

STATES OF JERSEY



DRAFT CRIME (PUBLIC ORDER) (JERSEY) LAW 202-. (P.97/2023): CHILDREN'S RIGHTS IMPACT ASSESSMENT

**Presented to the States on 16th January 2024
by the Minister for Justice and Home Affairs**

STATES GREFFE

CHILD RIGHTS IMPACT ASSESSMENT (CRIA)

PART 1: SCREENING

Name and title of Duty Bearer:	Deputy Helen Miles, Minister for Justice and Home Affairs
Type of Duty Bearer: (Minister, Elected Member or States Assembly Body)	Minister
Assessment completed by (if not completed by duty bearer):	Sara Garwood
Date:	15/01/24

<p>1) Name and brief description of the proposed decision</p> <p>The subject of your CRIA may be a proposed law, policy or proposition and in accordance with the Law is referred to in this template as the 'decision'</p> <ul style="list-style-type: none"> • What is the problem or issue the decision is trying to address? • Do children experience this problem differently from adults?
<p>The Draft Crime (Public Order) (Jersey) Law 202, if adopted will bring outdated public order laws up to date for modern day use. It will also introduce a new piece of legislation to cater for threats to kill, rape or cause serious physical injury.</p> <p>The draft law will also address knife crime issues by providing that possession of an offensive weapon on school premises will be an offence. An offensive weapon will now also include an article that has a blade that is sharply pointed.</p> <p>There will be some minor amendments to the Parish Hall Enquiry process by extending the powers of the Centenier to impose fines summarily on some additional minor traffic and drug offences.</p>
<p>2) Which groups of children and young people are likely to be affected?</p> <p>Groups of children could include early years, primary or secondary education; young adults; children with additional learning needs; disabled children; children living in poverty; children from particular ethnic backgrounds; migrants; refugees; care experienced children and LGBTQ+ children</p>
<p>Any pupils attending school (whether as a pupil or guest) may be affected by this additional offence of possession of an offensive weapon in a school premises.</p> <p>There is no data available to suggest that any particular ethnic group or member of the community locally would be more adversely affected than another.</p>
<p>3) What is the likely impact of the proposed decision on children and on their rights?</p> <ul style="list-style-type: none"> • Identify any potential positive OR negative impacts and include indirect impacts on children and their rights as described in the UNCRC • Will different groups of children be affected differently by this decision?
<p>Art 3,6,19,28,29 –Making it an offence to possess an offensive weapon on school premises will provide greater protection for all school users, particularly children, as well as enhancing a sense of community safety. It may also help break the circle of offending within peer groups where just carrying an offensive weapon becomes</p>

prohibited within school premises. While there may be some impact upon those who choose to bring weapons into schools, Art 3 +6, providing for the best interests and safety of our children takes precedence.

Current legislative gaps make it difficult to differentiate between relevant ages/groups of children in relation to statistics around possession of offensive weapons within school premises.

4) Is a full Child Rights Impact Assessment required?
If you have identified impacts on children and their rights, a full CRIA should be completed. If no impacts are identified then a Full CRIA is not required, but please explain your rationale and how you reached this conclusion

A full CRIA is required since some children may be impacted by the decision to make it an offence to carry an offensive weapon in a public place, including schools.

If screening determines that a full CRIA is needed, complete Part 2

Part 2: FULL CHILD RIGHTS IMPACT ASSESSMENT

5) What will be the impacts (positive or negative) of the proposed decision on children's rights?

For each of the UNCRC articles described below, click to identify any that may be relevant

Category	UNCRC Article	Impact?	
		YES	NO
Guiding Principles	Non-discrimination (Art 2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Best interests of the Child (Art 3) to be a top priority	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Right to Life survival and development (Art 6)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Respect for the child's views (Art 12)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Civil Rights & Freedoms	Right to birth registration, name and nationality (Art 7)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Right to an identity (Art 8)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Freedom of expression (Art 13)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Freedom of thought, conscience, and religion (Art 14) Every child has the right to think and believe what they choose	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Freedom of association (Art 15) Every child has the right to meet with other children and to	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	join groups and organisations		
	Right to Privacy (Art 16) including family and home life	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Access to information from the media (Art 17) Right to access reliable information from a variety of sources, in a format that children can understand	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Protection against torture or other cruel, degrading or inhumane treatment or punishment (Art 37(a))	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Family Environment and Alternative Care	Respect for the responsibilities, rights and duties of parents (or where applicable, extended family or community) to guide their child as they grow up (Art 5)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Responsibilities of both parents in the upbringing and development of their child (Art 18)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Children must not be separated from their parents against their will unless it is in their best interests (Art 9)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Family reunification (Art 10)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Abduction and non-return of children abroad (Art 11)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Right to a standard of living that is good enough to meet the child's physical and social needs and support their development (Art 27)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Special protection for children unable to live with their family (Art 20)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Best interests of the child in the context of Adoption (Art 21)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Review of treatment whilst in care (Art 25) If a child has been placed away from home for the purpose of care or protection (for example, with a foster family or in hospital), they have the right to a regular review of their treatment, the way they are cared for and their wider circumstances.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Protection from violence, abuse or neglect (Art 19)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recovery from trauma and reintegration (Art 39) Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Basic Health and Welfare	Rights of disabled children (Art 23)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Right to health and health services (Art 24)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Right to social security (Art 26)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Right to adequate standard of living (Art 27)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Education, Leisure and Cultural Activities	Right to education (Art 28)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Goals of education (Art 29) Education must develop every child's personality, talents and abilities to the full	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Leisure, play and culture (Art 31) Every child has the right to relax, play and take part in cultural and artistic activities	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Special Protection Measures	Special protection for refugee children (Art 22)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Children and armed conflict (Art 38 and Optional Protocol #1) Governments must do everything they can to protect and care for children affected by war and armed conflict.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Children and juvenile justice (Art 40) Right to be treated with dignity and respect, right to legal assistance and a fair trial that takes account of age.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Inhumane treatment and detention (Art 37 (b)-(d)) Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Recovery from trauma and reintegration (Art 39) Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Child labour and right to be protected from economic exploitation (Art 32)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Drug abuse (Art 33)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Sexual exploitation (Art 34)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Abduction, sale and trafficking of children (Art 35)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Protection from other forms of exploitation including for political activities, by the media or for medical research (Art 36)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Children belonging to a minority or an indigenous group (Art 30)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Optional Protocol on the sale of children, child prostitution and child pornography	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Optional protocol on the involvement of children in armed conflict	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

6) Information and research What evidence has been used to inform your assessment?		
Evidence collected (include links to relevant	What did the evidence tell you?	What are the data gaps, if any?

publications)		
<p>Only 73% of pupils felt safe at school and 17% want to make schools safer.</p> <p>lifeontherock080721.pdf (childcomjersey.org.je)</p> <p>Police records suggest that 17 incidents involving knives were logged in schools between 2020 and 2022, which is about 2% of the total that involve knives. None of those logged incidents resulted in convictions for knife crimes in schools.</p>	<p>Although the concerns may be primarily around bullying, there is an obvious connection between bullying/ coercive behaviour which may encourage vulnerable youths to carry knives for their own protection.</p> <p>A low percentage of charges may indicate that the current legislation does not reflect the incidents that are taking place</p>	<p>Since there is currently no detailed legislation around youths carrying knives in schools there is no data around this specific area.</p> <p>A number of iLogs referring to young people did not progress into crimes, possibly due to current legislative gaps</p>

<p>7) Engagement with children What groups of children and young people (or those who speak on their behalf, such as social workers, teachers or youth workers) have been directly or indirectly involved in developing the decision?</p>		
Groups consulted	How they were involved	What were the findings?
<p>ID Children and Young People Plan 2019 to 2023 EW.pdf (gov.je)</p>	<p>Around 30 primary and secondary schools were invited to a workshop, hosted by the then Children’s Minister, Senator Sam Mézec</p>	<p>Reduce the number of children who are victims of crime. Increase children’s quality of life. Reduce the number of under 18’s who become victims of crime. “At school you should feel supported by teachers and friends...”</p>

<p>8) Assessing Impact on children’s rights Based on the information collected and analysed above, what likely impact will the proposed decision have on the specific children’s rights identified in question 5)?</p>		
Relevant UNCRC Articles (rights) identified in Q5	Describe the positive or negative impacts on these rights	Which group(s) of children are likely to be affected?
<p>Non-discrimination (Art 2) Best interests of the Child</p>	<p>This draft law would update outdated public order legislation and create new offences and</p>	<p>The public order aspects of the law have the potential to affect any children who engage in public order.</p>

<p>(Art 3) to be a top priority</p> <p>Right to Life survival and development (Art 6)</p> <p>Protection from violence, abuse or neglect (Art 19)</p> <p>Right to education (Art 28)</p> <p>Drug abuse (Art 33)</p>	<p>penalties, commensurate with modern day requirements. This law may unintentionally engage Art 2 by virtue of the fact that it may differentiate between some school attendees who are realistically not going to be carrying knives (e.g. very young, etc). However, Art 3 provides that State Parties must ensure such protection and care for a child and shall take appropriate legislative measures. This law supports those requirements and is therefore compliant with the UNCRC, Art 6 +19 require States Parties to recognise that every child has a right to life and protection from violence and this draft law provides some further protection and safety for everyone by criminalising possession of an offensive weapon in schools, thereby making it a less attractive option. This law will support Art 28 by helping to safeguard pupils/staff from the possibility of knife crime, which will in turn help to ensure that educational premises provide a safe learning environment. Drug abuse is often linked to young people and may progress to production and trafficking. Art 33 is supported within this new legislation since it will allow Centeniers to impose fines summarily for some drug offences, potentially keeping some</p>	<p>The offensive weapon offences may affect any school users. Changes to the drug offences legislation to allow Centeniers to impose fines summarily for Class B and C drugs may also benefit some young drug users.</p>
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	offenders from a court appearance and potentially on to other more serious drug offences.	
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- 9) Weighing positive and negative impacts
- If a negative impact is identified for any area of rights or any group of children and young people, what options are there to modify the proposed decision to mitigate the impact?
 - Could any positive impacts be enhanced?

This draft law would provide new criminal offences and penalties.

It would fill current gaps, for example, around carrying an offensive weapon in a school would be an offence which would impact upon the individuals who choose to carry such a weapon. However, Art 3, the best interests of the child, and preservation of life and safety for all school users takes precedence.

There are defences built into the legislation for a person to prove that they have the weapon legitimately, including for educational purposes. The removal of any defences may make it easier to prove an offence and thus easier to prosecute. Nevertheless, it is recognised that such defences are necessary and proportionate to the offence.

10) Conclusions

In summary, what are your key findings on the impact of the proposed decision on the rights of Jersey children?

The key UNCRC rights which may be engaged are detailed in section 8 of this document.

The restriction on carrying an offensive weapon in a school premises may well hinder those who choose to carry such a weapon, whether for self- protection or otherwise. However, over a short period of time the need to carry a weapon for protection may well diminish as fewer people will carry such a weapon. The inclusion of school premises within the scope of the law is simply an extension of the definition of “public place” and defences are available where appropriate. It is considered proportionate to the aim of protecting our children.

The general principal that every person is entitled to peaceful enjoyment of their possessions which could be interpreted to include a weapon, (ECHR rights, Article 7, Protocol 1 (A1P1) is acknowledged. However, the potential for injury or even death is too great a risk to defer to a person’s right to carry a weapon.

Providing that Centeniers may deal with some drug offences summarily may well benefit those individuals who would otherwise be sent to court and the option to refute and attend court is still available.

This law is proportionate and necessary for public safety and the prevention of crime and disorder.