

FEDERAL LAW GAZETTE

FOR THE REPUBLIC OF AUSTRIA

Year 1989

Issued on April 11. 1989

66th issue

Federal Law 161: Youth Welfare Act 1989 (JWG)
(NR: GP XVII RV 171 AB 872 S. 96. BR: 3653 S. 513.)

Federal Law 162: Amendment of the Law of Parents and Child (KindRÄG)
(NR: GP XVII RV 172 AB 887 S. 96. BR: AB 3657 S. 513.)

**Federal Law no. 161 from 15. March 1989,
establishing principles for maternity, infant and
youth welfare and adopting provisions for direct
application in this scope (Youth Welfare Act
1989 – JWG)**

The National Council has decided:

PART ONE

Basic Provisions

CHAPTER ONE

General Rules

Duty of the Public Youth Welfare

§ 1. (1) The public maternity, infant and youth welfare (Public Youth Welfare) shall

1. provide for the social welfare of mothers, expectant mothers and their unborn child and of infants and their parents (maternity and infant welfare),
2. promote the development of minors by offering support with care and education and granting educational measures (youth welfare).

(2) Inter-governmental agreements, as well as the Federal Law from 23. January 1974, regarding acts subject to legal penalty (Criminal Code), remain unaffected.

Family and Public Youth Welfare

§ 2. (1) The Public Youth Welfare has the general duty to advise and to support the family in carrying out its duties in the care and education of minors.

(2) Public Youth Welfare shall be granted, if and to the extent, where the persons holding the parental responsibility do not guarantee the minor's welfare.

(3) Public Youth Welfare may interfere with the family-context and family relations only to such an extent, as this is necessary for the minor's welfare. This is particularly the case where violence is used or where physical or mental harm is affected in order to reach educational objectives.

Individual scope of application

§ 3. Public Youth Welfare shall be granted to all persons residing in the country; to Austrian citizens and stateless persons, in any case, if they are ordinarily resident in Austria.

Responsible authorities and procurement

§ 4. (1) The responsible authority for the Public Youth Welfare is the Province (youth welfare authority).

(2) The legislation of the Province determines which organisation-units are responsible for handling the duties of the Public Youth Welfare.

Local competence

§ 5. (1) The local competence of the youth welfare authority depends on the ordinary residence, and in the absence of such, on the residence of the person concerned.

(2) In the case of imminent danger the locally competent youth welfare authority are those, in whose sphere of activity the required measure must

be taken. Yet the youth welfare authority, in whose area the concerned person has his ordinary residence, shall reimburse the costs.

Professional requirements

§ 6. (1) The Provincial legislation must guarantee that the Public Youth Welfare is carried out by suitable personnel. It must also provide for the further training required.

(2) Where necessary for the accomplishment of the duty, specialised personnel must be employed.

(3) Public Youth Welfare must be granted under observation of generally recognized scientific discoveries and in consideration of the decisive special fields.

Planning and research

§ 7. For their planning, the youth welfare authorities must consider the social developments, as well as, the results of research in the respective fields. If necessary, they must endeavour to introduce the corresponding research projects.

Non-governmental youth welfare organisations (NGOs)

§ 8. (1) Non-governmental youth welfare organisations may be brought in for the handling of non-governmental duties, if their objective and equipment are suitable. Where with regard to equipment and other services, a NGO can guarantee a minor's welfare more effectively and more economically than the public authority, the NGO shall be appointed.

(2) On application of the interested institution, the public youth welfare authority decides by notice about the eligibility. The NGOs are then supervised by the public youth welfare authority.

(3) If the required preconditions change, the public youth welfare authority shall examine the eligibility of the institution and, if necessary, decide again.

Obligation of secrecy

§ 9. If not otherwise provided by statute, the persons employed in youth welfare are bound to observe secrecy about any facts they have learned exclusively from this activity.

Children's and Youth Advocate

§ 10. The youth welfare authorities are appointed

1. to advise minors, persons with parental responsibility and legal representatives in all matters relating to the position of

minors and the duties of the person holding parental responsibility.

2. to help in cases of different opinion and disagreements concerning care and upbringing.

CHAPTER TWO

Services of the Youth Welfare

Section 1

Social Services

Provisions for social services

§ 11. (1) Social services present assistance in meeting equally arising needs of parents to be, minors and those who hold parental responsibility for them. They serve the minor's development and the promotion of the family.

(2) The youth welfare authorities shall take care that the social services, necessary for the fulfilment of their duties, are provided. The regional situations and the population structure must be taken into account.

Social services

§ 12. (1) The social services shall particularly consist in

1. general and special consultation services for parents to be, for minors and those holding parental responsibility for them, particularly in order to promote non-violent education and protection of minors, i.e. family-advice centres, family-therapy, children's protection centres.
2. preventive and therapeutic assistance for minors and their families
3. assistance with child care for children under age, i.e. mother-child-apartments, day-nurseries and childminders.
4. assistance for parents, persons with parental responsibility and minors, particularly by establishing institutions for early diagnosis of deviant behaviour of minors.
5. foster care in families, homes and other institutions, particularly children's communities and social-educational flat-sharing.

(2) In carrying out these duties, the cooperation with the institutions of the out-of-school youth education and other institutions, equally observing duties of youth care and youth promotion, shall be observed.

Payment

§ 13. The Provincial legislation determines whether and to what extent social services must be paid for. Here the type and extent of the services, as well as, the personal and economic circumstances of those, who use these services, must be adequately taken into account.

Section 2

Foster Children

Definition

§ 14. Foster children according to this federal law are minors, who are cared for and educated by others, than relatives or persons who are related to marriage up to the 3rd degree or persons who are related by marriage, adoptive parents or the guardian.

Arrangement for foster homes

§ 15. (1) The arrangement for foster places is reserved to the public youth welfare authority.

(2) Every arrangement shall serve the child's welfare. There shall be the justified prospect that a relation between the foster parents (foster persons) and the foster child will be established, that comes near to the relation between biological parents and children. A payment for the arrangement is inadmissible.

(3) The legislation of the Province may provide, that also institutions of the non-governmental youth welfare are admissible, if they can guarantee a proper performance of this duty or can offer assistance according to § 20.

Authorisation of foster care

§ 16. (1) Foster children under the age of 16 years may be taken in foster care and education only with authorisation of the public youth welfare authority.

(2) The authorisation can be given only for a particular foster relationship and only if the prerequisites mentioned in § 15, sub-paragraph (2) are complied with. Childminders can obtain general authorisations.

(3) In the official proceedings concerning the authorisation of foster care, the foster parents (foster persons) and the persons with parental responsibility hold the status of a party. The child from the age of ten must in any case be heard

personally, the child under the age of ten shall be heard in a suitable way, wherever possible.

§ 17. (1) No authorisation is required if a foster child is taken

1. for a temporary period or a part of the day if care and education are not given by profession and regularly,
2. in case of placement with a person holding the authorisation of teaching/training,
3. when the youth welfare authority have established the foster relationship on the basis of their entitlement to parental responsibility,
4. when the Court has transferred the parental responsibility to the foster parents.

(2) The legislation of the Province can determine further exceptions from the required official authorisation.

§ 18. The entitlement for foster care must be withdrawn where this is necessary for the child's welfare. § 16, sub-paragraph 3 shall apply correspondingly.

Supervision of foster care

§ 19. The youth welfare authority shall – with exception of the cases according to § 17, sub-paragraph 1, item 1 – control periodically, but at least once a year, whether foster children under the age of 16 years are cared for and educated according to § 146 of the Austrian Civil Code. Those responsible for the care and upbringing of the foster child have to render the supervision possible.

Assistance with the establishment of the foster relationship

§ 20. The placement of a foster child under the age of 16 years, shall be prepared correspondingly according to its significance for the development of the minor. The youth welfare shall offer training and further training measures to the foster parents (foster persons) as well as assistance in the form of advice to the foster child and the family of origin.

Care allowance

§ 21. The legislation of the Province shall regulate the care allowance, which foster parents (foster persons) receive on their application, in order to facilitate the burdens connected with the foster care. The local conditions and the cost of maintenance shall be considered.

Section 3

Homes and other institutions for minors

Authorization and supervision

§ 22. (1) Homes and other institutions designated for the placement of minors under care and education (§ 28) and operating all-year, may be established and managed only with authorisation of the youth welfare authority. They are submitted to their supervision.

(2) The authorisation may only be given, if

- a sufficient number of trained personnel is available for the management of the institution and the care and education of minors,
- the premises are suitable and
- the economic preconditions for a care according to the duties of the Youth Welfare are provided.

(3) The legislation of the Province may determine exceptions from the duty of authorisation for a certain period of time, if the fulfilment of the legal objective mentioned above is granted in a different manner.

Obligation of notification

§ 23. Youth recreation homes and recreation camps have to be notified. Details are regulated by the legislation of the Province: it may also determine exemptions from the obligation of notification.

Section 4

Procurement of the adoption

Basic rules

§ 24. (1) The procurement of a minor's adoption is reserved to the youth welfare authority.

(2) Every arrangement must serve the minor's welfare. There must be the justified prospect that a relation between the foster parents (foster persons) and the foster child will be established, that comes close to the relation between biological parents and children. A payment for the procurement is inadmissible.

(3) The legislation of the Provinces may provide that also non-governmental youth welfare organisations are recognized, if they can guarantee a regular handling of this duty. § 8 shall apply correspondingly.

Procurement of adoption abroad

§ 25. The legislation of the Province must provide special regulations concerning the procurement of a minor's adoption abroad.

Section 5

Educational support

Types of support

§ 26. Support with education shall individually be granted as educational support measures or as comprehensive educational measures, as voluntary educational support or as educational support against the will of those entitled to parental responsibility. The chosen measure shall always be the mildest still leading towards the objective.

Educational support

§ 27. Educational support includes particularly

1. counselling of those with parental responsibility and of the minor,
2. the promotion of the educational potential of the family particularly also with the objective of implementing non-violent education,
3. the promotion of the minor's development,
4. supervision of the minor in groups,
5. attendance to the minor after dismissal from comprehensive educational measures.

Comprehensive educational measures

§ 28. (1) Comprehensive educational measures include care and education of the minor in a foster family, a home or an other institution. (§ 12., subparagraph 1, item 5).

(2) If comprehensive educational measures are required, care and education in a foster family is prior-ranking, particularly for infants and small children.

Voluntary educational support

§ 29. (1) Educational support measures agreed to by the persons holding parental responsibility require a written agreement between the person holding the parental responsibility and the youth welfare authority.

(2) The youth welfare authority shall in any case personally hear children over the age of ten, children under the age of ten must be heard in a suitable manner whenever possible.

Comprehensive educational support against the will of those holding the parental responsibility

§ 30. If the persons holding the parental responsibility do not agree with a necessary educational support measure, the youth welfare authority must arrange the necessary steps for the minor's welfare.

Implementation

§ 31. (1) The implementation of educational support measures is incumbent on the youth welfare authority.

(2) According to the particular circumstances the measure corresponding to the minor's personality and his circumstances of life shall be introduced. At the implementation the dispositions, abilities and capacities of the minor shall be taken into account.

(3) The taken measure shall be changed if this is required for the minor's welfare or it shall be cancelled if it ceases to be beneficial for the minor.

Provisional payment of the expenses

§ 32. (1) Notwithstanding the duty of carrying and reimbursing the costs for measures of the Public Youth Welfare, the youth welfare authority shall meet them at first.

(2) The legislation of the Province may determine other entities, regulated by the provincial legislation, for the provisional payment of the expenses for measures of the Public Youth Welfare. It shall nevertheless be guaranteed that in the individual case the most suitable measures can be chosen and implemented without delay.

Payment and reimbursement of costs

§ 33. The costs for the comprehensive education shall be paid under civil law by the minor and the persons obliged to provide maintenance, if necessary reimbursed retrospectively for 3 years as far as they are capable of doing so, according to their conditions of life. The persons obliged to provide maintenance must also reimburse the costs insofar as they have been able of doing so according to their circumstances of life at the time of the implementation of the comprehensive education.

Transfer of titles

§ 34. Claims of a minor to periodic performances for maintenance, descend to the youth welfare authority granting the comprehensive education, up to the amount of the reimbursable claim immediately by act of law by virtue of a notification of the third party. The second sentence

of § 1395 and § 1396 of the Austrian Civil Code shall apply correspondingly.

CHAPTER 3

Penal provisions

§ 35. (1) The legislation of the province shall issue penal provisions and provide for their taking effect only, if the offence is not under a higher penalty according to other regulations.

(2) Sentences of imprisonment may not be provided for.

(3) Administrative penalties shall particularly be scheduled for

1. the unauthorized procurement of foster places or procurement of foster places against payment,
2. the accommodation of a foster child under 16 years without the required foster authorisation,
3. the operation of homes or other institution without the required authorisations of the youth welfare authority,
4. the omission of the notification of the operation of institutions for recreation and leisure activities for young persons (§ 23),
5. the procurement of adoption without authorisation or against payment.

PART TWO

Directly applicable Federal Law

Administrative assistance

§ 36. In the frame of their legal sphere of action the Federal organs, the organs of the Provinces, the associations of local governments, the communities/municipalities and the social security authorities are bound to assist the youth welfare authority in performing their duties.

Duty to provide information

§ 37. (1) The authorities, particularly as far as they are responsible for institutions providing care and training for minors, and the organs of the public supervisory control shall inform the youth welfare authorities about all facts that come to their knowledge, which are necessary for the accomplishing of youth welfare.

(2) If a minor or a person, obliged towards him to provide maintenance, in an individual case does not participate sufficiently in the investigation of his situation of income or financial conditions, the social security authorities and the employer shall,

on request of the youth welfare authority, furnish information on the insurance- or employment situation of the concerning person.

Exemption from the duty of the payment of public duties

§ 38. (1) Applications to the youth welfare authority in matters of youth welfare except applications according to §§ 15, sub-paragraph 3, 22 and 24, sub-paragraph 3, as well as agreements according to § 39 are excluded from stamp duties and legal fees.

(2) Records of a hearing, authentications and official copies, drawn up or authenticated by the youth welfare authority in matters of the youth welfare, are exempted from Federal administrative fees.

Agreements on the cost of comprehensive education

§ 39. Agreements on the carrying or reimbursement of costs of comprehensive education (§33) which have been met with the youth welfare authority and authenticated by them, have the effect of a settlement in court.

Court procedure for the determination of the costs of comprehensive education

§ 40. Insofar as an agreement about the carrying and the reimbursement of the costs for comprehensive education (§ 33) can not be reached, the court dealing with matters of foster-care (guardianship court) decides the issue on application of the youth welfare authority irrespective of the child's age in a "Verfahren Außerstreitsachen" (extra-judicial proceedings settlement). § 183 shall hereby apply correspondingly.

Acknowledgement of paternity

§ 41. (1) Declarations about the acknowledgement of paternity of an illegitimate child shall be authenticated and certified by every youth welfare authority.

(2) The youth welfare authority shall transmit copies of the acknowledgement of paternity of an illegitimate child, authenticated by them and the certified declarations, delivered to them for this purpose, to the responsible civil status authority and if necessary also to the responsible youth welfare authority.

PART THREE

Final provisions and transitional provisions

§ 42. (1) This Federal Law shall take effect on 1. July 1989.

(2) The Youth Welfare Act, Federal Law Gazette No. 99/1954 in the valid version expires on 30. June 1989, if it is not terminated by the Federal Law on the amendments of the Law of Parents and Child (Kindschaftsrecht-Änderungsgesetz – KindRÄG).

(3) The implementing statutes of the Provinces shall be adopted within one year after entering into force of this Federal Law.

§ 43. (Basic provision) The implementing statutes of the Provinces shall provide the application of the new law to the proceedings and measures pending at the moment of it's coming into force. For pending proceedings in administrative criminal matters the penalty shall depend on the applicable law at the moment of the offence, with the exception that the law applicable at the moment of the notice in first instance would be more favourable for the offender. Educational measures according to the law applicable previously, shall be transferred into measures of educational support or comprehensive education as defined by this Federal Law.

§ 44. The right due to the Federal Government according to article 15, sub-paragraph 3 B-VG (Federal Constitutional Law) shall be exercised by the Minister for environment, youth and family.

§ 45. If not otherwise determined, the execution of the directly applicable Federal Law is entrusted to the Federal Government.

(2) The execution is entrusted

1. respective to § 37, sub-paragraph 1, to the Federal Minister of Finance
2. respective to § 38, as far as the social insurance authority are concerned, to the Federal Minister for Social Affairs and Generations,
3. respective to §§ 39 and 40, to the Federal Minister of Justice.

§ 46. With the entry into force of the relevant implementing statutes the §§ 1 to 17, § 18 relating to item 1, 3, 4, 6 and 7, the §§ 19 to 35, further the §§ 37 to 42 of the Youth Welfare Act, Federal Law Gazette No. 99/1954 in the applicable version are repealed in the single Provinces.

Waldheim

Vranitzky

Federal Law No. 161 from 15. March 1989 on the amendment of the Law of Parents and Child (Kindschaftsrecht-Änderungsgesetz– KindRÄG)

The National Council has decided:

Article 1

Amendments of the ABGB (Austrian Civil Code)

The Austrian Civil Code from 1. June 1811, JGS 946, last amended by the Federal Law, Federal Law Gazette No. 179/1988 is amended as follows:

1. After the heading of §§ 139 ff the following heading is inserted before § 139:

“Name”

2. Before § 140 the following heading is inserted:

“Maintenance”

3. Before § 144 the following title is inserted:

“Child custody”

4. The §§ 145 to 145 b read:

“§145. If one parent, who has shared the child custody with the other parent, has died, if his/her place of residence has been unknown for at least six months, if the contact with him/her can be not established or only under an disproportionate amount of difficulties or if the child custody is withdrawn partly or fully, the child custody comes, to that extend, to the second parent alone. If the parent holding child custody alone is concerned in this manner, the court shall - under observance of the child's welfare – decide whether the child custody shall be fully or partly entrusted to the other parent or whether it shall be entrusted to the grandparents (grandparent) and to which grandparents; the latter is also applicable if both parents are concerned. The provisions concerning the child custody are then applicable to these grandparents (this grandparent).”

On application of the parent, to whom the child custody according to sub-paragraph 1, 1. item has been transmitted, the Court shall declare this transmission.

§ 145 a. As long as one parent has no full legal capacity, he/she does not have the right or the duty to manage the child's property and to represent the child.

§ 145 b. As far as the property management, the representation or the care and education in one section is not due to a person holding the remaining

child custody, a guardian (Sachwalter) shall where necessary be appointed.

A guardian shall also be appointed where single actions of child custody are urgently necessary for the well-being of the child and where the preconditions of § 145, sub-paragraph 1, 1. sentence are existent with the persons, who hold the child custody concerning these actions or held it until they deceased.

5. To § 146 a the following half-sentence is added under replacement of the full stop by a semicolon:

“using violence and causing physical or emotional suffering is inadmissible.”

6. In § 148, sub-paragraph 1 the words “wherever possible after hearing the child of at least 10 years and, if necessary, (after hearing) the regional authority” shall be cancelled.

7. In §§ 151, 152, 153 and 175 the word “legitimate” shall be cancelled.

8. The § 163 a reads:

“§ 163 a. The statutory representative shall take care, that the paternity is determined, except the determination of paternity is disadvantageous for the child's welfare or the mother exercises her right, of not notifying the father's name.

The youth welfare authority shall inform the mother about the consequences if the paternity is not determined.

9. The §§ 163 to 164 b read:

“§ 163 b. The paternity is established by judgement or acknowledgement. The declaration of paternity has general effect.

§ 163 c. The paternity is acknowledged by personal declaration in a domestic official document or a document certified by a notary public. The acknowledgement takes effect with the moment of the declaration as far as the document or it's copy, certified by a notary public is delivered to the registrar.

The acknowledgement must contain an exact naming of the person acknowledging, the mother and the child, if it is already born and of the moment of the cohabitation.

Persons without legal capacity can not acknowledge the paternity. A person with limited legal capacity shall personally declare his acknowledgement; this requires the consent of his statutory representative. For this consent sub-paragraph 1 shall apply correspondingly.

§ 163 d. The mother or the child can raise objections at court. The objections to the acknowledgement can be raised only within the period of one year after notification.

The mother with limited legal capacity must declare the objections by herself; this requires the consent of her statutory representative. The objection of the statutory representative of the child already of age needs the child's consent.

§ 164. The court shall determine the cease of legal effect of the acknowledgement in an extra-judicial proceedings (Verfahren außer Streitsachen), where objections have been raised to the acknowledgement, a paternity to the child has already been established, the acknowledgement does not meet the formal requirements or is too indefinite, a person without legal capacity has acknowledged the paternity or a person with limited legal capacity has acknowledged the paternity without the consent of his statutory representative, except, this consent has been declared belatedly or the person acknowledging the paternity has approved of the acknowledgement after obtaining the legal capacity.

§ 164 a. The acknowledgements and representative actions named in §§ 163 c to 164 require no permission of the court.

164 b. The cease of legal effect of the acknowledgement shall be established, on legal action of the person acknowledging the paternity against the child, if the acknowledging person proves, that the acknowledgement has been brought about by a trick, by unjustified and caused fear or misconception about the fact that he had sexual intercourse with the mother within the statutory period of conception or that such circumstances exist which vitiate the presumption of paternity and which were unknown to him at the time of the acknowledgement. The legal action can be taken only within a period of one year after discovery of the deception, the misconception or the circumstances mentioned above or after omission of the position of constraint."

10. § 164 c is altered as follows:

a) The sub-paragraph 1, item 2 reads:

"2. the man, whose acknowledgement has lost it's effect because of an opposition, against the child;"

b) The sub-paragraph 2 is cancelled.

11. Subsequent to § 164 c the following § 164 d is inserted:

"§ 164 d. The legal acts mentioned in §§ 163 c to 164 c can also be taken by the successors in title of the mentioned persons or against these.

12. In § 165 a, both sub-paragraph 1 and 2 the words " , whose paternity is determined" shall be cancelled, in sub-paragraph 1 also the comma at the end of these words shall be cancelled.

13. The §§ 166 and 167 read:

"§ 166. The child custody for the illegitimate child comes to the mother alone. Otherwise the provisions for maintenance and custody for the legitimate child are also applicable to the illegitimate child where no other provisions have been made.

§ 167. On joint application of the parents, the court shall order that they both are entitled to the child custody, if the parents keep a permanent common household with the child and if this order is not against the interests of the child. If one parent terminates the common household not only temporarily § 177, sub-paragraph 1 and 2 shall apply correspondingly."

14. The former § 167 is named "§ 168". The former § 168 is cancelled.

15. § 170 is cancelled.

16. § 172 including heading reads:

"Expiry of the child custody

§ 172. The child custody expires with his coming of age.

17. The §§ 173 and 174, their headings remaining unchanged, read:

"§ 173. On application of the father or the mother or of the child's statutory representative, the court shall officially prolong the child's minority before the age of majority is reached if, especially in the case of noticeable delay of development, the child is unfit to take care of his/her affairs without danger of disadvantages for him/herself.

The parents and the child, as well as those persons, who are entitled to statutory representation of the child, hold the right to be heard if they have not submitted the application themselves. The hearing of the mentioned persons - with exception of the child - is omitted, if it can not be conducted or if it can only be conducted under disproportionate difficulties

The prolonged minority expires with completion of the 21st year of life.

§ 174. The court shall reduce the child's minority (declaration of maturity) with the child's consent on application of the father, the mother or the statutory representative or on application of the child himself, if the child has completed the 18th year of life and seems to have the maturity for handling his affairs in an autonomous and due manner.

The parents and the persons entitled to the statutory representation of the child hold a right to be heard, if they have not submitted the application by themselves. The hearing is dropped if it can not be conducted or if it can only be conducted under disproportionate difficulties."

18. § 176 including headline is altered as follows:

a) the heading reads:

"Withdrawal of or restriction on the child custody"

b) sub-paragraph 1 first and second sentence reads:

"If the parents endanger the welfare of the minor, the court shall – irrespectively of who has applied to it – make the orders necessary for the child's welfare: such an order can also be made on application of one parent, if the parents can reach no agreement in an important matter of the child. The court may in particular fully or partly withdraw the child custody and also rights of approval and rights of consent legally provided for."

c) The sub-paragraph 3 shall be cancelled.

19. Subsequent to § 176 the following §§ 176 a and 176 b shall be inserted:

§ 176 a. If the child's welfare is jeopardized and the total removal from his previous surroundings is necessary against the will of the persons holding the parental responsibility and where his placement with relatives or other suitable close persons is not possible, the court shall fully or partly assign the child custody to the youth welfare authority. The youth welfare authority may assign the performance of this duty to third parties.

§ 176 b. On account of an order according to § 176 and 176 a, the court may restrict the child custody only insofar, as this is necessary for securing the child's welfare."

20. § 177 is altered as follows:

a) In sub-paragraph 1 the words "all purely personal rights and duties, arising from the relations between parents and minors according to matters of the family law (§ 144), shall come solely to" shall

be replaced by the words "shall have sole child custody for the child".

b) In sub-paragraph 2 the words "rights and duties mentioned, from now on come solely to" shall be replaced by "shall from now on have sole child custody"; the last sentence shall be cancelled.

c) Sub-paragraph 3 reads:

"§ 167 shall apply analogously."

21. § 178 – the heading remaining unchanged – reads:

"§ 178. Where a parent does not hold the child custody he holds – besides the right of access to the child – the right of being informed timely, by the person holding the child custody, about extraordinary circumstances concerning the child's person and about intended measures concerning the matters mentioned in § 154, sub-paragraph 2 and 3, and to express his opinion on these and also on other important measures within a reasonable delay; the father of an illegitimate child, who has never been entitled to the child's custody, is only entitled to this right in connection with important measures of care and education. This opinion shall only be taken into consideration, if the wish expressed therein does better correspond to the child's welfare.

Where the realisation of these minimal rights would "seriously endanger the child's welfare, the court shall restrict or withdraw them."

22. Subsequent to § 178 a the following § 178 b and heading is inserted:

"Taking into account of the child's opinion"

§ 178 b. Before making orders concerning the child's care or education, the court shall by all means personally hear the child; a child under the age of 10 can also be heard by the youth welfare authority or in another suitable manner. The child shall not be heard where the child's welfare would be endangered by the hearing or by a delay of the order, or where an expression of opinion can not be expected with regard to the child's age or development."

23. § 181, sub- paragraph 1 reads:

"The authorisation may only be given, if the following persons agree with the adoption:

1. the parents of the adopted child under age
2. the spouse of the adopting party
3. the spouse of the adopted child."

24. § 181 a reads:

“§ 181 a. The following parties hold a right of being heard:

1. the adoptive child having no legal capacity after the completed 5th year of life, except he has already lived with the adopting party from this moment;
2. the parents of the adoptive child of full age;
3. the foster parents or the head of the home where the adoptive child lives;
4. the youth welfare authority.

The right of being heard by a party mentioned in sub-paragraph 1 is cancelled, if he has concluded the adoption deed as statutory representative of the adoptive child; further if he can not be heard or could be heard only under disproportionate difficulties.”

25. § 186 with heading reads:

“2. The foster relationship

§ 186. Foster-parents exercise their rights by virtue of an authorisation by those holding direct parental responsibility (§ 137 a) or by the youth welfare authority (§ 176 a).

Foster parents are entitled to file applications in guardianship proceedings and in proceedings of child custody concerning the child’s person.”

26. Subsequent to § 186 the following § 186 a is inserted:

“§ 186 a. the court shall fully or partially transfer the child custody to the foster parents on their application, if a relationship exists that comes near to that between biological parents and their children, if the foster relationship is not only intended for a short period and if the transfer serves the child’s welfare. The regulations concerning child custody are then applicable to the foster parents.

Where the parents or the grandparents hold the child custody or where they had it and do not agree with the transfer, this may only be ordered if the child’s welfare is otherwise endangered.

The transfer of title shall be cancelled where this serves the child’s welfare. Simultaneously the court shall – under consideration of the child’s welfare – determine to whom the child custody is transferred.

Before taking a decision, the court shall hear the parents, the statutory representative, further persons with parental responsibility, the youth welfare authority and in any case, the child older than ten years. § 181 a, sub-paragraph 2 shall apply analogously.”

27. § 187, first sentence reads:

“A guardian shall be appointed to a minor, if there is not at least one person entitled to limited statutory representation in the frame of child custody.”

27 a. § 193, sub-paragraph 2 reads:

“The consent according to sub-paragraph 1 is not required, where the other spouse is of unknown residence or – not only temporarily – unable of an intelligible comment.”

28. § 198, the heading remaining unaltered, reads:

§ 198. If no guardian or no suitable guardian for the child has been appointed by the last will, the next suitable relative shall be appointed as guardian.”

29. § 205, 1. half-sentence reads:

“Every guardian must vow by shaking hands,”

30. The §§ 211 to 215 including headings read:

“Duties of the youth welfare authority

§ 211. When a child is born within domestic territory and no parent is entitled to administration of property and representation or when a minor is found within domestic territory and his parents are unknown, the youth welfare authority is appointed as the child’s guardian until an other decision is taken by the court.

§ 212. The youth welfare authority shall – where necessary according to the circumstances – inform the statutory representative of a child born within domestic territory within an appropriate period after the child’s birth about the parental rights and duties, particularly about the child’s maintenance claim, if appropriate also about the determination of paternity and offer him their assistance towards the protection of the child’s rights.

For the determination or the assertion of the child’s maintenance claims and if appropriate for the determination of paternity, the youth welfare authority are the child’s guardian (Sachwalter), where the written consent of the statutory representative is provided.

In other matters the youth welfare authority are the child’s guardian, if they agree to the representation and if the written consent of the statutory representatives is provided.

The youth welfare authority's power of representation does not restrict the other statutory representative's power of representation, nevertheless § 154 a shall apply analogously. The youth welfare authority and the other statutory representative must reciprocally share information about their actions as representatives.

The youth welfare authority's power of representation expires if the statutory representative revokes his consent in written, if the youth welfare authority revokes their declaration according to sub-paragraph 3 or if the court relieves the youth welfare authority as solicitor on their application, because according to the standing of the case, they can not contribute anymore to the protection of the child's rights and to the assertion of his claims.

§ 213. Where a guardian or a statutory representative shall be appointed for a minor and no suitable person can be found, the court shall appoint the youth welfare authority.

§ 214. The §§ 203, 205, 206, 216 sub-paragraph 2, 237 second sentence, 266 and 267 do not apply to the youth welfare authority. Before the investment of a minor's capital they are bound to obtain the court's consent only in the case of § 230 e.

The youth welfare authority's legal actions towards the determination of paternity and the performance of maintenance, as well as the conclusion of agreements on the size of the legal maintenance performances, do not require the court's leave. Agreements on the size of a minor's maintenance payment, concluded before or by the youth welfare authority and certified by them, have the effect of a settlement.

The youth welfare authority shall inform persons who educate a child and care for him or who represent him by statute, about their activities of representation concerning this child, if the child's welfare is not endangered by this.

§ 215. The youth welfare authority shall – if appropriate - apply for the court orders in the area of child custody, necessary for the safeguarding of a minor's welfare. As guardian they can in case of imminent danger provisionally take the necessary measures of care and education by themselves, if they apply for the required court orders immediately or in any case within 8 days, the measures having effect until the court decision is made.

If necessary the youth welfare authority shall be heard before court orders concerning care and education of a minor are made, except the delay caused by this would endanger the child's welfare. On request of the court, the youth welfare authority

shall participate in the child's interrogation or lead it by themselves.

31. Subsequent to § 215 the following § 215 a shall be inserted:

“§ 215 a. If not otherwise ordered, the duties are entrusted to the youth welfare authority of the administrative district, where the minor has his ordinary residence or if there is no ordinary residence within the domestic territory, where he has his residence. If the minor changes his residence to the district of an other youth welfare authority, the youth welfare authority may transfer their duties to the other youth welfare authority, if they approve. The court shall be notified about this, if it has already dealt with matters of the minor.”

32. § 216 paragraph 1 reads:

“If care and education are not due to a person entitled to child custody, they are due to the guardian.”

33. § 244 including heading is cancelled.

34. § 250 and heading reads:

“b) by reappearing of the parents' authorities

§ 250. The guardianship expires also where a person holding child custody is also entitled to administration of property and representation - even if only partly; in the second case of § 211 the guardianship expires further, if such a parent appears.”

35. § 251 second and third sentence is cancelled.

36. In the heading of § 253 the words “the official and applied for” are cancelled. The headings of §§ 254 and 257 are cancelled.

37. § 268 including heading is cancelled.

38. § 754 sub-paragraph 2, second sentence is cancelled.

39. In § 788, last half-sentence the word “großjährigen” (old form for “volljährigen”) is replaced by the word “full of age”.

Article II

Amendments of the Law on proceedings in extra-judicial legal matters (Verfahren in Rechtsangelegenheiten außer Streitsachen.)

The Law on proceedings in extra-judicial matters from 9. August 1854, Reich Law Gazette (RGBI) No. 208, last amended by the Federal Law, Federal Law Gazette No. 425/1988, is amended as follows:

1. In § 51 the word “legitimate” is cancelled.
2. § 183 including headline reads:

“Information in matters of maintenance

§ 183. Persons whose income or property is relevant for the decision concerning the maintenance claim of a minor shall, on it's request, submit the court the necessary information and make it's examination possible.

Where somebody does not perform the obligation mentioned in the sub-paragraph above, the court may ask his employer and, if necessary, the relevant social security authorities for information about the employment or the insurance situation of the person concerned. In the same manner the court may request the Tax Office for information on the relevant facts concerning the taxation of the income or the property of the person concerned.

The sub-paragraph above is also applicable to requests of the guardianship court (Pflegschaftsgericht) serving the assertion of maintenance claims of minors or of persons under guardianship (Pflegebefohlene), by the statutory representative.

The request shall be confined to facts relevant for the maintenance claim. The persons requested are obliged to furnish information.

3. § 184 reads:

“§ 184. The youth welfare authority as the statutory representative, holds the rights to information granted to the court in § 183, except the right mentioned in it's sub-paragraph 2, last sentence.”

4. § 186 – the title of which remains unchanged – reads:

“§ 186. The court shall – where necessary – assist or guide the statutory representative of a minor or of a person under guardianship with the assessment or recovering of the maintenance claim. This applies too, where the youth welfare authority is the statutory representative.

5. In § 259 the words “the regional office authority” are replaced by “ the youth welfare authority”.

6. §§ 261 to 262 a read:

§ 261. The court shall take minutes on the acknowledgement of paternity.

The minutes shall contain

1. the explicit acknowledgement of paternity,
2. first and last name, the name of the lineage (if any), date and place of birth, nationality, place of residence, church affiliation with a statutory acknowledged church or religious community as well as a reference to the birth registration of the acknowledging party, if possible and as far as the information is available,
3. the indications concerning the child and his mother named in item 2 and
4. indications about the moment of cohabitation.

The court shall submit a copy of the minutes to the registrar.

§ 262. In the proceedings about the termination of legal effect of an acknowledgement of paternity, the parties are the mother and the acknowledging party, as well as the father already determined and, if necessary, their successors in title.

§. 262 a. The decision establishing the termination of legal effect of an acknowledgement of paternity to an illegitimate child must be substantiated. Besides the dictum about the termination of the legal effect of the acknowledgement, it must also contain the indications named in § 261, sub- paragraph 2.”

Article III

Amendments to the law on maintenance advance-payments

The law on maintenance advance-payments 1985, Federal Law Gazette No. 451/1985, last amended by the Federal Law, Federal Law Gazette No. 645/1987, is amended as follows:

1. § 2, sub-paragraph 2, item 2 reads:

“2. placed in a foster family, a home or in an other institution based on a measure of social assistance or of comprehensive education according to the Public Youth Welfare Act.”

2. § 9, sub-paragraph 2 and 3 reads:

(2) With the delivery of the decision granting the advance-payments, the youth welfare authority becomes the minor's guardian for the assertion of the maintenance claims.

(3) The cessation of the advance-payments is no reason for the cessation of the guardianship according to sub-paragraph 2. Where advance-payments merely are granted according to § 4, item 2 or 3, the youth welfare authority shall be removed, if they can not contribute to the assertion of the child's maintenance claim, according to the case's situation."

3. In § 13, sub-paragraph 1, item 3 the words "the regional office authority" are replaced by the words "the youth welfare authority".

4. § 14 reads:

"§ 14. The decision granting the advance payments shall be delivered to the child, the youth welfare authority where they do not anyway represent the child, the maintenance-debtor, the President of the Higher Regional Court and the recipient of the payment."

5. In §§ 26, sub-paragraph 2 and 31, sub-paragraph 2 the words "the regional office authority" are replaced by the words "the youth welfare authority".

6. In § 27, sub-paragraphs 1 and 3 the words "the regional office authority" are replaced by the words "the youth welfare authority".

7. § 27, sub-paragraph 2 reads:

"(2) Where the claim of the Federation to repayment of the advance-payments must be satisfied, the youth welfare authority shall monthly transmit the maintenance contribution together with a list concerning the maintenance-debtor to the President of the Higher Regional Court. If the granted advance-payments have been fully repaid or if the statutory representation of the youth welfare authority has expired, they shall transmit a final account to the President of the Higher Regional Court."

8. In § 30 the words "of the regional office authority" are replaced by the words "of the youth welfare authority".

9. § 32 reads:

"§ 32. The President of the Higher Regional Court holds the rights granted to the court by § 183 AußStrG, except the rights mentioned in it's sub-paragraph 2, last sentence."

10. Subsequent to § 34 the following § 34 a with heading is inserted:

"Automation-supported data-flow

§ 34 a. (1) To the purpose of payment and repayment of maintenance advance-payments, the following data may be transferred between the President of the Higher Regional Court and the youth welfare authority, by the means of machine readable storage data or by the means of teleprocessing:

1. the designation of the case
2. name, date of birth, place of birth, profession and address of the child, the recipient of the payment, the statutory representative, the foster person and of the debtor of maintenance, as well as his social security number,
3. the designation of the operation, the size of the amount and of the currently owing amount.

(2) For the transfer according to sub-paragraph 1 the Federal Audit Authority can be called upon.

11. § 36, it's title remaining unchanged, reads:

§ 36. (1) The execution of this Federal Law is entrusted to the Federal Minister of Justice, if not otherwise established in sub-paragraph 2.

(2) The execution is entrusted:

1. of § 17, sub-paragraph 1 and of § 33 to the Federal Minister of Justice in cooperation with the Federal Minister for Environment, Youth and Family and with the Federal Minister of Finance,
2. of § 32 with regard to the delivery of information by the social security authorities to the Federal Minister of Labour and Social Affairs in agreement with the Federal Minister of Justice and
3. of § 34 a, sub-paragraph 2 to the Federal Minister of Justice in agreement with the Federal Minister of Finance."

Article IV

Amendment of the Law on Civil Status

The Law on Civil Status, Federal Law Gazette No. 60/1983, last amended by the Federal Act, Federal Law Gazette No. 162/1987 is amended as follows:

1. §§ 53 and 54 read:

“Power of recording and certification

§ 53. (1) The registrar shall record and certify

1. the declaration of acknowledgement of paternity;
2. the declaration by which the husband gives his second name to the illegitimate child of his wife or by which the father, whose paternity has been determined, gives his second name to his illegitimate child and the declaration about the consent to the illegitimate child and the declaration on the consent to the giving of the name;
3. the consent of the statutory representative and the person holding parental responsibility to the marriage of a person without full legal capacity;
4. the declaration of the fiancés on the determination of their family name after the marriage;
5. the declaration by which a divorced spouse resumes a previous family name or by which a divorced spouse forbids the use of his family name to the other;
6. the declarations necessary for the entering in force of a right to bear a name;
7. other declarations which are necessary for a complete registration of a civil status case.

(2) The Austrian representation authorities abroad shall record and certify the declaration listed in sub-paragraph 1, item 1 if the acknowledging party or the child is a person according to § 2, sub-paragraph 2, and they shall certify declarations listed in sub-paragraph 1, items 2 to 6.

(3) The power of recording and certifying of courts, administrative authorities and notaries of the declarations listed in sub-paragraph 1, items 1 to 6 remain unaffected.

Acceptance of declarations

§ 54. (1) Where the declarations listed in § 53, sub-paragraph 1, items 1, 2, 5 and 6 are not given before the competent registrar, they shall be delivered in official document or in document certified by a notary public.

(2) Competent for the declarations listed in § 53, sub-paragraph 1, items 1, 2 and 6 is the civil status authority in whose register of birth the child's birth (items 1 and 2) or of the legitimated child (item 6) has been entered; for the declaration mentioned in § 53, sub-paragraph 1, item 5 the civil status authority, in whose family register the marriage has been entered. Where the birth or the marriage have

not been entered in an domestic register of birth or family register, the competent local authority is Vienna.

(3) Where not otherwise established, the delivery is incumbent on the person, who makes the declaration. The Civil Status Authorities and the Austrian representation authorities abroad shall send copies of the declarations recorded by them or of certified declarations delivered to them for this reason according to § 53, sub-paragraph, item 1 to the civil status authority competent according to sub-paragraph 2.

(4) The civil status authority competent for the acceptance of a declaration must inform the persons entitled to objection about the acknowledgement and point out their right to object.

(5) The civil status authority competent according to sub-paragraph 2 for the acceptance of a declaration according § 53, sub-paragraph 1, item 6 shall inform the persons entitled to approval about the coming into force of the legitimation and point out their right to approve.

2. § 75, items 1 and 2 read:

“1. regarding the §§ 1, 21, 29, 38, 42 to 47, 50, 53, sub-paragraphs 1 to 3 and 54 the Federal Minister of the Interior in agreement with the Federal Minister of Justice.,

“2. regarding § 53, sub-paragraph 2 the Federal Minister of Foreign Affairs in agreement with the Federal Minister of the Interior and the Federal Minister of Justice,”

Article V

Amendment of the Law of Registrars

The Federal Law concerning the handling of judicial operations by Registrars (Law on judicature – RPFLG), Federal Law Gazette No. 560/1985, last amended by the Federal Law, Federal Law Gazette No. 646/1987, is amended as follows:

In § 19, sub-paragraph 2, item 8 the letter c is cancelled and at the end of the letter b the comma is replaced by a semicolon.

Article VI

Final and transitional provisions

§ 1. (1) This Federal Law enters into force on 1. July 1989.

(2) Ordinances can be issued from the day following the announcement. They enter into force at the earliest with 1. July 1989.

§ 2. With the coming into force of this Federal Law, Part Two and § 42, sub-paragraph 2 of the Youth Welfare Act, Federal Law Gazette No. 99/1954 in the applicable version expire.

§ 3. (1) With the coming into force of this Federal Law, the existing statutory guardianships by the youth welfare authority expire, as far as guardianships are not provided by § 211 Austrian Civil Code in the version of this Federal Law.

(2) Existing statutory guardianships by the youth welfare authority become guardianships (Sachwalterschaften) according to § 213, Austrian Civil Code in the version of this Federal Law.

§ 4. (1) The statutory guardianships by the youth welfare authority appointed are considered as guardianships (Sachwalterschaften) according to § 213 Austrian Civil Code in the version of this Federal Law.

(2) Statutory guardianships by the youth welfare authority according to the Youth Welfare Act, Federal Law Gazette 99/1954 in the applicable version shall be continued as statutory guardianships according to § 215, sub-paragraph 1, second sentence Austrian Civil Code in this version of this Federal Law, if it's preconditions are met.

§ 5. The preconditions and the proceedings for the taking effect or the termination of acknowledgements of paternity, recorded before the coming into force of this Federal Law, are governed by the previously applicable law, except the acknowledgement would have legal effect under this Federal Law. For actions according to §§ 164 a Austrian Civil Code and 164 b, sub-paragraph 2 second sentence Austrian Civil Code, taken before the entering into force of this Federal Law, the previous provisions are applicable.

§ 6. Where a guardian has been appointed for a illegitimate child under age before the entering into force of this Federal Law, his appointment is terminated with this moment, if this Federal Law provides otherwise for the statutory representation of the child.

§ 7. With the entering into force of this Federal Law joint guardianships are terminated.

§ 8. Foster agreements having been judicially confirmed according to § 186 Austrian Civil Code in the previous version before the entering into force of this Federal Law remain unaffected.

§ 9. The decree of an educational measure according to the previous youth welfare legislation is regarded as an order according to § 176 Austrian Civil code, but if the child has been removed completely from his previous surroundings by this order, it is regarded as order according to § 176 a Austrian Civil Code in the version of this federal law.

§ 10. (1) As far as not otherwise provided, the Federal Minister of Justice is entrusted with the enforcement of this Federal Law.

(2) The enforcement is entrusted:

1. of Art. II, items 2 and 3 and of Art. III, item 9 regarding the supply of information by
 - a) the social security authority, to the Federal Minister of Labour and Social Affairs and
 - b) the Tax Offices to the Federal Minister of Finance,both in agreement with the Federal Minister of Justice.

2. of Art. III, item 10 regarding § 34 a, sub-paragraph 2 to the Federal Minister of Justice in agreement with the Federal Minister of Finance.

3. of Art. IV regarding §§ 53, sub-paragraphs 1 and 3 as well as 54 to the Federal Minister of the Interior in agreement with the Federal Minister of Justice, regarding to § 53, sub-paragraph 2 to the Federal Minister of Foreign Affairs in agreement with the Federal Minister of the Interior and the Federal Minister of Justice.

Waldheim

Vranitzky

FEDERAL LAW GAZETTE

FOR THE REPUBLIC OF AUSTRIA

Year 1999

Issued on 9. April 1999

Part I

Federal Law 53: Youth Welfare Act - Amendment 1998
(NR. GP XX RV 1556 AB 1619 S. 1619. BR: AB 5896 S. 651.)

53. Federal Law amending the Federal Welfare Act 1989 (Youth Welfare Act – Amendment 1998)

The National Council has decided:

The Youth Welfare Act 1989, Federal Law Gazette No. 161, amended by announcement, Federal Law Gazette No. 259/1992, is amended as follows:

Article I

1. To § 2 the following sub-paragraph 4 is annexed:

“(4) The youth welfare authority shall record individually and immediately examine reports on the suspicion of neglect, ill-treatment or sexual abuse of minors, reported to the youth welfare authority according to § 37 or by virtue of professional powers or obligations. This data may only be processed, used, transferred or shared for the performance of the duties of the Public Youth Welfare. Incorrect data shall be officially cancelled.

2. § 6 paragraph 1 and 2 reads:

“(1) The Public Youth Welfare shall be performed by specialized personnel, trained and suitable for the respective field of activity. The necessary further training and supervision must be arranged..

(2) The employment of other eligible personnel is admissible, as far as the kind and extend of the activity do not require a special training.”

3. In § 11 sub- paragraph 2 reads:

“(2) Social services as, for instance, basic-oriented offers (§ 12, sub-paragraph 1, item 6) shall be offered to minors particularly in cases, where this seems to be more appropriate and promising than the grant of educational support measures (§§ 26 ff).”

The former sub- paragraph 2 is named sub- paragraph 3.

4. § 12, sub-paragraph 1 reads:

“(1) As social services shall particularly be offered:

1. Training for parents to be, parents and persons with parental responsibility for the strengthening of the capacity of caring and educating and the prevention of development

disturbances and educational problems, as well as physical, mental and sexual cruelty, for instance, parents' schools,

2. general and special consultation services for parents to be, parents and persons with parental responsibility and minors, particularly for the promotion of non-violent education and of minor's protection, for instance, advise centres for mothers or parents, educational and family counselling, children's protection centres,
3. preventive and therapeutic support for minors and their families,
4. support for parents, persons with parental responsibility and minors, particularly by institutions for early recognition and treatment of minors with deviant behaviour,
5. support with the care-taking for minors, for instance, by mother-child housing and day-care (§ 21 a),
6. care for minors by low-level services, for instance, street work, supervised emergency beds,
7. foster places in families, homes and other institutions, particularly children's villages and social-educational flat-sharing (group of young people sharing a house with social-educational personnel)."

5. In § 16 sub- paragraph 2 the last sentence is cancelled.

6. The previous content of § 21 is named sub- paragraph 1. Subsequently the following sub-paragraph 2 is annexed:

"(2) The province legislation can provide, that also persons related with the child under care or related by marriage up to the third degree, or guardians caring for and educating the child can be granted compensation up to the size of the Pflegegeld (public assistance benefits for child' care)."

7. Subsequent to § 21 the following § 21 a with title shall be inserted:

"Day care

§ 21 a. (1) Day care means the accommodation of a minor under the age of 16 by others than relatives or persons related by marriage up to the third degree, adoptive parents, the guardian or other persons entrusted with the care and education in a regular and professional form for a part of the day and not in the frame of day nurseries, day homes for school children or school concerns. Day care can consist both in individual care in the household of a suitable person and in groups in suitable premises.

(2) Day mothers, -fathers and groups require an authorisation. The preconditions for authorisations and withdrawal shall be established by the Province legislation.

(3) The youth welfare authority is responsible for the supervision of day care according to sub-paragraph 1."

8. In § 22 sub- paragraph 1 the words "and are operated all-year" are cancelled.

9. In § 27, item 2 the words "for the enforcement" are cancelled.

10. § 28, sub-paragraph 1 reads

"(1) Comprehensive education includes care and education in a foster family, with persons according to § 21, sub-paragraph 2 in a home or other institutions (§ 12, sub-paragraph 1, item 7) or by forms of education not locally bound, where the youth welfare authority has been fully entrusted with care and education."

11. Subsequent to § 31 sub-paragraph 3 the following sub-paragraph 4 is annexed:

“(4) With the youth’s consent educational support can be continued after the coming of age, but for the most until the completion of the 21. year of life where this is necessary for securing the success of the previous educational support measures.”

12. In § 35 the items 1 and 2 of sub- paragraph 3 read:

“(3) Administrative penalties shall particularly be provided for

1. the unauthorized or paid procurement of foster places and the procurement of unauthorized day-care,
2. the accommodation of a foster child under the age of 16 or of a minor without the required authorisation.

13. In § 37 the sub- paragraphs 2 and 3 read:

“(2) If to members of a medical profession active in preparing medical reports, medical care or treatment of minors, as well as, persons active or entrusted in the youth welfare bound to secrecy according to professional legal provisions, the suspicion arises, that minors have been abused, maltreated, neglected or sexually abused, they must notify the youth welfare authority if this is necessary for the prevention of a further major endangerment of the child’s well-being.

“(3) As far as the perceptions of persons active or responsible in the youth welfare, bound to secrecy according to professional legal provisions, concern imminent danger or other exposure to danger of the child’s welfare, that has already arrived, these are entitled to notify the youth welfare authority insofar as the perceptions concern minors and the information serves the averting or the removal of the danger. Further exceptions from the applicable duty to observe secrecy remain unaffected.”

The previous sub- paragraph 2 is named sub- paragraph 4.

14. § 40 reads:

“§ 40. As far as an agreement about the bearing and the reimbursement of costs for the comprehensive education can not be reached, the guardianship court (Pflegschaftsgericht) decides about the incurred costs, as well as, the costs currently arising, also before the claim for reimbursement is due, irrespective of the child’s age, on application of the youth welfare authority in extra-judicial proceedings (Verfahren außer Streitsachen). § 183AußStrG shall apply correspondingly .

Article II

§ 42, sub-paragraph 1 reads:

“This Federal Law enters into force on 1. July 1999.”

Klestil

Klima

2. § 22 is cancelled

Article XI

Amendment of the law on hospitals

Basic provisions

The Federal Law from 18. December 1956 on hospitals, Federal Law Gazette No. 1/1957, last amended by Federal Law Gazette I, No. 80/2000 is amended as follows:

§ 8 sub- paragraph 3 first sentence reads:

“Treatments to a child under care may only be given with his consent. Where the child under care has no legal capacity of his own, the consent of his statutory representative is necessary.”

Article XII

Amendment of the Law on legal costs

The Law on legal costs from 27. November 1984, Federal Law Gazette No. 501, last amended by the Federal Law Gazette I No. 26/2000, is amended as follows:

1. In the Tarifpost (Document containing court fees and legal costs) 14 the item 1 is cancelled, the previous items 2 to 7 receive the names “1”, “2”, “3”, “4”, “5” and “6” in their continuing order.

2 The Tarifpost 12 is amended as follows

a) in the column “subject” the following item 3 is annexed to the lit. a subsequent to the item 2:

“3. Proceedings for the acknowledgement of foreign marriage decisions (§ 228b AußstrG);”

b) in the column “size of costs” the following amount is annexed to the new item 3:

“990 ATS”.

Article XIII

Amendment of the fourth implementing regulation of the Marriage Act

The Fourth Implementing Regulation of the Marriage Act, dRGBI. 1 (Reich Law Gazette – Implementations), No. 654/1941, last amended by the Federal Law, Federal Law Gazette No. 304/1978, is amended as follows:

§ 24 is cancelled.

Article XIV

Amendment of the Youth Welfare Act 1989

The Youth Welfare Act 1989, Federal Law Gazette No. 161/1989, last amended by the Federal Law, Federal Law Gazette I No. 53/1999, is amended as follows:

§ 41 shall read:

“§ 41. (1) Declarations on the acknowledgement of paternity and declarations related to it, shall be recorded and certified by the youth welfare authority.

(2) The youth welfare authority shall deliver copies of the declarations on the acknowledgement of paternity recorded by them, of documents related to it certified by them and of the authenticated declarations delivered to them, to the responsible civil status authority and if necessary, also to the responsible youth welfare authority.”

Article XV

Amendment of the banking law

The banking law, Federal Law Gazette No. 532/1993, last amended by the Federal Law, Federal Law Gazette I No. 33/2000, is amended as follows:

§ 36 first sentence reads:

“Financial institutions shall exercise the following duties of care in their business relations with young persons (persons, who have not terminated their 18. year of life):

Terminologie:

Da die Terminologie nicht ganz einfach war, hier noch ein paar Anmerkungen:

Deutscher Ausdruck:

Absatz

Z (Ziffer)

Übersetzt mit:

sub-paragraph

item

Jugendwohlfahrtsträger (Länder)

Öffentliche Jugendwohlfahrt

Erziehungsberechtigung

gesetzlicher Vertreter

Vormund

Obsorge

Außerstreitverfahren

Pflegschaftsgericht/Vormundschaftsg.

Sachwalter

youth welfare authority

Public Youth Welfare

parental authority

statutory representative

guardian

child custody

extra-judicial proceedings (durch Rechtspfleger)

Guardianship court

guardian (Aufgaben wie Sachwalter)