

美、英少年事件處理法介紹

美國

十九世紀中葉之後，因產業革命帶來之衝激，世界先進國家之社會日新月異，美國首當其衝。當時由於社會工業化加速進行，外國移民大量增加，城市人口膨脹迅速，個人之就業、婚姻、家庭、財富以及價值觀，莫不因社會之變遷而發生變動。城市社會吃喝嫖賭之病態，最易腐蝕人心，少年處此污染之社會環境，因調適困難而誤入歧途者日見增多；然少年與成年犯罪之處理程序並無不同，此不公平的現象，使有識之士紛紛起而主張改革。1899年伊利諾州通過「少年法院法」(Juvenile Court Act)，全世界第一部少年法於焉誕生，自此之後，其他各州相繼仿行，至1912年，全國幾有半數之州採行其制。1925年全國僅剩二州尚未立法施行，時至今日，全國五十州以及華府特區，均已全部施行少年法制。聯邦政府亦於1938年由國會通過「少年法院條例」(Juvenile Court Act)，明文規定未滿十八歲之少年，觸犯聯邦法律者，得由聯邦地方法院處理之，但不得處死刑或無期徒刑，並明定其處理程序及矯治機關。1968年全美法律協會通過「少年法統一法典」(Uniform Juvenile Court Act)，雖無任何法律效力，但其內容新穎而精要，確屬少年立法之範例。

相關法案包括：

- 1938 Juvenile Court Act of the District of Columbia
- 1961 Juvenile Delinquency and Youth Offenses Control Act
- 1968 Juvenile Delinquency Prevention Act and Control Act
- 1971 Juvenile Delinquency Prevention and Control Act Amendment
- 1971 Juvenile Delinquency Prevention Act
- 1972 Juvenile Delinquency Prevention Act
- 1974 Juvenile Justice and Delinquency Prevention Act
- 1976 Crime Control Act
- 1977 Juvenile Justice Amendment
- 1980 Juvenile Justice Amendment

Juvenile Justice Amendments of 1980

1. Short title
2. Authorization of appropriations
3. Findings
4. Purpose
5. Definitions
6. Office of Juvenile Justice and Delinquency Prevention

7. Concentration of Federal Efforts
8. Coordinating Council on Juvenile Justice and Delinquency Prevention
9. National Advisory Committee for Juvenile Justice and Delinquency Prevention
10. Allocation
11. State Plans
12. Special Emphasis Prevention and Treatment Programs
13. Use of Funds
14. Payments
15. Designation of State Agencies
16. Administrative Provisions
17. Report Regarding Confinement of Juveniles in Jails for Adults
18. Runaway and Homeless Youth
19. Technical and Conforming Amendments

英國

英國早期之衡平法院即確立「國家有義務保護無成人教養之少年」之觀念，於1905年在Birmingham成立第一所少年法院，並在1908年公佈兒童法（The Children Act），同年公佈犯罪預防法，採「波爾斯坦」制度（Borstal System），在少年法歷史上亦佔重要之位置。

相關法案包括：

- 1933 Children and Young Persons Act
- 1952 Children and Young Persons Act (Amendment)
- 1963 Children and Young Persons Act
- 1969 Children and Young Persons Act
- 1971 Guardianship of Minors Act
- 1972 Children Act
- 1973 Guardianship Act
- 1975 Children Act
- 1980 Child Care Act
- 1980 Foster Children Act
- 1986 Children and Young Persons Act (Amendment)
- 1989 Children and Young Persons Act

Children Act 1989

1. Welfare of the child

2. Parental responsibility for children.
3. Meaning of "parental responsibility"
4. Acquisition of parental responsibility by father
5. Appointment of guardians
6. Guardians: revocation and disclaimer
7. Welfare reports
8. Residence, contact and other orders with respect to children
9. Restrictions on making section 8 orders
10. Power of court to make section 8 orders
11. General principles and supplementary provisions
12. Residence orders and parental responsibility
13. Change of child's name or removal from jurisdiction
14. Enforcement of residence orders
15. Orders for financial relief with respect to children
16. Family assistance orders
17. Provision of services for children in need, their families and others
18. Day care for pre-school and other children
19. Review of provision for day care, child minding etc
20. Provision of accommodation for children: general
21. Provision of accommodation for children in police protection or detention or on remand, etc.
22. General duty of local authority in relation to children looked after by them
23. Provision of accommodation and maintenance by local authority for children whom they are looking after
24. Advice and assistance for certain children
25. Use of accommodation for restricting liberty
26. Review of cases and inquiries into representations
27. Co-operation between authorities
28. Consultation with local education authorities
29. Recoupment of cost of providing services etc
30. Miscellaneous
31. Care and supervision orders
32. Period within which application for order under this Part must be disposed of

33. Effect of care order
34. Parental contact etc with children in care
35. Supervision orders
36. Education supervision orders
37. Powers of court in certain family proceedings
38. Interim orders
39. Discharge and variation etc of care orders and supervision orders
40. Orders pending appeals in cases about care or supervision orders
41. Representation of child and of his interests in certain proceedings
42. Right of guardian ad litem to have access to local authority records
43. Child assessment orders
44. Orders for emergency protection of children
45. Duration of emergency protection orders and other supplemental provisions
46. Removal and accommodation of children by police in cases of emergency
47. Local authority's duty to investigate
48. Powers to assist in discovery of children who may be in need of emergency protection
49. Abduction of children in care etc
50. Recovery of abducted children etc
51. Refuges for children at risk
52. Rules and regulations
53. Provision of community homes by local authorities
54. Directions that premises be no longer used for community home
55. Determination of disputes relating to controlled and assisted community homes
56. Discontinuance by voluntary organisation of controlled or assisted community home
57. Closure by local authority of controlled or assisted community home
58. Financial provisions applicable on cessation of controlled or assisted community home or disposal etc of premises
59. Provision of accommodation by voluntary organisations

60. Registration and regulation of voluntary homes
61. Duties of voluntary organisations
62. Duties of local authorities
63. Children not to be cared for and accommodated in unregistered children's homes
64. Welfare of children in children's homes
65. Persons disqualified from carrying on, or being employed in, children's homes
66. Privately fostered children
67. Welfare of privately fostered children
68. Persons disqualified from being private foster parents
69. Power to prohibit private fostering
70. Offences
71. Registration
72. Requirements to be complied with by child minders
73. Requirements to be complied with by persons providing day care for young children
74. Cancellation of registration
75. Protection of children in an emergency
76. Inspection
77. Appeals
78. Offences
80. Inspection of children's homes etc by persons authorised by Secretary of State
81. Inquiries
82. Financial support by Secretary of State
83. Research and returns of information
84. Local authority failure to comply with statutory duty: default power of Secretary of State
85. Children accommodated by health authorities and local education authorities
86. Children accommodated in residential care, nursing or mental nursing homes
87. Welfare of children accommodated in independent schools
88. Amendments of adoption legislation
89. Tests to establish paternity

90. Care and supervision orders in criminal proceedings
91. Effect and duration of orders etc
92. Jurisdiction of courts
93. Rules of court
94. Appeals
95. Attendance of child at hearing under Part IV or V
96. Evidence given by, or with respect to ,children
97. Privacy for children involved in certain proceedings
98. Self-incrimination
99. Legal aid
100. Restrictions on use of wardship jurisdiction
101. Effect of orders as between England and Wales and Northern Ireland, the Channel Islands or the Isle of Man
102. Power of constable to assist in exercise of certain powers to search for children or inspect premises
103. Offences by bodies corporate
104. Regulations and orders
105. Interpretation
106. Financial provisions
107. Application to Channel Islands
108. Short title, commencement and extent

(可參見「圖書資料簡訊」第三十四期，第四頁至第七頁。)

參考書目

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| 1.少年犯罪與觀護制度 | 548.58/7717 |
| 2.美國少年法制之研究 | 585.7852/1133 |
| 3.中美少年法 | 585.78/7263 |
| 4.中外觀護制度之比較研究 | 585.59/1033 |
| 5.少年事件處理法研究 | 585.78/4433 |
| 6.Making Sense of the Children Act | 342.42087/A428 |
| 7.Children Before the Court | 345.73081/K44 |
| 8.Young Men in Prison | 345.03/L778 |
| 9.Child Law | 346.0172/B571 |