (1) of the section, after the death of either parent on the application of any guardian under this Act.

(6) A parent granted custody of, or access rights to, the child under subsection (1) of this section, may apply to the court to voluntarily give up such custody or access to the child.

Power of court to remove or substitute guardian.

21. The court may, in its discretion, on being satisfied that it is in the best interests of the child, remove from office any testamentary guardian, or any guardian appointed or acting by virtue of this Act, and may also if it considers it to be for the welfare of the child, appoint another guardian in place of the guardian so removed.

Guardianship in case of divorce or judicial separation.

22. In any case where a decree for judicial separation, or *a decree nisi or absolute* for divorce, is pronounced, the court pronouncing the decree may, *in exceptional* circumstances, and if *it is in the best interests of the child*, thereby declare the parent by reason of whose misconduct the decree is made to be a person unfit to have the custody of the child, if

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any, of the marriage and, in such case, the parent so declared to be unfit shall not, upon the death of the other parent, be automatically entitled as of right to the custody or guardianship of such child; provided that the court may, if satisfied, determine whether there has been a change of circumstances necessitating the grant of custody or guardianship to such parent.

Effect of separation deed between parents.

23. No agreement contained in any separation deed made between the parents of a child shall be held invalid by reason only of its providing that the father of such child shall give up the custody or control thereof to the mother, however, the court shall not enforce any such agreement, if it is of the opinion that it will not be for the benefit of the child to give effect thereto.

Enforcement of orders for payment of money.

24.-(1) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money under this Act, shall give notice of any change of address within fourteen days to such person, if any, as may be specified to receive the money in the order, and any person failing without reasonable excuse to give such a notice commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.

(2) Subject to any other law to the contrary, where a maintenance order has been made the court shall, in addition to any other powers for enforcing compliance with the order, have power, in any case where there is any pension or income payable to the person against whom the order is made and capable of being attached, after giving the person by whom the pension or income is payable an opportunity of being heard, to order that such part as the court may think fit of any such pension or income be attached and paid to the person named by the court.

(3) An order under subsection (2) of this section, shall be an authority to the person by whom the pension or income is payable to make the payment so ordered, and the receipt of the person to whom the payment is ordered to be made shall be a

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good discharge to the person by whom the pension or income is payable.

Rules of court.

25. Rules of court regulating the practice and procedure in any proceeding under this Act, and the forms in such proceedings, may from time to time be made.

Power of court as to production of child.

26. Where the parent of a child applies to the court for a writ or order for the production of the child, and the court is of the opinion that the parent has abandoned or deserted the child, or that he has otherwise so conducted himself that the court should refuse to enforce his right to the custody of the child, the court may, in its discretion, decline to issue the writ or make the order.

Power of court to order repayment of cost of bringing up child.

27. If at the time of the application for a writ or order for the production of the child, the child is being brought up by another person, the court may, in its discretion, if it orders the child to be given up to the parent, further order that the parent pays to such person the whole of the costs properly incurred in bringing up the child, or such portion thereof as shall seem to the court to be just and reasonable, having regard to the circumstances of the case.

Court in making order to have regard to conduct of parent.

28. Where the parent has,

(a) abandoned or deserted his child; or

(b) allowed his child to be brought up by another person at that person's expense for such a length of time and under such circumstances as to satisfy the court that the parent was unmindful of his parental duties,

the court shall not make an order for the delivery of the child to the parent, unless the parent has satisfied the court that, having regard to the welfare of the child, he is a fit and proper person to have the custody of the child.

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Power of court as to child's religious education.

29.-(1) Upon any application by the parent for the production or custody of a child, if the court is of the opinion that the parent ought not to have the custody of the child, and that the child is being brought up in a different religion to that in which the parent has a legal right to require that the child should be brought up, the court may, having regard to the age and maturity of the child, and if it considers it in the best interests of the child, order that the child be brought up in the religion in which the parent has a legal right to require that the child should be brought up.

(2) Nothing contained in this section or in sections 26 to 28 of this Act shall interfere with or affect the power of the court to consult the wishes of the child in considering what order ought to be made under this section, or diminish the right which any child now possesses to the exercise of its own free choice.

Principle on which questions relating to custody, up-bringing, etc., of children are to be decided.

30. Where in any proceeding before any court, questions relating to custody,

(a) the custody or upbringing of a child;

(b) the administration of any property belonging to or held on trust for a child, or the application of the income thereof,

is in question, the court shall in deciding that question, regard the welfare of the child as the first and paramount consideration, and shall not take into consideration whether the claim of the father, in respect of such custody, upbringing, administration or application is superior to that of the mother, or vice-versa.

Saving.

31. Nothing in this Act shall restrict or affect the jurisdiction of the court to appoint or remove guardians.

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PART IV

Status of Children

Interpretation of phrases used in this Part.

32. In this Part, unless the context otherwise requires,

"blood samples" means blood taken for the purposes of blood test;

"blood tests" means blood test carried out and includes any test made with the object of ascertaining the inheritable characteristics of blood; "DNA" means deoxyribonucleic acid;

"DNA analysis" means an analysis of the bodily substance and the comparison of the results of that analysis with the results of the analysis

of the DNA in the bodily substance and includes any incidental tests to that analysis;

"marriage" includes a void or voidable marriage and "married" has a corresponding meaning;

"Registrar" means the person holding the office of Registrar General under section 3 of the General Registry Act, Cap. 327, and includes any person for the time being discharging the duties of that office.

All children of equal status.

33.-(1) For the purposes of the law of Belize, the relationship between every child and his father and mother shall be determined irrespective of whether his father and mother are or have been married to each other, and all other relationships shall be determined accordingly; and subject to subsection (2) of this section, all the legal consequences of that relationship shall follow as if the father and mother are or had been married to each other at the time of the birth of that child.

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(2) Where the father and mother of a person were not married to each other at the time of that person's birth, then, subject to section 37, the legal consequences of the relationship of father and child and of any other relationship traced in any degree through that relationship shall follow only if,

(a) the father and mother of the person marry each other at some time subsequent to the birth of that person; or

(b) paternity has been admitted or is otherwise established, except that where the legal consequences of the relationship are of benefit to the father, paternity has been so admitted or established during the lifetime of the child.

(3) Where a person derives citizenship of Belize from his mother, that citizenship shall not be affected by reason only of subsection (2) (b) of this section.

(4) Subject to subsection (6) of this section, the rule of construction whereby in any instrument words of relationship shall include only a legitimate relationship in the absence of an expression of a contrary intention is hereby abolished.

(5) This section shall apply to all persons.

(6) Nothing in subsections (1), (2) (b) and (4) of this section shall,

(a) affect or limit the law relating to citizenship of any person;

(b) affect in any way any rule of law relating to the domicile of any person;

(c) limit or affect any of the provisions of this Act relative to the adoption of children;

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(d) affect the construction of the word "heir" or of any expression which is used to create an entailed interest in real or personal property.

Transitional provisions relating to wills, and other instruments and to intestacies.

34.-(1) All dispositions made before the commencement of this Act shall be governed by the enactments and rules of law which would have applied to them if this Act had not been passed.

(2) Where any disposition to which subsection (1) of this section applies creates a special power of appointment, nothing in this Act shall extend to the class of persons in whose favour the appointment may be made, or cause the exercise of the power to be construed so as to include any person who is not a member of that class.

(3) The estates of all persons who have died intestate as to the whole or any part thereof before the commencement of this Act shall be distributed in accordance with enactments and rules of law which would have applied to them if this Act had not been passed.

(4) In this section, "disposition" means a disposition, including an oral disposition, of real or personal property whether inter vivos or by will or codicil; and notwithstanding any rule of law, a disposition made by will or codicil and executed before the date of commencement of this Act shall, notwithstanding section 50 of the Wills Act, Cap. 203, not be treated for the purposes of this section as made on or after that date by reason only that the will or codicil is confirmed by a codicil executed on or after that date.

Presumptions as to parenthood

35.-(1) A child born to a woman during her marriage, or within ten months after the marriage has been dissolved by death or otherwise, shall, in the absence of evidence to the contrary, be presumed to have been born of that marriage, but this presumption may be rebutted by evidence to the contrary.

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(2) Subsection (1) of this section, shall not apply if, during the whole of the time within which the child must have been conceived, the mother and her husband were living apart under an oral or written agreement for separation, or under a decree or order of separation, or decree nisi of divorce, made by a court or other competent authority in Belize or elsewhere.

(3) Subsection (1) of this section, shall not apply where a child is born within ten months of the dissolution of the marriage of its mother and after she has married again, and in such case there shall be no presumption as between the husband of the mother and her former husband that either is the father of the child, and the case shall be determined on the probabilities in each case.

Protection of executors, administrators and trustees

36.-(1) For the purpose of the administration or distribution of any property held upon trust, or for any other purposes, every executor, administrator, and trustee shall, whenever it is material in the circumstances, make honest and reasonable inquiries as to the existence of any person who could claim an interest in the estate or property by reason only of this Act, but shall not be obliged to pursue such inquiries further than he honestly and reasonably believes to be necessary.

(2) No action shall lie against any executor of the will or administrator or trustee of the estate of any person, or the trustee under any instrument, at the instance of any person who could claim an interest in the estate or property by reason of the executor or administrator or trustee having made any distribution of the estate or of property held upon trust or otherwise acted in administration of the estate or property held on trust disregarding the claims of that person where at the time of making the distribution or otherwise so acting the executor, administrator, or trustee had no notice of the relationship on which the claim is based, provided the executor or administrator or trustee had made such inquiries as are required under subsection (1) of this section.

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(3) Nothing in this section shall prejudice the right of any person claiming an interest in the estate or property aforesaid (which interest is alleged by the claimant to have existed at the time the executor, administrator or trustee made the distribution or otherwise acted as aforesaid) to follow such estate or property or any property representing it into the hands of any person, other than a purchaser, who may have received it.

Recognition of relationship for the purpose of succession to property

37.-(1) The relationship of father and child, and any other relationship traced in any degree through that relationship and the legal consequences thereof shall, for any purpose related to succession to property or to the construction of any will or other testamentary disposition or of any instrument creating a trust, be recognized and shall follow only if,

(a) the father and the mother of the child were married to each other at the time of its conception or at some subsequent time; or

(b) paternity has been admitted by or otherwise established during the lifetime of the father; except that where the purpose of such an admission is for the benefit of the father, the paternity should have been so admitted or established during the lifetime of the child.

(2) Nothing in this section shall limit or affect the provisions of this Act dealing with the adoption of children.

Evidence and proof of paternity.

38.-(1) Where, pursuant to section 13 of the Registration of Births and Deaths Act, Cap. 157, or to the corresponding provisions of any former enactment, the name of the father of the child to whom the entry relates has been entered in the register of births (whether before or after the commencement of this Act), a certified copy of the entry delivered by the Registrar under his hand in accordance with section 43 of that Act or sealed in accordance with section 44 of the said Act

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shall be prima facie evidence that the person named is the father of the child,

Provided that the provisions of this section shall apply only where both the mother and the person acknowledging himself to be the father of the child consented to the entry.

(2) Any instrument signed by the mother of a child and by any person acknowledging that he is the father of the child shall, if executed as a deed or by each of those persons in the presence of an attorney-at-law or other person authorised in that behalf, be prima facie evidence that the person named is the father of the child.

(3) An order made by the court under section 85 of this Act shall be prima facie evidence of paternity in any subsequent proceedings, whether or not between the same parties.

(4) Subject to section 37 (1) of this Act, a declaration of paternity under section 40 of this Act, shall be conclusive proof of paternity for all purposes.

(5) An order made by the court under section 85 of this Act, shall be prima facie evidence of paternity for all purposes.

(6) The Minister may from time to time, by Order published in the Gazette, declare that subsection (5) of this section applies with respect to orders made by any court or public authority in any specified country outside Belize or by any specified court or public authority in any such country.

Instrument of acknowledgement may be filed with Registrar.

39.-(1) Any instrument of the kind described in section 38 (2) of this Act, or a duplicate or attested copy of any such instrument, may in the prescribed manner and on payment of the prescribed fee (if any) be filed in the office of the Registrar, but the validity or effect of such an instrument shall not be affected by the failure to file it in the office of the Registrar.

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(2) The Registrar General shall cause indices of all instruments and duplicates and copies of instruments filed with him under subsection (1) of this section to be made and kept in his office, and shall, upon the request of any person who, in the opinion of the Registrar General, has a proper interest in the matter, cause a search of any index to be made, and shall permit any such person to inspect any such duplicates or copies.

(3) Where the Family Court or a magistrates court makes an affiliation order, the Clerk of Court shall cause a copy of the declaration and also a copy of any such order of the court to be filed in his office under this section as if such declaration or order were an instrument of the kind described in section 38 (2) of this Act.

Power of Supreme Court to make declaration of paternity

40.-(1) Any person who,

(a) being a woman, alleges that any named person is the father of her child;

(b) alleges that the relationship of father and child exists between himself and any other person; or

(c) being a person having a proper interest in the result, wishes to have it determined whether the relationship of father and child exists between two named persons,

may apply in such manner as may be prescribed by rules of court to the Supreme Court for a declaration of paternity, and if it is proved to the satisfaction of the court that the relationship exists the Court may make a declaration of paternity whether or not the father or the child or both of them are living or dead.

(2) Where a declaration of paternity under section (1) of this section is made after the death of the father or of the child, the court may at the same or any subsequent time make a

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declaration determining, for the purposes of section 37 (1) (b) of this Act, whether any of the requirements of that subsection have been satisfied.

Court may direct that blood tests or DNA be taken

41.-(1) In any civil proceedings in which the paternity of any person is to be determined by a court, the court hearing the proceedings may, on an application by any party to the proceedings, give a direction for the use of blood tests or DNA analysis to ascertain whether such tests show that a party to the proceedings is or is not thereby excluded from being the father of the person of whom it is alleged he is the father and for the taking within the time specified in the direction, of blood samples from that person, the mother of that person and the party alleged to be the father of that person, or from any of them.

(2) A court may at any time revoke or vary a direction previously given by it under this section.

(3) The person responsible for carrying out any blood tests taken in accordance with a court direction given under this section shall, in a report made in the prescribed form, state to the court from which the direction was given,

(a) the results of the tests;

(b) whether the party to whom the report relates is or is not excluded from being the father of the person as to whose paternity the declaration is sought; and

(c) if that party is not so excluded, the value, if any, of the results in determining whether that party is that person's father,

and the court shall receive the report as evidence of the matters stated therein.

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(4) The court, or any party to the proceedings with leave of the court, may require the person responsible for carrying out the blood tests to provide a written explanation or amplification of any statement made in the report and such explanation or amplification of any statement made in the report shall be deemed to be part of the report made to the court.

(5) A party to the proceedings shall not, unless the court otherwise directs, be entitled to call as a witness the person responsible for carrying out the blood tests or any person by whom anything necessary for the purpose of enabling such tests to be carried out was done unless within fourteen days of receiving a copy of the report he serves notice on the other parties to the proceedings or on such of them as the court may direct of his intention to call that person; and where such person is called as a witness the party who called him shall be entitled to cross-examine him.

(6) The cost of taking and testing blood samples for the purpose of giving effect to a direction of the court given under subsection (1) of this section and of making a report to the court shall be paid by the party on whose application such direction was given, but the amount so paid shall be treated as costs incurred by that party in the proceedings.

Consents, etc., required for taking of blood samples

42.-(1) Subject to subsections (3) and (4) of this section, a blood sample which is required to be taken from any person for the purpose of giving effect to a direction under section 41 of this Act shall not be taken from that person except with his consent.

(2) The consent of a child to the taking from himself of a blood sample shall be as effective as it would be if he were of full age; and where a child has by virtue of this subsection given an effective consent to the taking of blood sample it shall not be necessary to obtain any consent for it from any other person.

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(3) Subject to subsection (2) of this section, a blood sample may be taken from a child, not being such a person referred to in subsection (4) of this section, if the person who has the care and control of him consents.

(4) A blood sample may be taken from a person who is suffering from mental disorder and is incapable of understanding the nature and purpose of blood tests if the person who has the care and control of him consents or the medical practitioner in whose care he is has certified that the taking of blood sample from him will not be prejudicial to his proper care and treatment.

(5) The foregoing provisions of this section are without prejudice to the provisions of section 43 of this Act.

Failure to comply with directions

43.-(1) Where a court gives a direction under section 41 of this Act and any person fails to take any step required of him for the taking of blood for the purpose of giving effect to the direction, the court may draw such inference, if any, from that fact as appear proper in the circumstances.

(2) Where in any proceedings in which the paternity of any person fails to be determined by the court hearing the proceedings and the presumption of law set out in section 35 of this Act arises, then if,

(a) a direction is given under section 41 of this Act in those proceedings; and

(b) any party who is claiming any relief in the proceedings and who for the purpose of obtaining that relief is entitled to rely on the presumption fails to take any steps required of him for the purpose of giving effect to the direction,

the court may adjourn the hearing for such periods as it thinks fit to enable that party to take that step, and if at the end of that

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period he has failed without reasonable cause to take it the court may, without prejudice to subsection (1) of this section, dismiss his claim for relief notwithstanding the absence of evidence to rebut the presumption.

(3) Where any person named in a direction under section 41 fails to consent to the taking of blood sample from himself or from any person named in the direction of whom he has the care and control, he shall be deemed for the purposes of this section to have failed to take a step required of him for the purpose of giving effect to the direction.

Penalty for personating another, etc., for purpose of providing blood sample.

44. Where, for the purpose of providing a blood sample for a test required to give effect to a direction under section 41 of this Act, a person personates another, or proffers a child knowing that it is not the child named in the direction, that person commits an offence and is liable,

(a) on conviction on indictment, to imprisonment for a period not exceeding two years; or

(b) on summary conviction, to imprisonment for a period not exceeding twelve months.

Regulations relating to blood tests and other tests.

45.-(1) The Minister may, by regulations, make provisions as to the manner of giving directions under section 41 of this Act, and without prejudice to the generality of the foregoing, such regulations may,

(a) require the production at the time when a blood sample is taken of such evidence as to the identity of the person from whom it is taken as may be prescribed by the regulations;

(b) require any person from whom a blood sample is taken, or in such cases as may be prescribed by the regulations, such other person as may be so prescribed, to state in

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writing whether he or the person from whom the sample is taken, as the case may be, has during such period as may be specified in the regulations suffered from any such illness as may be so specified or received a transfusion of blood;

(c) provide that blood tests shall not be carried out except by such person, and at such places, as may be appointed by the Minister;

(d) prescribe the blood tests to be carried out and the manner in which they are to be carried out;

(e) regulate the charges that may be made for the taking and testing of blood samples and for the making of a report to a court under section 41 of this section;

(f) make provisions for securing that so far as practicable blood samples to be tested for the purpose of giving effect to a direction under section 41 of this Act are tested by the same person;

(g) prescribe the form of the report to be made to a court under section 41 of this Act.

(2) The Minister may also make regulations,

(a) providing for DNA analysis and the circumstances when such analysis may be made;

(b) providing that DNA analysis shall not be carried out except by such person and at such places (whether within or outside Belize) as may be appointed by the Minister;

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(c) prescribing the manner in which the DNA analysis is to be carried out;

(d) regulating the charges that may be made for the taking of DNA analysis and for the making of a report to a court;

(e) providing that DNA analysis shall not be done without consent;

(f) making provision where there is a failure to comply with a direction to undertake a DNA analysis;

(g) prescribing the form of the report to the court of a DNA analysis.

PART V

Support of Children by Government and Family Maintenance

Duty of Government to safeguard children.

46.-(1) It is a general duty of the Government,

(a) to safeguard and promote the welfare of children; and

(b) to mediate in any situation where the rights of a child are infringed upon and especially with regard to the protection of a child, the child's health and education, and the child's succession rights to the property of his parents.

(2) The Department shall keep a register of disabled children and shall provide assistance and accommodation for any disabled child in need who appears to require such assistance and accommodation as a result of having been lost or abandoned or seeking refuge.

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Duty to report infringements of child's rights.

47. Any member of the community who has evidence that a child's rights are being infringed, or that a parent, guardian or any person having custody of a child is able, but refuses or neglects, to provide the child with adequate food, shelter, clothing, medical care or education, has a moral obligation to report the matter to the Department or the Family Court or a magistrates court.

Duty of man to maintain children.

48.-(1) Every man is hereby required to maintain his own children and also,

(a) every child, whether born in wedlock or not, which his wife may have living with her at the time of her marriage with him; and

(b) the children of any child of his,

so long as such children respectively are unable to maintain themselves.

(2) In regard to subsection (1) *(b)* of this section, an obligation to maintain will only arise where the father or mother of the child is ill or where neither parent can be located, or where they are unable to maintain themselves as aforesaid.

Duty of woman to maintain children.

49.-(1) Every widow and unmarried woman is hereby required to maintain her own children, and every woman having children to whom any man is primarily bound under section 48 of this Act to maintain, is hereby required to maintain those children in the event of his failing to perform his obligation.

(2) Every woman is hereby required to maintain the children of any child that she has had, in the event of the parents of those children and of any man primarily bound under section 48 of this Act to maintain them failing to do so, so long as they respectively are under the age of eighteen years, or are by reason of bodily or mental infirmity unable to maintain themselves.

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Duty of child to maintain parents.

50.-(1) Every person born in wedlock has a moral obligation to maintain his father or mother, and grandfathers and grandmothers in case the father or mother or grandfather or grandmother is, by reason of old age or bodily or mental infirmity, unable to maintain himself or herself.

(2) Every person not born in wedlock has a moral obligation to maintain his mother, and also the man, if any, with whom his mother openly cohabited with at the time of his birth, if that man recognized and treated him as his child during his childhood, in cases where the father or mother or that other person as aforesaid or all or any of those persons are, by reason of old age, or bodily or mental infirmity, unable to maintain himself, herself or themselves.

Burden of proof as to ability of child to maintain himself.

51. For the purposes of this Act, every child under eighteen years of age shall be deemed unable to maintain himself by reason of tender age, unless the contrary is shown.

Mode of compelling performance of duties imposed by this Act.

52.-(1) Any person entitled to be maintained by another person under this Act, or any person having the care and custody of a child so entitled, may, if the person, or some one of the persons, if more than one, liable to maintain him or that child, fails to do so, make a complaint before a magistrate.

(2) The magistrate shall inquire into the matter and, if it appears that the complainant or the child is entitled to be maintained by the person or persons against whom the complaint is made, and that that person or those persons have neglected to comply with the requirements of this Act, he shall summon him or them to appear before the court at a time and place to be mentioned in the summons to answer the matter of the complaint.

(3) If any person entitled under this Act to be maintained by some other person or persons becomes chargeable to any Government department or agency, any person authorised by the head of that department or agency may make complaint before a magistrate on behalf of the person who has become

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chargeable to the Government department or agency, and thereupon the magistrate shall proceed in the same way as if the person had himself made the complaint.

Application for child maintenance order.

53.-(1) Any person who has custody of a child and who is,

(a) the mother of the child;

(b) the father of the child; or

(c) the guardian of the child,

may make an application for a maintenance order against the father or mother of the child, as the case may be.

Proceedings on hearing of complaint.

54. At the time and place mentioned in the summons, the magistrate shall proceed to inquire into the matter and, if satisfied that the complainant or the person on whose behalf the complaint is made is entitled under this Act to be maintained by the party against whom the complaint is made, and that the party against whom a complaint has been made has neglected his duty in that respect, shall proceed to inquire into his means and if satisfied that he is capable of maintaining or contributing to the maintenance of the complainant, or the person on whose behalf the complaint is made, he shall proceed to make a maintenance order against him, directing him to pay, either to the complainant or to some person approved by the magistrate and to be named in the order, a periodical sum which, having regard to the means of the party or parties against whom the complaint is made and all the circumstances of the case, the magistrate thinks just,

Provided that if the complaint has been made under subsection (3) of section 52 of this Act by a person authorised by the head of a Government department or agency, the magistrate, in the order, if he sees fit, may order the party or parties against whom the complaint is made to pay some person to be named in the order, a sum not exceeding one hundred dollars a week for every week during which the Government department or

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agency has given relief, such sum, however, not to exceed the amount of that relief.

Limitation of time for operation of order of maintenance.

55. Subject to section 64 of this Act, any order of maintenance made under this Act shall, in the case of a child, be deemed to be in force until the child attains the age of eighteen years and, in the case of any other person, for the period named in the order,

(a) the order may be renewed at any time by any magistrate having jurisdiction to make an order;

(b) where the person to be maintained is unable to maintain himself by reason of old age or by reason of an illness or infirmity likely to be permanent, as determined by a registered medical practitioner, the magistrate may make the order of maintenance for the rest of the natural life of that person.

Cancellation of order in certain cases.

56. Any person against whom any order has been made under this Act may at any time apply to any magistrate, having jurisdiction to make the order, to cancel it, and, if he satisfies the magistrate on due inquiry that he has ceased to be capable of maintaining or contributing to the maintenance, because of illness or physical or mental disability, or any change in his circumstances, (financial or otherwise), or that the person whom he was ordered to maintain is no longer unable to maintain himself, the magistrate may cancel the order.

Absconding to avoid liability for maintenance.

57.-(1) Any person who, being required by this Act to maintain another, departs from his usual place of abode with a view to evade any liability for such maintenance, or of any payments which he has been ordered to make for the maintenance of another, commits an offence and on summary conviction, on the complaint of the person authorised by the head of a Government department, or of any person entitled under this Act to make a complaint, or of any police officer, is liable to a

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fine not exceeding three thousand dollars, or to imprisonment for any term not exceeding six months, or to both such fine and term of imprisonment.

(2) Any salary, wages or money due to that person shall be liable to satisfy the arrears of any payments ordered to be made under the provisions of this Act, and may be attached under the order of the magistrate before whom the person has been tried and convicted, and be required to be paid to the person entitled under the maintenance order to receive them.

Liability of husband to pay for spouse's maintenance in mental hospital, etc.

58. Whenever any spouse is a patient in a mental hospital, or hospital, or is an inmate in a house for the aged, or is in a rehabilitation centre provided or maintained by the Government out of public moneys, the other spouse is required to contribute towards the maintenance of such spouse therein, and sections 59 to 61 of this Act, shall apply in that case and, for the purposes of those sections, every spouse shall be deemed a person entitled to be maintained by the other spouse within the meaning of this Act,

Provided that the sum which the contributing spouse shall be required to pay shall be based on his personal circumstances and ability to pay.

PART VI

Maintenance of Persons in Public Institutions and collection of money payable under Maintenance Order

Orders in respect of persons in mental hospitals, etc.

59. If any person who is entitled under this Act to be maintained by another or others is a patient in a mental hospital, or hospital, or is a resident of a home for the aged or child care centre, or is in a rehabilitation centre, being provided or maintained by the Government out of public moneys, the person authorised by the head of the Government department or agency may make a complaint before a magistrate, who shall thereupon inquire into the matters and, if it appears to

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him that any such person is entitled to be maintained by any person or persons under this Act, he shall summon the person or persons liable under this Act for the maintenance of the other person to appear before him at a time and place to be mentioned in the summons, and to show cause why he or they should not contribute towards the maintenance of that person.

Proceedings for orders under section59.

60. At the time and place mentioned in the summons referred to in section 59 above, the magistrate shall proceed to inquire into the matter and, if satisfied that the person in respect of whom the complaint is made is entitled under this Act to be maintained by the party or parties against whom the complaint is made, shall proceed to inquire into his or their means and, if satisfied that he or they or any of them, is or are of sufficient ability to maintain or contribute towards the maintenance of the person in respect of whom the complaint is made, he shall proceed to make an order against him or them, ordering him or them to pay to the person authorised by the head of the Government department or agency such periodical sum which, having regard to his or their means, and all circumstances of the case, the magistrate thinks just, and any further sum, not exceeding the sum of one hundred dollars a week for every week during which the person in respect of whom the complaint was made has been in the hospital, mental hospital, home for the aged, child care centre or rehabilitation centre as aforesaid,

Provided that,

(a) the order shall stand discharged upon the death of the person in respect of whom it was made, or upon his discharge from the hospital, mental hospital, house for the aged, child care centre, or rehabilitation centre, as the case may be;

(b) if the person against whom an order is made under this section has previously had an order made against him under section 54 in respect

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of the same person, the last-mentioned order shall not be enforced so long as the order made under this section is enforceable; and

(c) no order shall be made under section 54 of this Act so long as any order under this section remains in force in respect of the same person.

Enforcement of order.

61.-(1) Any order made under this Act, if the payments and procedure required by it to be made, or any of them, is or are in arrears, may be enforced by distress, in the manner prescribed in the Summary Jurisdiction (Procedure) Act, Cap. 99, and except as otherwise provided by this Act, all proceedings under this Act shall be as nearly as possible according to the procedure under that Act.

(2) Where the court makes an order under this Act for the payment of money periodically by one person to another, it may, if it thinks fit, order that the payment shall be made through the collecting officer appointed under section 63 of this Act, and thereupon all the provisions of this Part relating to the collection of money under affiliation orders shall, mutatis mutandis, apply to the collection of all sums of maintenance money payable periodically pursuant to this Act.

Appeal to the Supreme Court.

62. Any person against whom an order has been made under this Act may appeal from that order to the Supreme Court under and in accordance with the provisions of Part IX of the Supreme Court of Judicature Act, Cap. 91.

Collecting officer to be appointed for each district by magistrate.

63.-(1) The magistrate of each district shall appoint, for the purposes of this Act, the clerk of the court to be the collecting officer in that district in respect of any maintenance order made for a child born out of wedlock.

(2) Whenever it may appear necessary, a magistrate may, with the approval of the Minister, appoint an additional collecting officer or additional collecting officers.

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Power to order payments to be made through collecting officer.

64.-(1) When a magistrate makes a maintenance order for a child born out of wedlock, he shall, unless upon representation expressly made in that behalf by the applicant for the maintenance order he is satisfied that it is undesirable to do so, provide in that order that all payments under the maintenance order be made to the collecting officer of the district in which such order is made and thereupon all payments made thereunder shall be made to the collecting officer and not otherwise.

(2) Payment of the amount so ordered may be made to the collecting officer in person or by letter sent by registered post addressed to the collecting officer and posted in time to be delivered to him on the day appointed for payment.

(3) The collecting officer shall receive all payments made to him under this Act and shall make payment to the mother of the child born out of wedlock or to such other person as is named in the maintenance order of the sum directed to be paid thereunder or such part thereof as he receives without any deduction therefrom.

(4) Where the maintenance order provides that payment be made to the collecting officer the applicant for the order shall thereupon state to the collecting officer her nearest post office address.

(5) Subject to subsection (6) of this section, payment shall be made by the collecting officer directly to the mother of the child born out of wedlock or to such other person as is named in the maintenance order at the office of the collecting officer weekly if such mother or person resides in the town in which such office is situate.

(6) In any other cases, payment shall be made by the collecting officer by sending fortnightly to the clerk of the court of the magistrates court in the district in which the mother resides the sums collected on her behalf and the said clerk of the court shall pay the same to the mother on demand.

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Attachment of pension or income.

65.-(1) When a maintenance order has been made, the magistrate of the district in which the order has been made may, after giving the father an opportunity of being heard if such father has without reasonable cause made a default under the order, at any time in any case where there is any salary, pension or income payable to the father and capable of being attached, order that such an amount each week as is specified in the maintenance order, or any part of such amount, as the case may be, be attached and paid to the collecting officer.

(2) Such order shall be sufficient authority to the person by whom such salary, pension or income is payable to make the payment so ordered, and the receipt of the collecting officer shall be a good discharge to such person to the extent of the amount so paid.

Notice of change of address.

66. Where by a maintenance order it is provided that payment be made to the collecting officer, the father or the mother or guardian of the child born out of wedlock if he or she changes his or her place of residence, or the person entitled to receive the maintenance money shall give notice thereof to the collecting officer and on failure to do so without reasonable cause commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars.

Limitation period not to apply to proceedings to enforce payment under order.

67. Notwithstanding anything to the contrary in any Act limiting the time within which summary proceedings are to be taken, such limitation shall not apply to proceedings for enforcing the payment of sums due under an order made in pursuance of this Act as long as such order remains in force pursuant to section 55 of this Act.

Rules and forms.

68. The Minister may make rules and prescribe forms for carrying into effect sections 63, 64 and 69 of this Act.

Recovery of payments in arrear.

69.-(1) If at any time after the expiration of fourteen clear days from the making of a maintenance order, it appears to a magistrate upon oath or affirmation that any sum to be paid in pursuance of the order has not been paid, that magistrate may

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by issue of a warrant cause the father to be brought before any magistrate.

(2) If the father neglects or refuses to make payment of the sums due from him under the order, or there has been any commitment for disobedience to the order under subsection (3) of this section, together with costs attending such warrant, arrest and bringing up of the father, the magistrate may by warrant direct the sum appearing to be due, together with the costs, to be recovered by distress and sale of the goods and chattels of the father.

(3) In making an order under subsection (1) of this section, the magistrate may order the father to be detained and kept in safe custody until return can conveniently be made to the warrant of distress, unless the father gives sufficient security by way of recognisance or otherwise to the satisfaction of the magistrate, for his appearance before the magistrate on the day which may be appointed for the return of the warrant of distress, such day not being more than seventy days from the time of taking any such security.

(4) If upon the return of such warrant, or if by the admission of the father, it appears that no sufficient distress can be had, then the magistrate shall, by warrant under his hand, cause the father to be committed to prison, there to remain for any term not exceeding three months unless such sum and costs and all reasonable charges attending the said distress together with the costs and charges of the committal and conveyance to prison be sooner paid and satisfied.

(5) When a magistrate commits a father to prison under this Act, unless the magistrate otherwise directs, no arrears shall accrue under the order during the time the father is in prison; provided that arrears shall continue to occur once the father has been released from prison.

Duration of order.

70. Subject to the provisions of sections 55 and 71 of this Act, a maintenance order shall not, except for the purpose of

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recovering money previously due under the order, be of any validity after the child has attained the age of eighteen years or has died.

Continuance of payment in certain cases.

71.-(1) If, on the application of the parent or guardian of a child, it appears to the court that the child is or will be engaged in a course of education or training after attaining the age eighteen years, or that the child is suffering from a mental or physical disability, and that it is therefore expedient for payments to be made under the order after the child attains that age, then subject to subsection (2) of this section, the court may by order direct that payments be so made for such period not exceeding three years from the date of the order as may be specified in the order.

(2) The period specified in an order made under subsection (1) of this section may from time to time be extended by a subsequent order so made, but shall not in any case extend beyond the date when the child attains the age of twenty-one years except in the case of a disabled child or a child pursuing full time education.

Variation or revocation of maintenance orders.

72.-(1) Where an order for the payment of a weekly sum has been made, the magistrate of the district in which the person who is, or has been, entitled to receive payment under the order resides may, at any time on application either by the person who is or has been entitled to payment, or by the father, vary the existing order by increasing or decreasing the amount payable thereunder, or revoke the order or revive any order which has been revoked, as the magistrate having regard to all the circumstances, thinks proper.

(2) An order for maintenance against a father or mother shall cease to have effect on custody of the child being granted to that father or mother or other person in his or her place by the court.

(3) An order for maintenance may be made and enforced against the estate of a deceased person who has been declared

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the father or mother of the child under a declaration of parentage.

(4) Where a declaration of parentage has been made, an order for recovery of arrears of expenses incurred in the maintenance of a child may be made even after the death of the child.

Power to remit arrears.

73. On the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a maintenance order, the court may remit the whole or any part of the sum due under the order if the person responsible to pay such maintenance was prevented from doing so due to illness or mental disability.

Money to be paid to applicant or custodian.

74.-(1) All money payable under a maintenance order shall be due and payable to the applicant unless an order of custody has been made, in which case, the money shall be due and payable to the person having custody of the child.

(2) The court may also order that the money shall be paid into court and then paid to the applicant or custodian in a manner and subject to any condition as the court may direct.

Appointment of custodian.

75.-(1) Whenever a maintenance order is made against the father or mother, a court may, at the time of making the order or from time to time thereafter, on being satisfied that the applicant,

(a) is not a fit and proper person to have custody of the child; or

(b) is dead, or has become of unsound mind, or is in prison,

appoint a person who is willing to have custody of the child to be the custodian of the child.

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(2) The appointment of a custodian may be made on the application of a social services practitioner or of the person having custody of the child or of the person against whom the maintenance order is made.

(3) The appointment of a custodian may be revoked and another person appointed to have custody of the child.

(4) A custodian shall have power to apply for the recovery of all payments in arrears becoming due under a maintenance order as any other applicant would have been entitled to do.

(5) Where any order of appointment or of revocation of the appointment of a custodian is made, the court may also order the child to be delivered to the person appointed to have custody of the child.

(6) If a child in respect of whom a maintenance order has been made is wrongfully removed from the person in whose custody he is, the court may, on the application of the custodian, upon review of a report on the matter, make an order that the custody of the child be recommitted to the applicant.

(7) Any person who contravenes an order made under subsection

(6) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or two years imprisonment, or to both such fine and term of imprisonment.

Misapplying maintenance money.

76. A person who has custody of a child commits an offence if he misapplies any money paid for the maintenance of the child, and in such circumstances custody may be varied in the best interests of the child.

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PART VII

Maintenance of Children during Divorce, Separation or Nullity and Parentage of Children

Maintenance during divorce, separation or nullity.

77.-(1) In all cases of divorce, separation or nullity, both parents shall continue to maintain and educate their child, subject to their personal circumstances and ability to pay.

(2) Where the child is in the custody of one parent, the other parent shall have reasonable access to the child.

Variation of custody.

78. Where the court is satisfied on information from a social services practitioner that the parent who has custody of the child is wilfully neglecting or mistreating the child, custody may be granted to the other parent.

Interpretation in this Part.

79. In this Part, "single woman" includes a widow and a married woman who is living apart from her husband.

Application for summons.

80.-(1) Any single woman who is with child, or who has been delivered of a child may,

(a) either before the birth of that child;

(b) at any time within three years after the birth of that child;

(c) at any subsequent time upon proof that the man alleged to be the father of the child has within the five years next after the birth of the child paid money for its maintenance; or

(d) at any time within the twelve months next after the return to Belize of the man alleged to be the father of the child, upon proof that he ceased to reside in Belize within the five years next after the birth of that child,

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make application to the magistrate of the district in which she resides for summons for a declaration of parentage to be served on the man alleged by her to be the father of the child.

(2) A single woman who has been delivered of a child may, upon proof that,

(a) before the birth she was party to a marriage which would have been valid but for the provisions of any law making it void on account of her, or the other party to the marriage, being under the age at which she, or the other party, might legally contract a marriage; and

(b) the said other party cohabited with her within ten months before the birth, make at any time an application under this section against that party, notwithstanding that he may not within three years next after the birth have paid money for the child's maintenance.

(3) An application under subsection (1) of this section may be made by a woman who was a single woman at the date of the birth of the child whether or not she was a single woman at the time of the application, and the reference to a single woman in subsection (2) of this section, shall be construed accordingly.

Procedure when application made before birth.

81. If the application is made before the birth of the child, the woman shall make a deposition on oath stating who is the father of such child, and the magistrate shall thereupon issue his summons to the person alleged to be the father of that child to appear before the magistrates court at such time, not being less than four days from the issue of the summons, as the summons shall direct.

Magistrate may make an order on father.

82.-(1) If the application is made after the birth of a child born to a single woman, on the appearance of the person so

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summoned, or on proof that the summons was duly served on such person or left at his place of abode or workplace at least four days before the day upon which he has been summoned to appear, the magistrate shall hear the evidence of the woman, and such other evidence as she may produce, and shall also hear any evidence by or on behalf of the person alleged to be the father.

(2) If the evidence of the mother is corroborated in some material particular by other evidence to the satisfaction of the magistrate, he may adjudge the man to be the father of the child born out of wedlock, and may also, if he sees fit, having regard to all the circumstances of the case, order the father to pay to the mother of the child born out of wedlock, or to any person who may be appointed to have the custody of such child, a weekly sum for the maintenance and education of the said child, and of the expenses incidental to the birth of such, and of the funeral expenses of the child, if it has died before the making of such order, and of such costs as may have been incurred in the obtaining of such order.

(3) If the application is made before the birth of the child, such weekly sum may, if the magistrate thinks fit, be calculated from the birth of the child.

(4) The court may also make an order for the funeral expenses of the child if the child has died before the making of the order.

(5) If the court thinks fit, it may, in place of a weekly payment, order that a lump sum determined by the court be paid into court and that the sum shall be expended on the maintenance of the child.

Admission of paternity.

83. Where a person makes a written admission that he is the father of a child born out of wedlock, the admission shall be admissible without further proof, in any proceedings under this Act, as prima facie evidence of the facts contained in the admission.

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Payment for child born to a single woman; to whom to be made.

84.-(1) All money payable under any maintenance order shall be due and payable to the mother of the child born to a single woman in respect of such time, and so long as she lives and is of sound mind, and is not in any prison.

(2) Whilst such mother is of unsound mind, or is confined in any prison, or after her death, any magistrate may, if he in his discretion sees it fit, by order, from time to time appoint some person who with his own consent, shall have the custody of such child born to a single woman.

(3) The magistrate may revoke the appointment of any person referred to in subsection (2) of this section, and may appoint another person in his stead.

(4) Every person so appointed to have the custody of a child born to a single woman shall be empowered to make application for the recovering of all payments becoming due under the order of the magistrate as aforesaid, in the same manner as the mother of the child born out of wedlock might have done.

Father may apply for access to or custody of his child born to a single woman.

85.-(1) The father of a child born to a single woman may apply to the court sitting in the district in which a child normally resides for an order granting him right of access to, or legal custody of, the child while such child is under the age of eighteen years.

(2) Before considering such application, the court shall be satisfied that the applicant has,

(a) admitted paternity of the child in a manner satisfactory to the court; or

(b) been judged to be the father of the child in accordance with the provisions contained in this or any other Act.

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(3) An application made under this section for legal custody shall allege one or more of the following grounds,

(a) that the mother of the child has deserted or abandoned the child in such a manner as to endanger the health or well-being of the child;

(b) that the mother is by reason of intemperate or immoral habits (such as prostitution or drunkenness), or for any other reason, unfit to have custody of the child;

(c) that the mother does not exercise proper care and control of the child;

(d) that the order, if made, will be in the best interests of the child, and a social services practitioner employed by the court has so confirmed;

(e) any other matter relevant to the application.

(4) The mother of the child may be required by the court to appear and make representations to the court touching on the application then being considered.

(5) Before granting the application, the court shall be satisfied that the order, if made, will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child, having regard to its age and understanding.

Proceedings on application for declaration of parentage.

86.-(1) The Family Court or magistrates court to which an application is made for declaration of parentage, shall issue a summons to the person alleged to be the father or mother of the child to appear before the court on a day named in the summons.

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(2) On the appearance of the person summoned, or on proof that the summons was duly served on him or left at his place of abode or workplace, seven days or more before the hearing, the court shall hear the evidence of the applicant and shall hear any evidence tendered by or on behalf of the alleged father or mother.

(3) If the evidence of the applicant is corroborated in some material particular by other evidence to the satisfaction of the court, the court may judge the person summoned to be the mother or father of the child, as the case may be.

(4) In proceedings for the declaration of parentage, the court may, on the application of any party to the proceedings or on its own motion, make an order, upon such terms as may be just, requiring any person to give any evidence which may be material to the question, including a blood sample for the purpose of blood test or for DNA analysis.

(5) Any person sought to be tested shall be made a party to the proceedings.

(6) The court may, on the application of the mother of the child, vary or amend an order made under this section.

Proof of parentage.]

87. The burden to prove parentage shall lie on the person alleging it.

Prima facie and conclusive evidence of parentage.

88.-(1) Where the name of the father or the mother of a child is entered in the Register of Births in relation to a child, a certified copy of that entry shall be prima facie evidence that the person named as the father is the father of the child or that the person named as the mother is the mother of the child.

(2) An order of a court for maintenance made against a person under this Act shall be prima facie evidence of parentage in subsequent proceedings, whether or not between the same parties.

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(3) A declaration of parentage by the court under this Act shall, for all purposes, be conclusive proof of parentage.

(4) An order made by a competent court outside Belize in any affiliation or similar proceedings declaring or having the effect of declaring a person to be the father of a child or the mother of a child shall be prima facie evidence that the person mentioned in that order is the father of the child or the mother of the child.

(5) A reference, express or implied, in a will of any person to a child as his son or daughter, as the case may be, is prima facie evidence that that person is the father of that child or is the mother of the child.

(6) A written statement, by a deceased person, indicating that the deceased was the father of a particular child, or the mother of a particular child, is prima facie evidence that the deceased person was the father of the child or the mother of the child.

Effect of declaration of parentage

89.-(1) A declaration of parentage by a court shall have the effect of establishing a blood relationship of father and child or of mother and child and accordingly, the child shall be in the same legal position as a child actually born in lawful wedlock towards the father or the mother.

(2) A declaration of parentage shall not, by itself, confer rights of custody of the child upon the father or mother.

Custody of children

90.-(1) The court may, in the same proceedings for the declaration of parentage, grant custody of the child to an applicant on such conditions as it may deem fit.

(2) The court may, at any time, revoke the grant of custody to one person and make the grant to another person, or an approved agency.

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(3) In reaching its decision under subsection (1) or (2) of this section, the court shall primarily consider the welfare of the child.

(4) A person who unlawfully removes a child from the lawful custody of another person, or an approved agency, commits an offence and shall be dealt with in accordance with the provisions of this Act.

Appeals.

91. A party to proceedings for a declaration of parentage may appeal to the Supreme Court against the finding of a Family Court or a Magistrate's Court and the Supreme Court may confirm or revoke the declaration or make any other lawful order that it thinks fit.

Revocation of declaration of parentage

92. A declaration of parentage may be revoked for fraud or other sufficient cause by the Family Court or a magistrates court on the application of the person against whom the declaration was made.

Penalties for parent being able but refusing to support a child.

93. Every parent of a child born out of wedlock who, having the ability or any means of supporting it, neglects or refuses to support and maintain the child, or abandons, deserts or leaves it in any place, shall upon summary conviction be liable to be sentenced to imprisonment for any period not exceeding six months.

Continued neglect.

94. The continued neglect or refusal to support and maintain a child born out of wedlock by any of its parents for any subsequent period after a first conviction for such offence, shall be held to be a new offence, and shall be dealt with and punished in the manner specified under section 90 (4) of this Act.

Punishment for false charge of being father of child born out of wedlock.

95. If any mother of a child born out of wedlock falsely and fraudulently charges any person with being the father of such child knowing the charge to be false and untrue, she shall upon summary conviction of such offence be sentenced to imprisonment for any period not exceeding six months.

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Summary Jurisdiction (Procedure) Act to be applied.

96. The Summary Jurisdiction (Procedure) Act, Cap. 99 shall apply to the recovery of sums adjudged to be paid by an order in any matter of affiliation, or by an order which is enforceable as an order of affiliation, and to the imprisonment of a defendant for non-payment of such sums in like manner as if an order in any such matter or so enforceable were a conviction on information, and shall apply to the proof of the service of any summons, notice, process or document in any matter of affiliation, and of any handwriting in any such matter.

Appeal against affiliation order.

97. Any person charged with being the father of a child born out of wedlock, and being adjudged the father thereof, may appeal from that order to the Supreme Court under Part IX of the Supreme Court of Judicature Act, Cap. 91.

PART VIII

Care and Supervision Orders and Protection of Children

Supervision and care orders

98. On the application of a social services practitioner or any other authorised person, a Family Court or a magistrates court may make,

(a) a supervision or interim supervision order placing a child under the supervision of the Department while leaving the child in the custody of his or her parents or guardians;

(b) a care order or an interim care order placing a child in the care of the person in charge of the Department; or

(c) an order placing the child in the custody of the Department where the child's parents or relatives are unable to care and maintain the child, and where no other alternative measures are available to protect the child.

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Social inquiry reports.

99.-(1) The Family Court or a magistrates court shall require a written social inquiry report in respect of a child before making a supervision order or a care order.

(2) It shall be the duty of the social services practitioner to prepare a social inquiry report and he or she shall comply with the request of the Family Court or a magistrates court whenever required to produce a social inquiry report.

(3) A social services practitioner shall make a home visit and interview the parents or guardians of the child concerned and carry out his investigations concerning the child before making a social inquiry report.

(4) Where the child in respect of whom the social inquiry report is made is considered by the Department to be of sufficient age and understanding, he or she shall be interviewed by a social services practitioner.

(5) A social inquiry report shall contain matters relating to the welfare of the child and recommendations as to any action to be taken by the Family Court or a magistrates court.

(6) The Family Court or a magistrates court shall take the information contained in the social inquiry report into account in so far as it is relevant to the order being made.

(7) If the Family Court or a magistrates court is not satisfied with any recommendation made by the social services practitioner in the social inquiry report, it shall state and record its reasons for not complying with the recommendation.

Grounds for making a supervision or care order.
21 of 2010.

100. The Family Court or a magistrate's court may only make a supervision or care order under this Part, if it is satisfied that,

(a) the child concerned is suffering or is likely to suffer harm and that the harm, or probability of harm, is attributed to,

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(i) insufficient care given to the child, or likely to be given to the child if the order were not made,

(ii) the child being beyond parental control; or

(iii) the ill-treatment of the child;

(b) the child has shown anti-social behaviour tendencies, that is to say, has acted in a manner that caused harm or was likely to cause harm, distress or alarm to the public and that such an order is necessary to protect the public from further anti-social acts by the child; or

(c) the child is living in circumstances characterised by absence or insufficiency of parental or guardian control, or is not in school and habitually associates with persons of questionable character.

Application for a supervision order.

101. Before making an application for a supervision order, the social services practitioner or an authorised person shall be satisfied that there is need for the continuous supervision enforced by a court order.

Duties of a supervisor while a supervision order is in force

102. The duties of a supervisor while a supervision order is in force are,

(a) to be friendly to, advise, and assist the supervised child;

(b) to advise the parents;

(c) to make plans for the child's future in consultation with the child and his or her parents or guardians;

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(d) to apply to the court to discharge or vary the order if necessary;

(e) to take such other reasonable steps as may be necessary to reduce any harm to the child.

Duration of a supervision order.

103.-(1) A supervision order shall be made for one year but may be extended for one further year on the application of the Department.

(2) An extension of a supervision order shall require a written report by the Department.

Social servicers Practitioner to enforce order.

104. The duty to enforce a supervision order shall be vested in the Department which applies for the order.

Requirements as to change of address and visits.

105. A supervision order shall require the person with whom the child lives,

(a) to inform the supervisor of any change of his or her address;

(b) to allow the supervisor to visit the child at his or her home.

Care order.
21 of 2010

106.-(1) The Family Court or a magistrate court may, on the application of the Department or an authorised person, make a care order or an interim care order placing a child in the care of foster parents or an approved children's home.

(2) An application for a care order may only be made,

(a) after all possible alternative methods of assisting the child have been tried without success, and the harm from which the child is suffering or is likely to suffer requires his removal from where he is living;

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(b) the danger to which the child is exposed is so severe as to require his immediate removal from where he is living;

(c) where the child has shown anti-social behaviour tendencies, that is to say, he or she has acted in a manner that caused or was likely to cause harm, distress or alarm to the public, and the danger posed by the child to the public is such as to require his or her removal to an approved children's home; or

(d) where the child is living in circumstances characterised by an absence or insufficiency of parental or guardian control, or is not in school and habitually associates with persons of questionable character.

Purpose of a care order.
21 of 2010.

107. The object of a care order is,

(a) to remove a child from a situation where he is suffering or is likely to suffer harm;

(b) to assist the child and those with whom he was living or wishes to live with to examine the circumstances that have led to the making of the order and to take steps to resolve or ameliorate the problem so as to ensure the child's return to the community; or

(c) to protect the public from harm, distress or alarm which may be caused by any anti-social acts by the child.

Duration of a care order.

108.-(1) A care order shall, depending on the age of the child, be up to a maximum period of three years or until the child reaches the age of eighteen years, whichever is the shorter.

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(2) A care order shall be reviewed at least once in ninety days by the social services practitioner who may make recommendations as to the steps to be taken having regard to the outcome of the review.

Duty to enforce a care order.

109. The duty to enforce the care order shall be vested in the Department or the authorised person responsible for the order.

Parental responsibility vested in person in charge of home or in foster parent.

110-(1) The person in charge of the approved children home or the foster parent with whom the child is placed shall be responsible for the care of the child while the child is in his custody.

(2) The child's contact with parents, relatives and friends while he is in the approved children home or with a foster parent shall be encouraged unless it is not in the best interests of the child.

(3) The person in charge of an approved children home or the foster parent with whom the child is placed shall ensure that the child's development while in the approved home or with a foster family, particularly his health and education, is given paramount attention.

Special duties of the social services practitioner in relation to are orders.

111.-(1) It is the duty of the Department, before and after the termination of the care order, to work with the parents, guardians or relatives, to whom the child returns or is expected to return after the termination of the care order.

(2) The duties of the Department under this section include child and family counselling, before, during and after the child's return and gaining the assistance of those in the community who can help in the process of resolving the problems which caused the care order to be made.

(3) In carrying out its duties under this section, the Department shall bear in mind the wishes of the child.

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(4) Where a child is placed with a foster family, it shall be the responsibility of the Department to communicate with the guardians or parents of the child, to inform them of the progress of the child and to arrange a trial period for the child to be at home as soon as it is appropriate.

(5) The social services practitioner shall visit the child during the trial period at home and make plans for the future of the child in consultation with foster parents, the natural parents or the adoptive parents.

Interim supervision order and interim care order.

112.-(1) The Family Court or a magistrates court may, on hearing information on oath by a social services practitioner or an authorised person, that a child is suffering or likely to suffer harm, make an interim supervision or care order in respect of the child.

(2) An interim order may not be made unless a child is suffering or is likely to suffer harm.

(3) The maximum period for an interim order is three months but the court may prescribe a lesser period.

(4) If the social services practitioner wishes to recommend a full care or supervision order, he shall present such a recommendation to the court during the period of the interim order.

Exclusion order

113.-(1) The Family Court or a magistrates court may, in addition to, or in proceedings for a supervision order, care order, interim supervision order or interim care order, make an exclusion order prohibiting a named person from having contact with both the child and persons looking after the child.

(2) Before making an exclusion order, the Family Court or a magistrates court shall be satisfied that it is necessary for the protection of the child and to safeguard the child's welfare.

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(3) The Family Court or a magistrates court may specify the duration of the exclusion order.

Enforcement of exclusion order

114.-(1) Any person who breaches an exclusion order commits an offence and shall be dealt with in accordance with the provisions of this Act except that the social services practitioner may proceed on behalf of the State against the offender.

(2) The Family Court or magistrates court may vary or discharge an exclusion order on the application of the person named in the order or of the child concerned.

Search and production order.

115.-(1) The Family Court or a magistrates court may, in proceedings for an application for a care order, on hearing information on oath, make a search and production order authorizing a social services practitioner, with or without a police officer, to enter any premises specified in the order and to search for and remove to a place of safety, any child whom the social services practitioner believes or suspects is suffering or is likely to suffer significant harm.

(2) A child removed on a search and production order shall be produced in court within forty-eight hours after his or her removal.

Removal of a child under emergency protection.
42 of 1999.

116.-(1) As social services practitioner, or a member of the police department or an authorised person, who has reasonable grounds for believing that a child is suffering or is likely to suffer significant harm, may take the child and place him under emergency protection in a place of safety for a maximum period of forty-eight hours.

(2) As soon as possible and in any case within the period of forty-eight hours referred to in subsection (1) of this section, the social services practitioner, police officer or authorised person, as the case may be, shall make a report to the Family Court or a magistrates court, taking into account the wishes of the child.

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(3) A person who places a child under emergency protection may, if he deems it necessary, ensure the provision of medical attention or treatment, including medical examination of the child.

(4) Whenever a child is placed under emergency protection, his parents or the persons with whom the child was living shall be informed as soon as practicable and shall be allowed to have contact with the child unless it is not in the interests of the child.

(5) A police officer shall provide assistance to a social services practitioner or to an authorised person in order for that person to carry out the duties specified in subsection (1) of this section.

Offence to remove a child from a place of safety without authority.

117. Any person who without reasonable cause removes a child placed under emergency protection from a place of safety without the authority of the person in whose care and control the child is, commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to two years imprisonment, or to both such fine and term of imprisonment.

Persons who may apply for discharge or variation of supervision or care order.

118. Any of the following persons may apply for a supervision or care order to be discharged or varied,

(a) the child concerned;

(b) the child's parent or guardian;

(c) the person who has parental responsibility;

(d) the person with whom the child was living before the order was made;

(e) the social services practitioner.

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Duty of social services practitioner to investigate.

119. Where a social services practitioner is informed or has reasonable cause to believe that a child who lives or is found in his district is suffering or is likely to suffer significant harm, he shall make enquiries to decide whether to act to safeguard or promote the child's welfare.

Requirements to disclose information.

120. When the Family Court or magistrates court is satisfied that information concerning a child is being withheld by any person, it may summon that person to disclose the information and such person shall be obliged to disclose such information.

Medical examination of child.

121. The Family Court, a magistrates court, or a social services practitioner acting on behalf of the Director of the Department, or a police officer above the rank of sergeant, shall have power to order that a child be examined by a registered medical practitioner if there is any reason to believe that the child is in need of the examination, or for some reason requires a report concerning the child's physical or mental condition.

PART IX

Foster-Care Placements and Approved Children's Homes

Conditions for foster-care placements.

122.-(1) Where a care order has been made the social services practitioner may place the child with a person who is willing to undertake the care and maintenance of the child (in this Part referred to as a "foster parent').

(2) An application to foster a child shall be made to the social services practitioner, except that a relative of a child without a parent or guardian may foster the child without first applying to the social services practitioner and the provisions of this Part shall not apply to him or her.

(3) Foster-care placements shall be made in accordance with the rules set out in the Second Schedule to this Act.

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(4) The Minister may add, vary, amend or repeal and replace the rules set out in the Second Schedule to this Act.

Minister to approve children homes.

123. The Minister may grant approval for approved children homes to be established or maintained for children.

Purposes of approved children homes.

124.-(1) An approved children home shall provide substitute family care for a child until such time as the parents of the child are able to provide adequate care to meet his basic needs or the child can be reunited with its family or arrangements made for its custody or other permanent placement.

(2) It shall be the responsibility of the staff of the approved children home, the social services practitioner and any other person to assist the child to become reunited with his parents or guardian.

(3) After a child has been returned home from an approved children home, the probation and social services practitioner shall keep in regular contact with the child and his family until the completion of the order or its discharge.

(4) Where a child is unable to return to his or her parents or to go to foster parents or has no parent, nor a foster parent, he shall, where possible, be encouraged and assisted by the approved children home and the social services practitioner until placement can be arranged for the child.

Parental responsibility of warden of approved children home.

125. While a child is in an approved children home on a care order, the warden and staff of the home have parental responsibility for the child.

Contact with parents and relatives.

126.-(1) It shall be the duty of the approved children home and a social services practitioner to maintain contact with the parents or relatives of a child in the home as well as to maintain contact between the child and the parents or relatives of the child.

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(2) A named person may be refused contact by an exclusion order made by the court during proceedings on an application for a care order, or later on the application of the child or a social services practitioner to the court when such contact is not in the interests of the child.

(3) Any person refused contact with the child or the child himself may apply to court to have the order varied or discharged.

Removal of a child from approved children home.

127. A person who removes a child from an approved children home without reasonable cause commits an offence and shall be liable to a fine not exceeding ten thousand dollars or to imprisonment for three years, or to both such fine and term of imprisonment.

Recovery order

128.-(1) When a court has been informed on information on oath that a child has been removed unlawfully from an approved children home, it may make a recovery order.

(2) A recovery order may,

(a) direct any person who is in possession of the child to produce him on demand to any authorised person;

(b) require removal of the child by an authorised person;

(c) require any person who has information leading to the child's whereabouts to disclose it;

(d) authorise a search by any police officer or social services practitioner of any premises where the child is believed to be staying; and

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(e) specify the name of the child in question and the person who has the current main parental responsibility.

Application for a recovery order.

129. Any of the following persons may apply for a recovery order,

(a) a person with parental responsibility for the child; or

(b) a social services practitioner.

Escape from approved children home.

130.-(1) A child who runs away from an approved children home to which he has been committed or from a person in whose care he has been placed on emergency or committed by the court on a care order may, pending investigation,

(a) be brought back to the approved children home or to the person from which or from whom he has run away; or

(b) be put in an alternative approved home or place of safety.

(2) As soon as possible, the child shall be interviewed by the social services practitioner or an authorised person who shall also interview the person in charge of the home or the person in whose care the child had been placed.

(3) The child may then be returned to where he had been placed or, if that is not in the child's best interests, he may be moved by the social services practitioner under a care order or otherwise returned to court for variation or discharge of the order.

Court's power to order parent or guardian to contribute.

131.-(1) Where an approved children home has custody of a child who has a parent or guardian, the court may order the parent or guardian to contribute towards the child's maintenance.

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(2) The amount contributed shall be reasonable and within the means of the parent or guardian and may be varied by the court if there is a change in the person's circumstances.

(3) A contribution order made under this section shall remain in force as long as the child is in the home; but a person contributing may, at any time, apply to the court for the order to be varied or discharged on the ground that his circumstances have changed since the order was made.

Rules for carrying this Part into effect.

132. The Minister may make rules for carrying this Part into effect, and in particular for,

(a) prescribing the form of application for an approved children home;

(b) prescribing requirements as to the accommodations and equipment to be provided in approved children homes;

(c) prescribing the medical arrangements to be made for protecting the health and well-being of the children in approved children homes;

(d) regulating the management and discipline of approved children homes; and

(e) the regular inspection of the approved children homes.

PART X

Adoption

Interpretation in this Part.

133. In this Part, unless the context otherwise requires, "adopted child" means a child authorised to be adopted;

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"adopter" means the person authorised by an adoption order to adopt a child, and includes both spouses jointly in whose favour an adoption order is made on their joint application;

"adoption order" means an order authorizing the applicant to adopt a child who has never been married;

"court" means the Supreme Court;

"interim order" means an order under section 141 of this Act.

Power to make adoption orders.

134.-(1) Upon an application in the prescribed manner by any person desirous of being authorised to adopt a child who has never been married, the court may, subject to this Act, make an adoption order.

(2) Where an application for an adoption order is made by two spouses jointly, the court may make the order authorizing the two spouses jointly to adopt, but except where two spouses apply jointly, no adoption order shall be made authorizing more than one person to adopt a child.

(3) The court shall appoint a guardian *ad litem* to ensure that the best interests of the child are protected.

(4) The court shall direct that a copy of the application for adoption be served on the Department.

(5) For the purposes of this section, a guardian *ad litem* includes a social services practitioner or a person approved by the Family Court.

Restriction on making adoption order.

135.-(1) An adoption order shall not be made unless the applicant, or, in the case of a joint application, one of the applicants has attained the age of twenty-five years and is at least twelve years older than the child. However, where the applicant and the child is within the prohibited degree of consanguinity, the court may, if it thinks fit, make an order

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notwithstanding that the applicant is less than twelve years older than the child.

(2) An adoption order shall not be made in respect of a child who is female, in favour of a sole applicant who is male, unless the court is satisfied that there are special circumstances which justify the making of an adoption order (such as in cases of serious disability, or where the applicant and the child are within the prohibited degree of consanguinity).

(3) Subject to section 136, an adoption order shall not be made except,

(a) with the consent of every person or body who is a parent or guardian of the child or who has the actual custody of the child or who is liable to contribute to the support of the child;

(b) on the application of one or two spouses, with the consent of the other spouse.

(4) An adoption order shall not be made unless the social services practitioner or an approved organization has submitted a report to the court on the suitability of the applicant for adopting the child.

(5) Subject to section 137 of this Act, an adoption order shall not be made unless the applicant and the child are Belizean citizens.

(6) In circumstances where the applicant for an adoption is a non- resident Belizean citizen, such an applicant shall be required to provide a current recommendation concerning his suitability to adopt a child from the probation or other competent authority of the country where he currently resides.

(7) For the purposes of an application under subsection (6) of this section, a social services practitioner shall be required to verify in writing (at the cost of the applicant) the

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recommendation referred to in the said subsection, and the social services practitioner shall submit to the court a report of the findings of his inquiry.

Consent to adoption.

136. The court may dispense with any consent required by section 135 (3)*(a)* of this Act if it is satisfied,

(a) that the person whose consent is to be dispensed with has abandoned or deserted the child;

(b) that the person liable to contribute to the support of the child has, for a period of not less than one year, persistently neglected the child or refused to contribute towards the child's support;

(c) that the person whose consent is required cannot be found within three weeks before the making of the order, or is incapable of giving his consent; or

(d) that one or both of the parents is or are unable to give consent due to mental incapacity.

Inter-country adoptions.

137.-(1) A person who is not a citizen of Belize may adopt Belizean child if he or she,

(a) does not have a criminal record;

(b) has a current recommendation concerning his suitability to adopt a child from his country's probation and welfare office or other competent authority; and

(c) has satisfied the court that his country of origin will respect and recognise the adoption order.

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(2) For the purposes of an application to which this section applies, a social services practitioner shall be required to verify in writing (at the cost of the applicant) the recommendation referred to in subsection (1) (b) of this section, and the social services practitioner shall submit to the court a report of the findings of his inquiry.

(3) The court may, in addition to the report required under subsection (2) of this section, require some other person or authority to make a report in respect of the application.

(4) Adoption orders made under section 141 of this Act, shall remain provisional for 12 months during which time quarterly reports shall be submitted to the court by a competent authority in the country where the adopted child lives on the status and progress of the adopted child. After the 12 months period has expired, an application can be made to the court for the adoption to be made final.

Matters with respect to which court to be satisfied

138.-(1) The court, before making an adoption order, shall be satisfied,

(a) that every person whose consent is necessary under this Act and whose consent is not dispensed with has consented to, and understands the nature and effect of, the adoption order for which application is made, and in particular in the case of any parent, understands that the effect of the adoption order will be permanently to deprive him of his parental rights;

(b) that the order, if made, will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child, having regard to the age and understanding of the child; and

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(c) that the applicant has not received or agreed to receive, and that no person has made or given, or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption, except such as the court may sanction.

Terms and conditions of order.

139. The court, in an adoption order, may impose such terms and conditions as it thinks fit and in particular, may require the adopter by bond or otherwise to make for the adopted child such provisions, if any, as in the opinion of the court are just and expedient.

Effect of adoption order.

140.-(1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents or guardians of the adopted child, in relation to the future custody, maintenance and education of the adopted child, including all rights to appoint a guardian and to consent or give notice of dissent to marriage, shall be extinguished, and all such rights, duties, obligations and liabilities as aforesaid shall vest in, and be exercisable by and enforceable against, the adopter as though the adopted child was born to the adopter in lawful wedlock.

(2) In respect of the matters mentioned in subsection (1) of this section and the liability of a child to maintain its parents, the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.

(3) In any case where two spouses are the joint adopters, the spouses shall, in respect of the matters mentioned in subsection (1) of this section and for the purpose of the jurisdiction of the court to make orders relating to the custody, maintenance and right of access to children, stand to each and to the adopted child in the same relation as they would have stood if they had been the lawful natural parents of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child would have stood to a lawful natural father and mother respectively.

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(4) An adoption order shall not deprive the adopted child of any right to or interest in property to which, but for the order, the child would have been entitled under any intestacy or disposition, whether occurring or made before or after the making of the adoption order, or confer on the adopted child any right to or interest in property as a child of the adopter and the expression "child", "children" and "issue" where used in any disposition, whether made before or after the making of an adoption order, shall not, unless the contrary intention appears, include an adopted child or children or the issue of an adopted child.

(5) Where an adopted child or the spouse or issue of an adopted child takes any interest in real or personal property under a disposition by the adopter, or where an adopter takes any interest in real or personal property under a disposition by an adopted child or the spouse or issue of an adopted child, any succession, legacy or other duty which becomes leviable in respect thereof shall be payable at the same rate as if the adopted child had been a child born to the adopter in lawful wedlock.

(6) For the purposes of this section, "disposition" means an assurance of any interest in property, by an instrument whether *inter vivos* or by will, including a codicil.

(7) For the purposes of any enactments relating to Friendly Societies, Collecting Societies or other Associations, which enable such societies and associations to insure money to be paid for funeral expenses, and which restrict the persons to whom money may be paid on the death of a child under the age of ten, the adopter shall be deemed to be the parent of the child, and where before the adoption order was made any such insurance had been effected by the natural parent of the child, the rights and liabilities under the policy shall by virtue of the adoption order be transferred to the adopter, and the adopter shall, for the purposes of the said enactments, be treated as the person who took out the policy.

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Interim orders.

141.-(1) Upon any application for an adoption order, the court may postpone the determination of the application and may make an interim order, which shall not be an adoption order for the purposes of the Act, giving the custody of the child to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance, education, supervision of the welfare of the child and otherwise as the court may think fit.

(2) All such consents as required to an adoption order shall be necessary to an interim order, but subject to a like power on the part of the court to dispense with any such consent.

Power to make subsequent order.

142. An adoption order or an interim order may be made in respect of a child who has already been the subject of an adoption order and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made against shall, if living, be deemed to be the parent or parents of the child for all the purposes of this Act.

Restriction on receiving payments or rewards.

143. It shall not be lawful for any adopter or for any parent or guardian, except with the sanction of the court, to receive any payment or other reward in consideration of the adoption of any child under this Act, or for any person to make or give to, or agree to make or give to, any adopter or to any parent or guardian any such payment or reward.

Provisions as to existing de facto adoptions.

144. Where at the date of the commencement of this Act any child is in the custody of, and being brought up, maintained and educated by, any person or two spouses jointly as his, her or their own child under any de facto adoption and has for a period of not less than two years before such commencement been in such custody, and been so brought up, maintained and educated, the court may, upon the application of such person or spouses, and notwithstanding that the applicant is a male and the child a female, make an adoption order authorising him, her or them to adopt the child without requiring the consent of any parent or guardian of the child to be obtained, upon being

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satisfied that in all circumstances of the case it is just and equitable and for the welfare of the child that no such consent should be required and that an adoption order should be made.

Adopted Children Register.

145.-(1) The Registrar General shall establish and maintain at the General Registry a register to be called the Adopted Children Register, in which shall be made such entries as may be directed to be made therein by adoption orders, but not any other entries.

(2) Every adoption order shall contain a direction to the Registrar General to make in the Adopted Children Register an entry recording the adoption in the form set out in the Third Schedule hereto.

(3) If upon any application for an adoption order there is proven to the satisfaction of the court,

(a) the date of the birth of the child; and

(b) that the identity of the child is the same as that of a child to which any entry or entries in the Register of Births relates,

the adoption order shall contain a further direction to the Registrar General to cause such birth, entry or entries in the Register of Births, to be marked with the word "Adopted", and to include in the entry in the adoption the date stated in the order of the adopted child's birth in the manner indicated in the Third Schedule hereto.

(4) The prescribed officer of the court shall cause every adoption order to be communicated in the prescribed manner to the Registrar General, and upon receipt of such communication the Registrar General shall cause compliance to be made with the directions contained in such order in regard both to the marking of an entry in the Register of Births and Deaths with the word "Adopted", and in regard to marking the appropriate entry in the Adopted Children Register.

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(5) A certified copy of any entry in the Adopted Children Register, if purporting to be sealed or stamped with the seal of the General Registry shall, without any further or other proof of such entry,

(a) where the entry does not contain any record of the date of the birth of the adopted child, be received as evidence of the adoption to which it relates; and

(b) where the entry contains a record of the date of the birth of the adopted child, be received not only as evidence of the adoption to which it relates, but also as evidence of the date of the birth of the adopted child to which the entry relates in all respects as though it were a certified copy of an entry in the Register of Births.

(6) The Registrar General shall cause an index of the Adopted Children Register to be made and kept in the General Registry and every person shall be entitled to search such index and to have a certified copy of any entry in the Adopted Children Register, in all respects upon, and subject to such terms, conditions and regulations as to payment of fees and otherwise as may be prescribed.

(7) The Registrar General shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein as may be necessary to record and make traceable the connection between any entry in the Register of Births which has been marked "Adopted" pursuant to subsection (3) of this section and any corresponding entry in the Adopted Children Register.

(8) The registers and books kept under subsection (7) of this section, shall not, nor shall any index thereof be, opened to public inspection or search, nor shall the Registrar General furnish any person with any information contained in or with

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any copy or extracts from any such registers or books, except under an order of a court of competent jurisdiction.

Rules of court.

146.-(1) Rules of court may be made with regard to,

(a) any matter to be prescribed under this Part;

(b) the admission of documentary evidence of any consent to adoption;

(c) the admission of evidence, documentary or otherwise, to determine the age of the child;

(d) the manner in which application to the court under this Part may be made;

(e) the manner in which an authorized officer is to prepare a report for the court to determine whether an adoption order will be for the best interests of the child;

(f) all matters of procedure generally and incidental to questions arising out of this Part and necessary for carrying it into effect.

(2) Such rules may provide for applications for adoption orders being heard and determined otherwise than in open court.

(3) For the purpose of any application under this Act and subject to any rules made under this section, the court shall appoint some person or body to act as guardian ad litem of the child upon the hearing of the application with the duty of safeguarding the interests of the child before the court.

Regulations regarding births and deaths.

147. Regulations made by the Minister under the Registration of Births and Deaths Act, Cap. 157, may make provision as to the duties to be performed by Registrars of

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Births and Deaths and Deputy Registrars of Births and Deaths in the execution of this Act.

PART XI

Establishment, Functions and Terms of Reference of the National Committee for Families and Children

Establishment of the National Committee for Families and Children.
13 of 2007.

148.-(1) There is established a body to be known as the National Committee for Families and Children (hereinafter referred to as "the Committee"), consisting of the Executive Director of the Committee who shall be an ex-officio member without the right to vote, and one senior representative, appointed by the Minister, from each of the following entities,

(a) the Ministry with responsibility for Social Services;

(b) the Ministry with responsibility for Education;

(c) the Ministry with responsibility for Health;

(d) the Ministry with responsibility for Labour;

(e) the Attorney-General's Ministry;

(f) a Non-Governmental Organisation principally concerned with child protection or child abuse prevention services;

(g) a Non-Governmental Organisation principally concerned with issues affecting adolescents at risk;

(h) an International Donor Agency principally concerned with the welfare of families and children;

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(i) the Council of Churches;

(j) the Judiciary;

(k) the National Women's Commission;

(l) the Statistical Institute of Belize;

(m) the Belize Police Department;

(n) a Non-Governmental Organization principally concerned with the welfare of families and children, chosen, on a rotative basis, from among the Belize Family Life Association, the Young Women's Christian Association, the Young Men's Christian Association, the Girl Guides' Association of Belize or the Scouts' Association of Belize.

(2) The term of office of the members of the Committee appointed under subsection (1) of this section, shall be for a period of two years in the first instance, but each member shall be eligible for reappointment.

(3) The Minister, or a suitably qualified person designated by the Minister in that behalf, shall be the Chairperson of the Committee

Functions and terms of reference of the Committee.
13 of 2007.

149. The Functions and terms of reference of the Committee shall be as follows,

(a) promoting, monitoring and evaluating the implementation of the Convention on the Rights of the Child, and ensuring that the Government meets its national and international obligations as a party to the Convention; promoting, monitoring and evaluating the implementation of the goals reached at the world summits on the

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Convention on the Rights of the Child, through the Belize National Plan for Human Development, Children and Youth;

(b) promoting, monitoring and evaluating the implementation of the goals reached at world summits on families' and children's, issues through the national development plan for children and adolescents;

(c) promoting meaningful consultations, public awareness and education on national issues affecting families and children, and facilitating effective and efficient planning and co-ordination of efforts among and between non- governmental organizations, service clubs, churches and other organizations involved in the provision of services for families and children;

(d) ensuring that the various institutions, communities and homes in Belize apply the standards of protection and care of children set out in this Act and regulations made hereunder and in the Convention on the Rights of the Child within their institutional, community or family setting;

(e) *r*ecommending and advocating to, and at different levels and institutions of, the Belizean society for,

(i) policies for the care, protection and maintenance of families and children in Belize;

(ii) the contribution of resources from the international community and the local private sector.

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(f) facilitating effective and efficient planning and coordination of efforts among and between government organisations, non-governmental organisation, service clubs, churches and other organisations involved in the provisions of services for families and children.

Oversight powers of the Ministry

150. The Ministry shall oversee the work of the Committee and take such action as is considered necessary to implement its recommendations.

PART XII

Miscellaneous

Attendance of child at hearing.

151.-(1) In any proceedings in which a court is hearing an application for an order under this Act, or is considering whether to make such an order, the court may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order.

(2) The power conferred by subsection (1) of this section, shall be exercised in accordance with any rules of court.

(3) Subsections (4) to (6) of this section apply where,

(a) an order under subsection (1) of this section has not been complied with; or

(b) the court has reasonable cause to believe that it will not be complied with.

(4) The court may make an order authorising a police officer,

(a) to take charge of the child and to bring him to court; and

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(b) to enter and search any premises specified in the order if he has reasonable cause to believe that the child may be found on the premises.

(5) The court may order any person who is in a position to do so to bring the child to court.

(6) Where the court has reason to believe that a person has information about the whereabouts of the child, it may order him to disclose that information to the court.

Evidence given by, or with respect to children.

152.-(1) Subsection (2) of this section applies where a child who is called as a witness in any civil proceeding does not, in the opinion of the court, understand the nature of an oath.

(2) The child's evidence may be heard by the court if, in its opinion,

(a) he understands that it is his duty to speak the truth; and

(b) he has sufficient understanding to justify his evidence being heard.

(3) Where,

(a) in any proceedings before the court evidence is given in connection with the upbringing, maintenance or welfare of a child; or

(b) in any civil proceedings before the court,

(i) a statement is made by a child;

(ii) a statement is made by a person concerned with or having control of a child that he has assaulted, neglected or ill-treated the child; or

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(iii) a statement is included in any report made by a guardian ad litem appointed under this Act,

that evidence or statement shall be admissible in those proceedings, notwithstanding any rule of law relating to hearsay.

Privacy for children involved in certain proceedings.

153.-(1) A court may decide to sit in private for the whole or part of any proceedings in which any power under this Act may be exercised by that court with respect to any child.

(2) It shall be an offence for any person to publish any material which is intended, or is likely, to identify,

(a) any child as being involved in any proceedings before a court in which any power under this Act may be exercised by the court with respect to that or any other child;

(b) an address or school as being that of a child involved in any such proceedings; or

(c) any child involved in any alleged crime, whether as a victim, witness or the accused person.

(3) In any proceedings for an offence under this section it shall be a defence for the accused to prove that he did not know, and had no reason to suspect, that the published material was intended, or was likely, to identify the child.

(4) The court may, if satisfied that the welfare of the child requires it, by order dispense with the requirements of subsection (2)(a) or (b) this section to such extent as may be specified in the order.

(5) For the purposes of this section, "material" includes any picture or representation. "publish" includes,

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(a) broadcast by radio, television or cable or satellite television; or

(b) cause to be published in any newspaper or by any other manner whatever;

(6) Any person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and term of imprisonment.

Regulations

154.-(1) The Minister may make regulations generally for the better carrying out of the provisions and purposes of this Act.

(2) Without prejudice to the generality of subsection (1) of this section, the Minister may make regulations,

(a) defining child abuse;

(b) prescribing reporting requirements for child abuse;

(c) providing for the protection of children;

(d) regulating child pornography;

(e) providing for the prevention of the use of illicit drugs and also for the rehabilitation of children;

(f) prohibiting the traffic of children for prostitution or pornographic purposes.

(3) Regulations made under subsection (1) of this section may prescribe in relation to any contravention of the regulations a penalty not exceeding five thousand dollars or two years imprisonment or both and may provide additional penalties for continuing or repeated offences.

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(4) The Regulations may also, subject to the provisions of this Act, provide for the charging of fees for the doing of anything under this Act.

Repeals.

155.-(1) The following Acts are hereby repealed,

(a) The Adoption of Children Act, Cap.135 R.E. 1980-1990;

(b) The Family Maintenance Act, Cap.136 R.E. 1980-1990;

(c) The Infants Act, Cap. 138 R. E. 1980-1990;

(d) The Legitimacy Act, Cap. 139 R. E 1980-1990;

(e) The Status of Children Act, Cap. 143 R. E. 1980-1990;

(f) The Children Born out of Wedlock Act, Cap. 137 R. E. 1980-1990.

(2) Notwithstanding the repeal of the above Acts, all subsidiary legislation made under any of the repealed Acts shall continue to have full force and effect until repealed or replaced by subsidiary legislation made under this Act.

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SCHEDULE 1

FAMILIES AND CHILDREN ACT

Guide lines for implementing the Provisions of the Act

[Section 3]

1. Whenever the state, a court, a Government agency or any person determines any question with respect to,

(a) the upbringing of a child; or

(b) the administration of a child's property or the application of any income arising from it,

the child's welfare shall be the paramount consideration.

Time to be of essence.

2. In all matters relating to a child, whether before a court of law or before any other person, regard shall be had to the general principle that any delay in determining the question is likely to be prejudicial to the welfare of the child.

Criteria for decisions. 13 of 2007.

3. In determining any question relating to circumstances set out in subparagraphs *(a)* and *(b)* of paragraph 1, the court or any other person shall have regard in particular to,

(a) the ascertainable wishes and feelings of the child concerned considered in the light of his or her age and understanding;

(b) the child's physical, emotional, health and educational needs;

(c) the likely effects of any changes in the child's circumstances;

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(d) the child's age, sex, background and any other circumstances relevant in the matter;

(e) any harm that the child has suffered or is at the risk of suffering;

(f) where relevant, the capacity of the child's parents, guardians or others involved in the care of the child in meeting his or her needs.

Rights of the child.

4. A child shall have the right,

(a) to leisure which is not morally harmful, and the right to participate in sports and positive cultural and artistic activities;

(b) to a just call on any social amenities or other resources available in any situation of armed conflict or natural or man-made disasters;

(c) to exercise, in addition to all the rights stated in this Schedule and the Act, all the rights set out in the U.N. Convention on the Rights of the Child, with appropriate modifications to suit the circumstances in Belize, that are not specifically mentioned in the Act or in this Schedule.

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SCHEDULE 2

FAMILIES AND CHILDREN ACT

Foster-Care Placement Rules

[Section 122 (3) and (4)]

ARRANGEMENT OF RULES

1. Short title.

2. Interpretation.

3. Application of rules.

4. Application to foster a child

5. Persons qualified to foster a child.

6. Religion.

7. Cultural background.

8. Undertaking by foster parents.

RULE

Short title.

1. These Rules may be cited as the Foster-Care Placement Rules.

Interpretation.

2. In these Rules, unless the context otherwise requires, "approved home" means a home approved by the Minister;

"child" means a person below the age of eighteen years, unless provided otherwise in any law;

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"foster child" means a child placed with a foster parent or foster family;

"foster family" means a family in which a child is placed;

"foster parent" means a person with whom a child is placed under these Rules;

"supervising officer" means the social services practitioner or a responsible person delegated by him to act on his behalf.

Application of Rules.

3. These Rules apply to the placement of a child with foster parents by a social services practitioner.

Application to foster a child.

4. Any person interested in fostering a child shall complete the prescribed application form and submit it to a social services practitioner.

Persons qualified to foster children.

5.-(1) The following persons may apply to be foster parents,

(a) a husband and wife;

(b) a single woman not below the age of twenty-one years; or

(c) a single man not below the age of twenty-one years.

(2) A single man may not foster a female child under these Rules.

Religion.

6.-(1) Where a child's religion is known, the child so far as possible shall be placed with a foster parent who is of the same religion as the foster child.

(2) Where a child's religion is not known, the child shall be placed with a foster parent who shall undertake to bring up the child in accordance with his religious denomination.

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Cultural background.

7. Wherever possible, a child shall be placed with a foster parent who has the same cultural background as the child's parents.

Undertaking by foster parents.

8.-(1) Each foster parent shall, on the day on which the child is placed with him, sign the undertaking in the prescribed form in the presence of a witness.

(2) Where the prospective foster parent cannot read the English language sufficiently to understand the nature of the undertaking, the supervising officer or the authorised officer concerned shall cause the undertaking to be explained to the prospective foster parent in a language which he understands and shall certify to that effect.

(3) Each foster parent shall be given a copy of the undertaking signed by him.

(4) A copy of the undertaking shall also be sent to a social services practitioner.

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SCHEDULE 3

FAMILIES AND CHILDREN ACT

Register of Adopted Children

[Section 145 (2) and (3)]

No. of entry	
Date of entry	
Name of adopted child (Enter name as stated in adoption order)	
Sex of adopted child (Enter sex as stated in adoption order)	
No. of entry	
Name and surname, address and occupation of adopter or adopters (Enter name, address and occupation as stated in adoption order)	
Date of birth of child (Enter date of birth (if any) directed by the adoption order, but otherwise no entry)	
Date of adoption order and description of court by which made (Entry to be made as appearing in the adoption order)	
Signature of officer deputed by Registrar General to attest the entry	

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