



JUVENILE JUSTICE | SYSTEM ACT 2018



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The object of this Act is to modify the laws relating to criminal justice system for juveniles by providing special focus on disposal of cases through diversion and social reintegration of the juvenile offenders.

Child means for the purposes of this Act a person who has not attained the age of eighteen years;

Diversion means an alternative process of determining the responsibility and treatment of a juvenile without resorting to formal judicial proceedings;

Juvenile Offender means a child who is alleged to have committed or who has been found to have committed an offence;

Heinous Offence means an offence which is serious, gruesome, brutal, sensational in character or shocking to public morality and which is punishable under the Pakistan Penal Code, 1860 with death or imprisonment for life or for more than seven years with or without fine;

"Best interest of the child" means the basis for any decision taken regarding the child to ensure fulfillment of his basic rights and needs, identity, social well-being, physical, emotional and psychological development;

Major offence means an offence for which punishment under the Pakistan Penal Code, or any other law is more than three years and upto seven years imprisonment with or without fine;

Minor Offence means an offence for which maximum punishment under the Pakistan Penal Code or any other law is imprisonment up to three years with or without fine

SALIENT FEATURES OF THE LAW

Free Legal Assistance for Children

- (1) Every juvenile or a child who is victim of an offence shall have the right of legal assistance at expense of the State.

A juvenile (He /She) shall be informed about his rights available under the law by a legal practitioner within twenty four hours of taking him into custody.

A legal practitioner appointed by the Government or by the Juvenile Court shall have at least seven years standing at the Bar.

Establishment of Exclusive Juvenile Court

- (1) The Government in consultation with the concerned High Court shall [by notification in the official Gazette] establish or designate one or more Juvenile Courts, within a period of three months of the commencement of this Act.
- (2) A Juvenile Court may be established for one or more sessions divisions and that case the Juvenile Court may hold trial of a case at such place as the High Court may specify.
- (3) No person shall be appointed as a Judge of a Juvenile Court unless he /she is or has been a Sessions Judge or an Additional Sessions Judge or a Judicial Magistrate.
- (4) All cases pending before a trial court in which a juvenile is accused of an offence shall stand transferred to the Juvenile Court having jurisdiction.
- (5) On taking cognizance of an offence, the Juvenile Court shall decide the case within six months.

- (6) Where the case is not decided within six months in terms of subsection the Juvenile Court shall seek extension from the High Court concerned explaining the reasons for not being able to decide the case within prescribed time-limit. If no such extension has been sought by the Juvenile Court, the complainant or the juvenile may make an application to the High Court in this respect.
- (10) The Juvenile Court may hold its sitting at a place, other than the place in which the ordinary courts hold sittings for trial of other cases.

Process of Arrest

- (1) The arrested juvenile shall be kept in an observation home and the officer-in-charge of the police station shall, as soon as possible,
 - (a) inform guardian of the juvenile; and the concerned probation officer to enable him to obtain such information about the juvenile;
 - (b) No juvenile shall be arrested under any of the laws 'dealing with preventive detention or under the provisions of Chapter VIII of the Code.
 - (c) The report under section 173 of the Code shall also describe the steps taken by the officer-in-charge for referring the matter to the Juvenile Justice Committee for disposal of case through diversion, where it was so required under Section 9.

Release of a Juvenile on Bail

- A juvenile accused of bailable offence shall be released by the Juvenile Court on bail with or without surety unless it appears that there are reasonable grounds for believing release of such juvenile may bring him in association with criminals or expose him to any other danger.

- Where a juvenile of more than sixteen years of age is arrested or detained for a heinous offence, he may not be released on bail if the Juvenile Court is of the opinion that there are reasonable grounds to believe that such juvenile is involved in commission of a heinous offence.

Investigation in juvenile cases by senior police officer

A juvenile shall be interrogated by a police officer not below the rank of Sub Inspector under inspection of Superintendent Police and assisted by a probation officer or social welfare officer.

Determination of age by the police

The officer-incharge of the police station or the investigation officer shall make an inquiry to determine the age of such person on the basis of his birth certificate, educational certificates / medical certificate or any other pertinent documents. In absence of such documents, age of such accused person may be determined on the basis of a medical examination report by a medical officer.

Disposal of cases through diversion

The Juvenile Justice Committee shall dispose of a case, with consent of the person against whom the offence was committed, by resorting to different modes of diversion.

Establishment of Juvenile Justice Committee

On commencement of this Act but not later than three months, the Government in consultation with the concerned Sessions Judge shall establish the Juvenile Justice Committee for each sessions division. The Committee shall consist of four members namely serving Judicial Magistrate, district public prosecutor; member of local Bar having at least seven years standing at the Bar, serving probation officer or social welfare officer.

Procedure of Juvenile Court

- (1) Juvenile Court shall follow the procedure provided for in the Code unless provided otherwise in this Act.

No person shall be present at any sitting of the Juvenile Court, except staff and officers of the Juvenile Court; parties to the case before the Juvenile Court, the police officers; guardian; and such other persons as the Juvenile Court directs to be present.

The Juvenile Court may direct any person to withdraw from Court; the Juvenile Court may dispense proceed with the trial of the case in absence of the juvenile. When a juvenile is found to be suffering from serious illness, whether physical or mental and requires treatment, the Court shall send such juvenile to a hospital or a medical institution where treatment shall be given to the juvenile at the expense of the State.

Trial of Juvenile with Adult Person

No juvenile may be charged with and tried for an offence together with an adult.

In case of joint trial, the Juvenile Court may dispense with the physical presence of the juvenile before it without any application in this regard and juvenile may be allowed to join the-Court proceedings through audio-visual technology link.

Disclosure of Identity of the Juvenile

Whoever prints or publishes the name or any matter which may make known identity of a juvenile shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

Report of Probation Officer

The probation officer shall assist and prepare a report on direction of the Juvenile Court regarding juvenile's character, educational, social and moral background; juvenile's admission of committing an offence, if any, has been made with free consent and voluntarily. Steps taken for mediation or compromise with the complainant or victim and possibility of settlement; and possibility of sending the juvenile to Juvenile Rehabilitation Center or release on probation.

Powers of Juvenile Court to Order for Release

The Juvenile Court may pass an order for release of the juvenile offender after the victim or complainant, as the case may be, pardons him;

Provided that the Juvenile Court may refuse to release the juvenile offender if it considers that such release is against the public policy or the interests of the State;

- (a) pass an order for the community service, fine, compensation to the victim or complainant, restitution of property, counseling;
- (b) direct the juvenile offender to be released on probation for good conduct and place such juvenile offender under care of a guardian or any suitable person or such Juvenile Rehabilitation Center established or certified for the purposes of this Act for any period not exceeding the period of confinement awarded to such juvenile;
- (c) direct the probation officer to submit probation report in prescribed manner: Provided that if a juvenile offender violates the conditions on probation, the Juvenile Court may pass any order as it may think fit, including cancellation of probation order; or

- (d) make an order directing the juvenile offender to be sent to a Juvenile Rehabilitation Center until he attains the age of eighteen years completes the period of imprisonment.

Orders that Shall not be Passed with Respect to a Juvenile

- punishment of death.
- be ordered to labor, put fetters, handcuffed or given any corporal punishment at any time while in custody:
- For reasonable apprehension of the escape of the juvenile offender from custody who is more than sixteen years of age and involved in heinous offence, he may be handcuffed or put into a solitary confinement in a Juvenile Rehabilitation Center or observation home for a period not exceeding twenty-four hours.

Special Provision for Female Juveniles

Shall not be apprehended or investigated by a male police officer or released on probation under supervision of a male officer.

Shall only be kept in a Juvenile Rehabilitation Center established/certified exclusively for female inmates.

Establishment and Certification of Observation Homes and Juvenile Rehabilitation Centers

- (1) The Government may establish and maintain observation homes and Juvenile Rehabilitation Centers for the reception of juveniles, including separate centers for female juveniles;
- (2) The Government may certify an observation home or a Juvenile Rehabilitation Center managed or controlled by a non-governmental organization for reception of juveniles.

- (3) The Government may certify an already established association or society in any local area for social reintegration or rehabilitation of a juvenile offender

Inspection of Observation Homes and Juvenile Rehabilitation Centers

A member of the Juvenile Justice Committee with prior approval of head of the Committee or an officer authorized by the Government, may inspect an observation home or a Juvenile Rehabilitation Center.

Act to override other laws - The provisions of this Act shall have over riding effect notwithstanding anything contained in any other law for the time being in force.

Recommendations

- Section 6 of the Act deals with the 'Release of Juvenile on Bail', but according to Section 6(4), a juvenile may not be released on bail if he is more than 16 years of age and arrested for any heinous offence. It creates confusion with regard to fixation of age and its further classification especially if read together with Section 15 of the Act which provides Power of Juvenile Court to issue order for release but is silent concerning juvenile of more than 16 years arrested for any heinous offence.
- Section 4 of the Act deals with the establishment of juvenile court and Section 12 provides a separate trial of a juvenile with an adult with exceptions.



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