# IPC Section 89: Act done in good faith for benefit of child or insane person, by or by consent of guardian. Provisos.

## IPC Section 89: Act Done in Good Faith for Benefit of Child or Insane Person, by or by Consent of Guardian - A Detailed Explanation  
  
Section 89 of the Indian Penal Code (IPC) builds upon the principles established in Sections 87 and 88 regarding consent and good faith as justifications for potentially harmful acts. It specifically addresses situations involving children and insane persons who may lack the capacity to provide valid consent themselves. The section reads as follows:  
  
\*\*"Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, for whose benefit it is done in good faith, and who has not attained the age of eighteen years, or who, by reason of unsoundness of mind, is unable to give consent, if such act is done by or by consent, either express or implied, of the guardian of such person, or, if such act is done in good faith for the benefit of such person, by or by consent, either express or implied, of any person having lawful charge of such person, provided—  
  
(a) that this exception shall not extend to the intentional causing of death, or to the attempting to cause death;  
(b) that this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;  
(c) that this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;  
(d) that this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause grievous hurt to any person for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity."\*\*  
  
  
This complex section with multiple provisos necessitates a detailed breakdown:  
  
\*\*1. Focus on Children and Insane Persons:\*\*  
  
Section 89 specifically addresses acts performed on individuals below eighteen years of age and those deemed "insane" due to unsoundness of mind. Both categories are considered to lack the capacity to provide fully informed consent for acts that may cause them harm.  
  
  
\*\*2. Absence of Intent to Cause Death:\*\*  
  
Similar to Section 88, the act must not be intended to cause death. This requirement ensures that the actions are genuinely intended to benefit the individual, not harm them.  
  
  
\*\*3. "Good Faith" for the Person's Benefit:\*\*  
  
The act must be performed in "good faith" for the benefit of the child or insane person. This means the actor must genuinely believe that their actions are in the best interests of the individual. This subjective belief must be reasonable and supported by the circumstances.  
  
  
\*\*4. Guardian's Consent:\*\*  
  
The section requires the consent, either express or implied, of the individual's guardian. A guardian is a person legally responsible for the care and well-being of a minor or an incapacitated individual. This ensures that someone with the individual's best interests at heart is involved in the decision-making process.  
  
  
\*\*5. Lawful Charge in Absence of Guardian:\*\*  
  
If a guardian is not available, the section allows for consent from "any person having lawful charge" of the individual. This might include a teacher, a medical professional, or another responsible adult entrusted with the individual's care in a specific situation.  
  
  
\*\*6. Provisos (a) to (d): Exceptions to the Exception:\*\*  
  
The provisos to Section 89 carve out specific exceptions to the general rule, clarifying the limits of permissible harm:  
  
\* \*\*(a) No Intentional Causing of Death:\*\* Intentionally causing death or attempting to cause death is not protected, even with the guardian's consent. This aligns with the legal and ethical principles against taking a human life.  
  
\* \*\*(b) No Act Known to Be Likely to Cause Death (except specific purposes):\*\* Acts known to be likely to cause death are not protected unless they are performed to prevent death or grievous hurt or to cure a grievous disease or infirmity. This acknowledges that sometimes risky procedures might be necessary to save a life or alleviate serious suffering.  
  
\* \*\*(c) No Voluntary Causing of Grievous Hurt (except specific purposes):\*\* Voluntarily causing grievous hurt or attempting to cause grievous hurt is not protected unless it is done to prevent death or grievous hurt or to cure a grievous disease or infirmity. This emphasizes that causing serious harm should only be done as a last resort in extreme circumstances.  
  
\* \*\*(d) No Act Known to Be Likely to Cause Grievous Hurt (except specific purposes):\*\* Acts known to be likely to cause grievous hurt are not protected unless they are performed to prevent death or grievous hurt or to cure a grievous disease or infirmity. This further restricts the permissible level of harm, even with consent.  
  
  
\*\*7. Medical Context:\*\*  
  
Section 89 is frequently invoked in medical situations involving children and incapacitated individuals. It allows medical professionals to perform procedures that might cause some harm but are necessary for the patient's well-being, even if the patient cannot consent themselves. This includes surgeries, vaccinations, and other medical interventions.  
  
  
\*\*8. Burden of Proof:\*\*  
  
The burden of proving the applicability of Section 89 rests on the person claiming its protection. They must demonstrate that the act was not intended to cause death, was done in good faith for the person's benefit, and was performed with the consent of the guardian or a person having lawful charge. They must also show that the act does not fall under any of the exceptions outlined in the provisos.  
  
  
\*\*9. Judicial Interpretation:\*\*  
  
Courts have emphasized the importance of "good faith" and the "benefit" requirement in applying Section 89. They have held that the act must be objectively justifiable based on the circumstances and the best interests of the child or insane person.  
  
  
\*\*10. Policy Considerations:\*\*  
  
Section 89 reflects a policy balance between protecting vulnerable individuals and allowing necessary interventions for their benefit. It recognizes that children and insane persons may not be able to make informed decisions about their own medical care or other matters affecting their well-being and provides a legal framework for others to act in their best interests.  
  
  
\*\*11. Conclusion:\*\*  
  
Section 89 of the IPC provides a crucial legal framework for performing acts that may cause harm to children or insane persons but are done in good faith for their benefit. The section requires the consent of a guardian or a person having lawful charge and carefully delineates the limits of permissible harm through its provisos. The application of this section requires a careful assessment of the circumstances, ensuring that the act is genuinely in the individual's best interests and does not violate the safeguards outlined in the law. It balances the need to protect vulnerable individuals with the necessity of allowing beneficial interventions, especially in medical contexts.