

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT ACT, 2021

(No. 23 of 2021, dt. 7-8-2021)

An Act to amend the Juvenile Justice (Care and Protection of Children) Act, 2015.
BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

1. Short title and commencement

(1) This Act may be called the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2

In section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) (hereinafter referred to as the principal Act),—

- (i) clause (4) shall be omitted;
- (ii) in clause (14),—
 - (a) in sub-clause (ii), after the words “contravention of”, the words “the provisions of this Act or” shall be inserted;
 - (b) for sub-clause (vi), the following sub-clause shall be substituted, namely:—

“(vi) who does not have parents and no one is willing to take care of and protect or who is abandoned or surrendered;”;
 - (c) in sub-clause (ix), for the words “is likely to be”, the words “has been or is being or is likely to be” shall be substituted;
- (iii) in clause (17), for the words “Children’s Home”, the words “child care institution” shall be substituted;
- (iv) in clause (26), for the words “which is the focal point”, the words “which shall function under the supervision of the District Magistrate” shall be substituted;
- (v) after clause (26), the following clause shall be inserted, namely:—

“(26A) “District Magistrate” includes Additional District Magistrate of the District;”;
- (vi) in clause (46), the words “the person in-charge of which is willing” shall be omitted;
- (vii) for clause (54), the following clause shall be substituted, namely:—

“(54) “serious offences” includes the offences for which the punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force, is,—

¹ Enforced w.e.f. 1-9-2022 vide SO 4127(E), dt. 31-8-2022.

- (a) minimum imprisonment for a term more than three years and not exceeding seven years; or
- (b) maximum imprisonment for a term more than seven years but no minimum imprisonment or minimum imprisonment of less than seven years is provided.’.

3. Amendment of section 3

In section 3 of the principal Act, for the words “the Board, and”, the words “the Board, the Committee, or” shall be substituted.

4. Amendment of section 4

In section 4 of the principal Act, in sub-section (7), in clause (iii), for the words “less than”, the word “minimum” shall be substituted.

5. Amendment of section 8

In section 8 of the principal Act, in sub-section (3), in clause (m), for the words “of such a child to the observation home”, the words “that child to an observation home or place of safety, as the case may be,” shall be substituted.

6. Amendment of section 12

In section 12 of the principal Act, in sub-section (2), after the words “observation home”, the words “or a place of safety, as the case may be,” shall be inserted.

7. Amendment of section 16

In section 16 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The District Magistrate may, as and when required, in the best interest of a child, call for any information from all the stakeholders including the Board and the Committee.”.

8. Amendment of section 18

In section 18 of the principal Act, in sub-section (1), after the words “heinous offence,”, the words and figures “or a child above the age of sixteen years has committed a heinous offence and the Board has, after preliminary assessment under section 15, disposed of the matter” shall be inserted.

9. Amendment of section 27

In section 27 of the principal Act,—

- (i) for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) No person shall be appointed as a member of the Committee unless he has a degree in child psychology or psychiatry or law or social work or sociology or human health or education or human development or special education for differently abled children and has been actively involved in health, education or welfare activities pertaining to children for seven years or is a practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human health or education or human development or special education for differently abled children.

(4A) No person shall be eligible for selection as a member of the Committee, if he—

- (i) has any past record of violation of human rights or child rights,

- (ii) has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence,
- (iii) has been removed or dismissed from service of the Government of India or State Government or an undertaking or corporation owned or controlled by the Government of India or State Government,
- (iv) has ever indulged in child abuse or employment of child labour or immoral act or any other violation of human rights or immoral acts, or
- (v) is part of management of a child care institution in a District.”;
- (ii) in sub-section (7), in clause (iii), for the words “less than”, the word “minimum” shall be substituted;
- (iii) for sub-section (8), the following sub-section shall be substituted, namely:—
 “(8) The Committee shall submit a report to the District Magistrate in such form as may be prescribed and the District Magistrate shall conduct a quarterly review of the functioning of the Committee.”;
- (iv) for sub-section (10), the following sub-section shall be substituted, namely:—
 “(10) The District Magistrate shall be the grievance redressal authority to entertain any grievance arising out of the functioning of the Committee and the affected child or anyone connected with the child, as the case may be, may file a complaint before the District Magistrate who shall take cognizance of the action of the Committee and, after giving the parties an opportunity of being heard, pass appropriate order.”.

10. Amendment of section 32

In section 32 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The information regarding a child referred to in sub-section (1) shall be uploaded by the Committee or the District Child Protection Unit or the child care institution, as the case may be, on a portal as may be specified by the Central Government in this behalf.”.

11. Amendment of section 37

In section 37 of the principal Act, in sub-section (1), the words “submitted by Child Welfare Officer” shall be omitted.

12. Amendment of section 38

In section 38 of the principal Act, in sub-section (5), after the words “shall inform”, the words “the District Magistrate,” shall be inserted.

13. Amendment of section 40

In section 40 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The Committee shall submit a quarterly report regarding restored, dead and runaway children to the State Government and the District Magistrate in such form as may be prescribed.”.

14. Amendment of section 41

In section 41 of the principal Act,—

- (i) in sub-section (1), the words “, within a period of six months from the date of commencement of this Act,” shall be omitted;
- (ii) in sub-section (2), for the words “shall determine”, the words “shall, after considering the recommendations of the District Magistrate, determine” shall be substituted.

15. Amendment of section 54

In section 54 of the principal Act,—

- (i) in sub-section (2), for the words “District Child Protection Units or State Government, as the case may be”, the words “District Magistrate” shall be substituted;
- (ii) in sub-section (3), for the words “District Child Protection Unit or the State Government”, the words “District Magistrate” shall be substituted.

16. Amendment of section 55

In section 55 of the principal Act, in sub-section (1), after the words “State Government”, the words “or District Magistrate” shall be inserted.

17. Amendment of section 56

In section 56 of the principal Act, in sub-section (5), for the word “Court”, the words “District Magistrate” shall be substituted.

18. Amendment of section 58

In section 58 of the principal Act,—

- (i) in sub-section (3), for the words “in the court”, the words “before the District Magistrate” shall be substituted;
- (ii) in sub-section (4), for the words “court order”, the words “order passed by the District Magistrate” shall be substituted.

19. Amendment of section 59

In section 59 of the principal Act,—

- (i) in sub-section (7), for the words “in the court”, the words “before the District Magistrate” shall be substituted;
- (ii) in sub-section (8), for the words “court order”, the words “order passed by the District Magistrate” shall be substituted.

20. Amendment of section 60

In section 60 of the principal Act, in sub-section (1), for the word “court”, the words “District Magistrate” shall be substituted.

21. Amendment of section 61

In section 61 of the principal Act,—

- (i) for the marginal heading, the following marginal heading shall be substituted, namely:—
“Procedure for disposal of adoption proceedings.”;
- (ii) in sub-section (1), for the word “court”, the words “District Magistrate” shall be substituted;
- (iii) in sub-section (2), for the word “court”, the words “District Magistrate” shall be substituted.

22. Amendment of section 63

In section 63 of the principal Act, for the word “court”, the words “District Magistrate” shall be substituted.

23. Amendment of section 64

In section 64 of the principal Act, for the words “concerned courts”, the words “District Magistrate” shall be substituted.

24. Amendment of section 65

In section 65 of the principal Act, in sub-section (4), for the word “court”, the words “District Magistrate” shall be substituted.

25. Amendment of section 74

In section 74 of the principal Act, in sub-section (2), for the words “in cases where the case”, the words “in the pending case or in the case which” shall be substituted.

26. Substitution of section 86

For section 86 of the principal Act, the following section shall be substituted, namely:—

“86. Classification of offences and designated court

(1) Where an offence under this Act is punishable with imprisonment for a term of more than seven years, then, such offence shall be cognizable and non-bailable.

(2) Where an offence under this Act is punishable with imprisonment for a term of three years and above, but not more than seven years, then, such offence shall be non-cognizable and non-bailable.

(3) Where an offence, under this Act is punishable with imprisonment for less than three years or with fine only, then, such offence shall be non-cognizable and bailable.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or the Commission for Protection of Child Rights Act, 2005 (4 of 2006) or the Protection of Children from Sexual Offences Act, 2012 (32 of 2012), offences under this Act shall be triable by the Children’s Court.”.

27. Amendment of section 87

In section 87 of the principal Act, for the “*Explanation*”, the following *Explanation* shall be substituted, namely:—

‘*Explanation.*—For the purposes of this section, the expression “abetment” shall have the same meaning as assigned to it in section 107 of the Indian Penal Code (45 of 1860).’.

28. Amendment of section 101

In section 101 of the principal Act,—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) No appeal shall lie from any order of acquittal made by the Board in respect of a child alleged to have committed an offence other than the heinous offence by a child who has completed or is above the age of sixteen years.”.

(ii) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(6) Any person aggrieved by an adoption order passed by the District Magistrate may, within a period of thirty days from the date of such order passed by the District Magistrate, file an appeal before the Divisional Commissioner.

(7) Every appeal filed under sub-section (6), shall be decided as expeditiously as possible and an endeavour shall be made to dispose it within a period of four weeks from the date of filing of the appeal:

PROVIDED that where there is no Divisional Commissioner, the State Government or Union territory Administration, as the case may be, may, by notification, empower an officer equivalent to the rank of the Divisional Commissioner to decide the appeal.”.

29. Amendment of section 110

In section 110 of the principal Act, in sub-section (2),—

(a) after clause (xiv), the following clause shall be inserted, namely:—

“(xiva) the form of report submitted to the District Magistrate under sub-section (8) of section 27;”;

(b) after clause (xxii), the following clause shall be inserted, namely:—

“(xxiia) the form of quarterly report regarding restored, dead and runaway children under sub-section (4) of section 40;”.

EFFECTIVE DATE NOTIFICATION

[S.O. 4127(E), dt. 31-8-2022]

In exercise of the powers conferred by sub-section (2) of section 1 of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021 (23 of 2021), the Central Government hereby appoints the 1st day of September, 2022 as the date on which the said Act shall come into force.

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

(Act 2 of 2016, dt. 31-12-2015)

[As amended by the Juvenile Justice (Care and Protection of Children)

Amendment Act, 2021 (23 of 2021), dt. 7-8-2021, w.e.f. 1-9-2022 vide SO 4127(E),
dt. 31-8-2022]

An Act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, hereinunder and for matters connected therewith or incidental thereto.

WHEREAS, the provisions of the Constitution confer powers and impose duties, under clause (3) of article 15, clauses (e) and (f) of article 39, article 45 and article 47, on the State to ensure that all the needs of children are met and that their basic human rights are fully protected;

AND WHEREAS, the Government of India has acceded on the 11th December, 1992 to the Convention on the Rights of the Child, adopted by the General Assembly of United Nations, which has prescribed a set of standards to be adhered to by all State parties in securing the best interest of the child;

AND WHEREAS, it is expedient to re-enact the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000), to make comprehensive provisions for children alleged and found to be in conflict with law and children in need of care and protection, taking into consideration the standards prescribed in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (1993), and other related international instruments.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. Short title, extent, commencement and application

(1) This Act may be called the Juvenile Justice (Care and Protection of Children) Act, 2015.

(2) It extends to the whole of India ¹[xxx].

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

¹ Words “except the State of Jammu and Kashmir” omitted by the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), dt. 9-8-2019, w.e.f. 31-10-2019 vide SO 2889(E), dt. 9-8-2019.

² Enforceable w.e.f. 15-1-2016 vide SO 110(E), dt. 12-1-2016.

(4) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all matters concerning children in need of care and protection and children in conflict with law, including —

- (i) apprehension, detention, prosecution, penalty or imprisonment, rehabilitation and social re-integration of children in conflict with law;
- (ii) procedures and decisions or orders relating to rehabilitation, adoption, re-integration, and restoration of children in need of care and protection.

2. Definitions

In this Act, unless the context otherwise requires,—

- (1) “abandoned child” means a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry;
- (2) “adoption” means the process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities that are attached to a biological child;
- (3) “adoption regulations” means the regulations framed by the Authority and notified by the Central Government in respect of adoption;
- ¹[(4) “administrator” means any district official not below the rank of Deputy Secretary to the State, on whom magisterial powers have been conferred;]
- (5) “aftercare” means making provision of support, financial or otherwise, to persons, who have completed the age of eighteen years but have not completed the age of twenty-one years, and have left any institutional care to join the mainstream of the society;
- (6) “authorised foreign adoption agency” means a foreign social or child welfare agency that is authorised by the Central Adoption Resource Authority on the recommendation of their Central Authority or Government department of that country for sponsoring the application of non-resident Indian or overseas citizen of India or persons of Indian origin or foreign prospective adoptive parents for adoption of a child from India;
- (7) “Authority” means the Central Adoption Resource Authority constituted under section 68;
- (8) “begging” means—
 - (i) soliciting or receiving alms in a public place or entering into any private premises for the purpose of soliciting or receiving alms, under any pretence;
 - (ii) exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;
- (9) “best interest of child” means the basis for any decision taken regarding the child, to ensure fulfilment of his basic rights and needs, identity, social well-being and physical, emotional and intellectual development;
- (10) “Board” means a Juvenile Justice Board constituted under section 4;

¹ Omitted by the Juvenile Justice (Care and Protection of Children) Amdt. Act, 2021 (23 of 2021), dt. 7-8-2021, w.e.f. 1-9-2022 vide SO 4127(E), dt. 31-8-2022.

- (11) “Central Authority” means the Government department recognised as such under the Hague Convention on Protection of Children and Cooperation in Inter-country Adoption (1993);
- (12) “child” means a person who has not completed eighteen years of age;
- (13) “child in conflict with law” means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence;
- (14) “child in need of care and protection” means a child—
 - (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or
 - (ii) who is found working in contravention of ¹[the provisions of this Act or] labour laws for the time being in force or is found begging, or living on the street; or
 - (iii) who resides with a person (whether a guardian of the child or not) and such person—
 - (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or
 - (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or
 - (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or
 - (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or
 - (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or
 - ²[(vi) who does not have parents and no one is willing to take care of and protect or who is abandoned or surrendered;]
 - (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or
 - (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or
 - (ix) who is found vulnerable and ³[has been or is being or is likely to be] inducted into drug abuse or trafficking; or
 - (x) who is being or is likely to be abused for unconscionable gains; or

1 Inserted by the Juvenile Justice (Care and Protection of Children) Amdt. Act, 2021 (23 of 2021), dt. 7-8-2021, w.e.f. 1-9-2022 vide SO 4127(E), dt. 31-8-2022.

2 Substituted, *ibid.* Prior to substitution, sub-clause (vi) read as under:
“(vii) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or”

3 Substituted for “is likely to be”, *ibid.*

- (xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or
- (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;
- (15) “child friendly” means any behaviour, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child;
- (16) “child legally free for adoption” means a child declared as such by the Committee after making due inquiry under section 38;
- (17) “Child Welfare Officer” means an officer attached to a ¹[child care institution], for carrying out the directions given by the Committee or, as the case may be, the Board with such responsibility as may be prescribed;
- (18) “Child Welfare Police Officer” means an officer designated as such under sub-section (1) of section 107;
- (19) “Children’s Home” means a Children’s Home, established or maintained, in every district or group of districts, by the State Government, either by itself, or through a voluntary or non-governmental organisation, and is registered as such for the purposes specified in section 50;
- (20) “Children’s Court” means a court established under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006) or a Special Court under the Protection of Children from Sexual Offences Act, 2012 (32 of 2012), wherever existing and where such courts have not been designated, the Court of Sessions having jurisdiction to try offences under the Act;
- (21) “child care institution” means Children Home, open shelter, observation home, special home, place of safety, specialised Adoption Agency and a fit facility recognised under this Act for providing care and protection to children, who are in need of such services;
- (22) “Committee” means Child Welfare Committee constituted under section 27;
- (23) “court” means a civil court, which has jurisdiction in matters of adoption and guardianship and may include the District Court, Family Court and City Civil Courts;
- (24) “corporal punishment” means the subjecting of a child by any person to physical punishment that involves the deliberate infliction of pain as retribution for an offence, or for the purpose of disciplining or reforming the child;
- (25) “childline services” means a twenty-four hours emergency outreach service for children in crisis which links them to emergency or long-term care and rehabilitation service;
- (26) “District Child Protection Unit” means a Child Protection Unit for a District, established by the State Government under section 106, ²[which shall function under the supervision of the District Magistrate] to ensure the

¹ Substituted for “Children’s Home” by the Juvenile Justice (Care and Protection of Children) Amdt. Act, 2021 (23 of 2021), dt. 7-8-2021, w.e.f. 1-9-2022 vide SO 4127(E), dt. 31-8-2022.

² Substituted for “which is the focal point”, *ibid*.

implementation of this Act and other child protection measures in the district;

¹[(26A) “District Magistrate” includes Additional District Magistrate of the District;]

- (27) “fit facility” means a facility being run by a governmental organisation or a registered voluntary or non-governmental organisation, prepared to temporarily own the responsibility of a particular child for a specific purpose, and such facility is recognised as fit for the said purpose, by the Committee, as the case may be, or the Board, under sub-section (1) of section 51;
- (28) “fit person” means any person, prepared to own the responsibility of a child, for a specific purpose, and such person is identified after inquiry made in this behalf and recognised as fit for the said purpose, by the Committee or, as the case may be, the Board, to receive and take care of the child;
- (29) “foster care” means placement of a child, by the Committee for the purpose of alternate care in the domestic environment of a family, other than the child’s biological family, that has been selected, qualified, approved and supervised for providing such care;
- (30) “foster family” means a family found suitable by the District Child Protection Unit to keep children in foster care under section 44;
- (31) “guardian” in relation to a child, means his natural guardian or any other person having, in the opinion of the Committee or, as the case may be, the Board, the actual charge of the child, and recognised by the Committee or, as the case may be, the Board as a guardian in the course of proceedings;
- (32) “group foster care” means a family like care facility for children in need of care and protection who are without parental care, aiming on providing personalised care and fostering a sense of belonging and identity, through family like and community based solutions;
- (33) “heinous offences” includes the offences for which the minimum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment for seven years or more;
- (34) “inter-country adoption” means adoption of a child from India by non-resident Indian or by a person of Indian origin or by a foreigner;
- (35) “juvenile” means a child below the age of eighteen years;
- (36) “narcotic drug” and “psychotropic substance” shall have the meanings, respectively, assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985);
- (37) “no objection certificate” for inter-country adoption means a certificate issued by the Central Adoption Resource Authority for the said purpose;
- (38) “non-resident Indian” means a person who holds an Indian passport and is presently residing abroad for more than one year;
- (39) “notification” means the notification published in the Official Gazette of India, or as the case may be, in the Gazette of a State, and the expression “notify” shall be construed accordingly;

¹ Inserted by the Juvenile Justice (Care and Protection of Children) Amdt. Act, 2021 (23 of 2021), dt. 7-8-2021, w.e.f. 1-9-2022 vide SO 4127(E), dt. 31-8-2022.

- (40) “observation home” means an observation home established and maintained in every district or group of districts by a State Government, either by itself, or through a voluntary or non-governmental organisation, and is registered as such, for the purposes specified in sub-section (1) of section 47;
- (41) “open shelter” means a facility for children, established and maintained by the State Government, either by itself, or through a voluntary or non-governmental organisation under sub-section (1) of section 43, and registered as such, for the purposes specified in that section;
- (42) “orphan” means a child—
 - (i) who is without biological or adoptive parents or legal guardian; or
 - (ii) whose legal guardian is not willing to take, or capable of taking care of the child;
- (43) “overseas citizen of India” means a person registered as such under the Citizenship Act, 1955 (57 of 1955);
- (44) “person of Indian origin” means a person, any of whose lineal ancestors is or was an Indian national, and who is presently holding a Person of Indian Origin Card issued by the Central Government;
- (45) “petty offences” includes the offences for which the maximum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment up to three years;
- (46) “place of safety” means any place or institution, not being a police lockup or jail, established separately or attached to an observation home or a special home, as the case may be, ¹[xxx] to receive and take care of the children alleged or found to be in conflict with law, by an order of the Board or the Children’s Court, both during inquiry and ongoing rehabilitation after having been found guilty for a period and purpose as specified in the order;
- (47) “prescribed” means prescribed by rules made under this Act;
- (48) “probation officer” means an officer appointed by the State Government as a probation officer under the Probation of Offenders Act, 1958 (20 of 1958) or the Legal-cum-Probation Officer appointed by the State Government under District Child Protection Unit;
- (49) “prospective adoptive parents” means a person or persons eligible to adopt a child as per the provisions of section 57;
- (50) “public place” shall have the same meaning assigned to it in the Immoral Traffic (Prevention) Act, 1956 (104 of 1956);
- (51) “registered”, with reference to child care institutions or agencies or facilities managed by the State Government, or a voluntary or non-governmental organisation, means observation homes, special homes, place of safety, children’s homes, open shelters or Specialised Adoption Agency or fit facility or any other institution that may come up in response to a particular need or agencies or facilities authorised and registered under section 41, for providing residential care to children, on a short-term or long-term basis;
- (52) “relative”, in relation to a child for the purpose of adoption under this Act, means a paternal uncle or aunt, or a maternal uncle or aunt, or paternal grandparent or maternal grandparent;

¹ Words “the person in-charge of which is willing” omitted by the Juvenile Justice (Care and Protection of Children) Amdt. Act, 2021 (23 of 2021), dt. 7-8-2021, w.e.f. 1-9-2022 vide SO 4127(E), dt. 31-8-2022.

- (53) “State Agency” means the State Adoption Resource Agency set up by the State Government for dealing with adoption and related matters under section 67;
- ¹[(54) “serious offences” includes the offences for which the punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force, is,—
- (a) minimum imprisonment for a term more than three years and not exceeding seven years; or
 - (b) maximum imprisonment for a term more than seven years but no minimum imprisonment or minimum imprisonment of less than seven years is provided;]
- (55) “special juvenile police unit” means a unit of the police force of a district or city or, as the case may be, any other police unit like railway police, dealing with children and designated as such for handling children under section 107;
- (56) “special home” means an institution established by a State Government or by a voluntary or non-governmental organisation, registered under section 48, for housing and providing rehabilitative services to children in conflict with law, who are found, through inquiry, to have committed an offence and are sent to such institution by an order of the Board;
- (57) “Specialised Adoption Agency” means an institution established by the State Government or by a voluntary or non-governmental organisation and recognised under section 65, for housing orphans, abandoned and surrendered children, placed there by order of the Committee, for the purpose of adoption;
- (58) “sponsorship” means provision of supplementary support, financial or otherwise, to the families to meet the medical, educational and developmental needs of the child;
- (59) “State Government”, in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;
- (60) “surrendered child” means a child, who is relinquished by the parent or guardian to the Committee, on account of physical, emotional and social factors beyond their control, and declared as such by the Committee;
- (61) all words and expressions used but not defined in this Act and defined in other Acts shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

GENERAL PRINCIPLES OF CARE AND PROTECTION OF CHILDREN

3. General principles to be followed in administration of Act

The Central Government, the State Governments, ²[the Board, the Committee, or] other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely:—

¹ Substituted by the Juvenile Justice (Care and Protection of Children) Amdt. Act, 2021 (23 of 2021), dt. 7-8-2021, w.e.f. 1-9-2022 vide SO 4127(E), dt. 31-8-2022. Prior to substitution, clause (54) read as under:

“(54) “serious offences” includes the offences for which the punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force, is imprisonment between three to seven years;”

² Substituted for “the Board, and”, *ibid*.

- (i) **Principle of presumption of innocence:** Any child shall be presumed to be an innocent of any *mala fide* or criminal intent up to the age of eighteen years.
- (ii) **Principle of dignity and worth:** All human beings shall be treated with equal dignity and rights.
- (iii) **Principle of participation:** Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.
- (iv) **Principle of best interest:** All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.
- (v) **Principle of family responsibility:** The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.
- (vi) **Principle of safety:** All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter.
- (vii) **Positive measures:** All resources are to be mobilised including those of family and community, for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.
- (viii) **Principle of non-stigmatising semantics:** Adversarial or accusatory words are not to be used in the processes pertaining to a child.
- (ix) **Principle of non-waiver of rights:** No waiver of any of the right of the child is permissible or valid, whether sought by the child or person acting on behalf of the child, or a Board or a Committee and any non-exercise of a fundamental right shall not amount to waiver.
- (x) **Principle of equality and non-discrimination:** There shall be no discrimination against a child on any grounds including sex, caste, ethnicity, place of birth, disability and equality of access, opportunity and treatment shall be provided to every child.
- (xi) **Principle of right to privacy and confidentiality:** Every child shall have a right to protection of his privacy and confidentiality, by all means and throughout the judicial process.
- (xii) **Principle of institutionalisation as a measure of last resort:** A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.
- (xiii) **Principle of repatriation and restoration:** Every child in the juvenile justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.
- (xiv) **Principle of fresh start:** All past records of any child under the Juvenile Justice system should be erased except in special circumstances.

- (xv) **Principle of diversion:** Measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.
- (xvi) **Principles of natural justice:** Basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review, by all persons or bodies, acting in a judicial capacity under this Act.

COMMENTS

This section provides guidance to the Central Government, the State Governments, the Board, and other agencies, through fundamental principles for the implementation of the provisions of this Act. Such as Principle of presumption of innocence; Principle of dignity and worth; Principle of participation; Principle of best interest; Principle of family responsibility; Principle of safety; Positive measures; Principle of non-stigmatizing semantics; Principle of non-waiver of rights; Principle of equality and non-discrimination; Principle of right to privacy and confidentiality; Principle of institutionalisation as a measure of last resort; Principle of repatriation and restoration; Principle of fresh start; Principle of diversion; and Principles of natural justice, as prescribed.

CHAPTER III

JUVENILE JUSTICE BOARD

4. Juvenile Justice Board

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the State Government shall, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging its functions relating to children in conflict with law under this Act.

(2) A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of First Class not being Chief Metropolitan Magistrate or Chief Judicial Magistrate (hereinafter referred to as Principal Magistrate) with at least three years experience and two social workers selected in such manner as may be prescribed, of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class.

(3) No social worker shall be appointed as a member of the Board unless such person has been actively involved in health, education, or welfare activities pertaining to children for atleast seven years or a practicing professional with a degree in child psychology, psychiatry, sociology or law.

(4) No person shall be eligible for selection as a member of the Board, if he—

- (i) has any past record of violation of human rights or child rights;
- (ii) has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence;
- (iii) has been removed or dismissed from service of the Central Government or a State Government or an undertaking or corporation owned or controlled by the Central Government or a State Government;
- (iv) has ever indulged in child abuse or employment of child labour or any other violation of human rights or immoral act.

(5) The State Government shall ensure that induction training and sensitisation of all members including Principal Magistrate of the Board on care, protection, rehabilitation, legal provisions and justice for children, as may be prescribed, is provided within a period of sixty days from the date of appointment.

(6) The term of office of the members of the Board and the manner in which such member may resign shall be such, as may be prescribed.

(7) The appointment of any member of the Board, except the Principal Magistrate, may be terminated after holding an inquiry by the State Government, if he—

- (i) has been found guilty of misuse of power vested under this Act; or
- (ii) fails to attend the proceedings of the Board consecutively for three months without any valid reason; or
- (iii) fails to attend ¹[minimum] three-fourths of the sittings in a year; or
- (iv) becomes ineligible under sub-section (4) during his term as a member.

COMMENTS

This section provides for constitution of one or more Juvenile Justice Boards by the State Government for every district for exercising the powers and discharging the duties conferred or imposed on them in relation to children in conflict with law under this Act. The Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class (not being Chief Metropolitan Magistrate or Chief Judicial Magistrate) with at least three years of experience and two social workers from two different reputed non-governmental organisations. The selection of the members of the Board shall be done in prescribed manner however; at least one member of the Board shall be a woman. The Board shall be forming a Bench and every Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or, a Judicial Magistrate of the first class. The Magistrate on the Board shall be designated as the Principal Magistrate. No social worker shall be appointed as a member of the Board unless the person has been actively involved in health, education, or welfare activities pertaining to children for at least seven years or is a practicing professional with a degree in child psychology, psychiatry, sociology or law. No person shall be eligible for selection as a member of the Board, if he (a) has any past record of violation of human rights or child rights; (b) has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence; (c) has been removed or dismissed from service of the Central Government or a State Government or an undertaking or corporation owned or controlled by the Central Government or a State Government; (d) has ever indulged in child abuse or employment of child labour or any other human rights violations or immoral act. The State Government shall provide for the induction training and sensitisation of all members of the Board including the Principal Magistrate of the Board. The training shall be provided on care, protection, rehabilitation, legal provisions and justice for children, within a period of sixty days from the date of their appointment. The term of office of the members of the Board and the manner in which a member may resign shall be done as may be prescribed. The appointment of any member of the Board, except of that of the Principal Magistrate, may be terminated after holding inquiry, by the State Government, if he (a) has been found guilty of misuse of power vested under this Act; or (b) fails to attend the proceedings of the Board for consecutive three months without any valid reason; or (c) fails to attend minimum three-fourths of the sittings in a year; or becomes ineligible under sub-section (4) during his term as member.

5. Placement of person, who cease to be a child during process of inquiry

Where an inquiry has been initiated in respect of any child under this Act, and during the course of such inquiry, the child completes the age of eighteen years, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued by the Board and orders may be passed in respect of such person as if such person had continued to be a child.

¹ Substituted for “less than” by the Juvenile Justice (Care and Protection of Children) Amdt. Act, 2021 (23 of 2021), dt. 7-8-2021, w.e.f. 1-9-2022 vide SO 4127(E), dt. 31-8-2022.

COMMENTS

This section clarifies that when an inquiry has been initiated in respect of any child under this Act, and during the course of inquiry, if the child completes the age of eighteen years, then, the inquiry may be continued by the Board and orders may be passed in respect of that person as if the person had continued to be a child.

6. Placement of persons, who committed an offence, when person was below the age of eighteen years

(1) Any person, who has completed eighteen years of age, and is apprehended for committing an offence when he was below the age of eighteen years, then, such person shall, subject to the provisions of this section, be treated as a child during the process of inquiry.

(2) The person referred to in sub-section (1), if not released on bail by the Board shall be placed in a place of safety during the process of inquiry.

(3) The person referred to in sub-section (1) shall be treated as per the procedure specified under the provisions of this Act.

COMMENTS

This section states that if a person, who has completed eighteen years of age and is arrested for committing an offence when he was below the age of eighteen years, then such person shall be treated as a child during the process of inquiry. If the person is not released on bail by the Board then the person shall be placed in a place of safety during the process of inquiry.

7. Procedure in relation to Board

(1) The Board shall meet at such times and shall observe such rules in regard to the transaction of business at its meetings, as may be prescribed and shall ensure that all procedures are child friendly and that the venue is not intimidating to the child and does not resemble as regular courts.

(2) A child in conflict with law may be produced before an individual member of the Board, when the Board is not in sitting.

(3) A Board may act notwithstanding the absence of any member of the Board, and no order passed by the Board shall be invalid by the reason only of the absence of any member during any stage of proceedings:

PROVIDED that there shall be atleast two members including the Principal Magistrate present at the time of final disposal of the case or in making an order under sub-section (3) of section 18.

(4) In the event of any difference of opinion among the members of the Board in the interim or final disposal, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Principal Magistrate, shall prevail.

COMMENTS

This section states that the Board shall ensure that all procedures are child friendly and that the venue is not intimidating to the child and does not resemble regular courts. Further, the times at which the Board shall meet and the rules that shall be observed in regard to the transaction of business at its meetings, shall be prescribed. When the Board is not sitting, a child in conflict with law may be produced before an individual member of the Board. A Board may act even in the absence of any member of the Board, and no order passed by the Board shall be invalid in the absence of any member during any stage of proceedings. At the time of final disposal of the case or in making an order under section 18(3) at least two members including the Principal Magistrate shall be present and in the event of any difference of opinion among the members of the Board in the interim or final disposal, the opinion of the majority shall prevail. In case there is no majority then the opinion of the Principal Magistrate, shall prevail.

8. Powers, functions and responsibilities of the Board

(1) Notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, the Board constituted for any district shall have the power to deal exclusively with all the proceedings under this Act, relating to children in conflict with law, in the area of jurisdiction of such Board.

(2) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Children's Court, when the proceedings come before them under section 19 or in appeal, revision or otherwise.

(3) The functions and responsibilities of the Board shall include—

- (a) ensuring the informed participation of the child and the parent or guardian, in every step of the process;
- (b) ensuring that the child's rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation;
- (c) ensuring availability of legal aid for the child through the legal services institutions;
- (d) wherever necessary the Board shall provide an interpreter or translator, having such qualifications, experience, and on payment of such fees as may be prescribed, to the child if he fails to understand the language used in the proceedings;
- (e) directing the Probation Officer, or in case a Probation Officer is not available to the Child Welfare Officer or a social worker, to undertake a social investigation into the case and submit a social investigation report within a period of fifteen days from the date of first production before the Board to ascertain the circumstances in which the alleged offence was committed;
- (f) adjudicate and dispose of cases of children in conflict with law in accordance with the process of inquiry specified in section 14;
- (g) transferring to the Committee, matters concerning the child alleged to be in conflict with law, stated to be in need of care and protection at any stage, thereby recognising that a child in conflict with law can also be a child in need of care simultaneously and there is a need for the Committee and the Board to be both involved;
- (h) disposing of the matter and passing a final order that includes an individual care plan for the child's rehabilitation, including follow up by the Probation Officer or the District Child Protection Unit or a member of a non-governmental organisation, as may be required;
- (i) conducting inquiry for declaring fit persons regarding care of children in conflict with law;
- (j) conducting at least one inspection visit every month of residential facilities for children in conflict with law and recommend action for improvement in quality of services to the District Child Protection Unit and the State Government;
- (k) order the police for registration of first information report for offences committed against any child in conflict with law, under this Act or any other law for the time being in force, on a complaint made in this regard;
- (l) order the police for registration of first information report for offences committed against any child in need of care and protection, under this Act

or any other law for the time being in force, on a written complaint by a Committee in this regard;

- (m) conducting regular inspection of jails meant for adults to check if any child is lodged in such jails and take immediate measures for transfer ¹[that child to an observation home or place of safety, as the case may be,] and
- (n) any other function as may be prescribed.

COMMENTS

This section provides the functions and responsibilities of the Board as are prescribed and also states that the Board constituted for any district shall have the power to deal exclusively with all the proceedings under this Act, relating to children in conflict with law, in the area of jurisdiction of the Board. The powers conferred on the Board under this Act may also be exercised by the High Court and the Children's Court, when the proceedings come before them under this section or in appeal, revision or otherwise.

9. Procedure to be followed by a Magistrate who has not been empowered under this Act

(1) When a Magistrate, not empowered to exercise the powers of the Board under this Act is of the opinion that the person alleged to have committed the offence and brought before him is a child, he shall, without any delay, record such opinion and forward the child immediately along with the record of such proceedings to the Board having jurisdiction.

(2) In case a person alleged to have committed an offence claims before a court other than a Board, that the person is a child or was a child on the date of commission of the offence, or if the court itself is of the opinion that the person was a child on the date of commission of the offence, the said court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) to determine the age of such person, and shall record a finding on the matter, stating the age of the person as nearly as may be:

PROVIDED that such a claim may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such a claim shall be determined in accordance with the provisions contained in this Act and the rules made thereunder even if the person has ceased to be a child on or before the date of commencement of this Act.

(3) If the court finds that a person has committed an offence and was a child on the date of commission of such offence, it shall forward the child to the Board for passing appropriate orders and the sentence, if any, passed by the court shall be deemed to have no effect.

(4) In case a person under this section is required to be kept in protective custody, while the person's claim of being a child is being inquired into, such person may be placed, in the intervening period in a place of safety.

COMMENTS

This section provides that when a magistrate who is not empowered to exercise the powers of Board under this Act is of the opinion that the person alleged to have committed the offence and brought before him is a child then in such a case the magistrate shall, without any delay, record his opinion and forward the child immediately, and send record of the proceeding, to the Board having jurisdiction over the proceeding. In case a person alleged to have committed an offence

¹ Substituted for "of such a child to the observation home" by the Juvenile Justice (Care and Protection of Children) Amdt. Act, 2021 (23 of 2021), dt. 7-8-2021, w.e.f. 1-9-2022 vide SO 4127(E), dt. 31-8-2022.

claims that he was a child on the date of commission of the offence before a court other than a Board, or the court itself is of the opinion that the person was a child on the date of commission of the offence, then the court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) to determine the age of the person, and shall record a finding on the matter, stating the age of the person as nearly as may be. This section further clarifies that such a claim can be raised before any court and it shall be recognised at any stage, even after final disposal of the case. Such a claim shall be determined in terms of the provisions contained in this Act and the rules made under the Act even if the person has ceased to be a child on or before the date of commencement of this Act. If the court finds that a person has committed an offence and was a child on the date of commission of the offence, it shall forward the child to the Board for passing appropriate orders and the sentence. If any order or sentence is passed by the court, it shall be deemed to have no effect in such case. In case a person under this section is required to be kept in protective custody, while the person's claim of being a child is being inquired into, then such person may be placed, in the interim period, in a place of safety.

CHAPTER IV

PROCEDURE IN RELATION TO CHILDREN IN CONFLICT WITH LAW

10. Apprehension of child alleged to be in conflict with law

(1) As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, who shall produce the child before the Board without any loss of time but within a period of twenty-four hours of apprehending the child excluding the time necessary for the journey, from the place where such child was apprehended:

PROVIDED that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail.

(2) The State Government shall make rules consistent with this Act,—

- (i) to provide for persons through whom (including registered voluntary or non-governmental organisations) any child alleged to be in conflict with law may be produced before the Board;
- (ii) to provide for the manner in which the child alleged to be in conflict with law may be sent to an observation home or place of safety, as the case may be.

COMMENTS

This section provides that as soon as a child alleged to be in conflict with law is apprehended by the police, then the child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer. The special juvenile police unit or the designated child welfare police officer shall produce the child before the Board without any loss of time but within a period of twenty-four hours of apprehending the child excluding the time necessary for the journey, from the place where the child was apprehended. However, a child alleged to be in conflict with law, shall be placed in a police lockup or lodged in a jail. State Government shall make rules consistent with this Act, to provide for persons through whom any child alleged to be in conflict with law may be produced before the Board and to provide for the manner in which the child alleged to be in conflict with law may be sent to an observation home or place of safety, as the case may be.

11. Role of person in whose charge child in conflict with law is placed

Any person in whose charge a child in conflict with law is placed, shall while the order is in force, have responsibility of the said child, as if the said person was the child's parent and responsible for the child's maintenance:

PROVIDED that the child shall continue in such person's charge for the period stated by the Board, notwithstanding that the said child is claimed by the parents or any