

Sections of Children's Act declared unconstitutional

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THE start of Child Protection Week yesterday has been given a boost by the Pretoria High Court, which has given more protection to children in declaring certain sections of the Children's Act unconstitutional.

This relates to authorities simply removing children from their caregivers or parents without making provision for a court to speedily review that decision.

As the law stood, the authorities could in a case of emergency remove children and place them in temporary care.

Social workers then had 90 days in which to turn to the court regarding this move. The Children's Court could thus determine only after 90 days whether it was justified to remove a child.

Judge Hans Fabricius, however, found that these provi-

sions were unconstitutional.

He ordered, among other things, that matters where children have been removed and placed in temporary care can now be reviewed by the Children's Court within 48 hours.

This order will be with immediate effect, but will be subject to confirmation by the Constitutional Court.

It was prompted by the earlier raid by the police, social services and other officials on beggars in Pretoria and surrounding areas.

The three-year-old daughter of a shoemaker was taken away at the time because the authorities believed the child was in need of care.

The child was taken to a place of safety, and the father, with the help of Lawyers for Human Rights started court proceedings to get the child back.

He explained that he was

not begging with the child, but that he mended shoes for a living. His wife was in hospital at the time, delivering their second child, and he had to take his daughter with him as there was no one to take care of her.

The court ordered that the child be returned to her parents.

In another case, the two toddlers of a blind woman, believed to be a beggar, were taken away by authorities, who tore the screaming children from their mother's arms.

She, too, approached the court to get her children back. They were reunited after an investigation.

Lawyers for Human Rights said although the raid had been planned, no attempt had been made by the social workers to obtain a court order for the removal of the children.

Such an order is required, except in emergencies.