

# The Bombay Children Act, 1948

MAHARASHTRA

India

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### Act 71 of 1948

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This Act was extended to the rest of the State of Maharashtra (vide Maharashtra 38 of 1963, Section 2). For Statement of Objects and Reasons, see Bombay Government Gazette, 1948, Part 5, page 421. [Received the assent of the Governor General on the 23rd day of December, 1948; assent first published in the Bombay Government Gazette, Part 4, on the 31st day of December, 1948]. An Act to consolidate and amend the law for the custody, protection, treatment and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the [State of Maharashtra]. Whereas it is expedient to consolidate and amend the law for the custody, protection, treatment and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the [State of Maharashtra] and for certain other purposes specified herein: It is hereby enacted as follows :-

## Part I

### Preliminary

**1. Short title and extent. - (1) This Act may be called the Bombay Children Act, 1948.**

[(2) It extends to the whole of the State of Maharashtra.]

**2. Commencement. - Section 1 shall come into force at once. The rest of the Act, or any provision thereof, shall come into force in any area on such date as the [State] Government may, by notification in the Official Gazette, [specify :**

Provided that, on the commencement of the Bombay Children (Extension and Amendment) Act, 1963, all the provisions of this Act (except Parts V and VII hereof) shall also come into force in each of the areas in which the Central Provinces and Bear Children Act, 1928, or the Hyderabad Children

Act, 1951. was in force immediately before such commencement.]

**3. Saving. - The [State] Government may, by notification in the Official Gazette, direct that all or any of the provisions of the Act shall not apply to any class of children or youthful offenders in the whole of the [State of Maharashtra] or in any particular area.**

**4. Definitions. - (1) In this Act, unless there is anything repugnant in the subject or context,-**

(a)"adult" means a person who is not a child;[(a-1) 'after care' means care during the period of release on licence of a child from an Approved Centre or Approved Institution or any other institution under this Act;(a-2) 'After-care Home or Hostel' means an institution established and maintained or recognised under sub-section (3) of section 25 of this Act;\*(a-3) 'Approved Centre' means an industrial school or other educational institution established and maintained under sub-section (1) of section 25 of this Act;\*(a-4) 'Approved Institution' means any industrial school or other educational institution recognised under sub-section (2) of section 25 of this Act;](b) "begging" means begging as defined in the Bombay Prevention of Begging Act, 1959;(c)"brothel" means a brothel as defined in the Suppression of Immoral Traffic in Women and Girls Act, 1956;[(d) x x x](e) 'child' means a boy who has not completed the age of sixteen years, or a girl who has not completed the age of eighteen years;(ee)'Classifying Centre' means an Institution established and maintained under section 27 of this Act;](f)"dangerous drug" means any article defined as "dangerous drug" in the Dangerous Drugs Act, 1930;(g)"final order" means an order passed by a juvenile court or any court empowered under section 8 to exercise the powers of a juvenile court under the following sections, namely, 45 to 47, 71 to 76, 79, 81 to 84, 90 to 92, 101 and 103;[(h) 'fit person' in relation to the care of any child means an individual who, in the opinion of the Court, is willing and fit to take proper care of a child;](i)"guardian" in relation to a child or youthful offender includes any person who in the opinion of the court having cognizance of any proceedings in relation to the child or youthful offender has for the time being the actual charge of, or control over, the said child or youthful offender;(j)"immoral behaviour" includes any act or conduct which is indecent or obscene;(k)"Juvenile Court" means a court established under section 7 of this Act;[(ka) 'Observation Home' means a place which has been declared by the State Government to be an Observation Home under section 26 of this Act;](l)"place of safety" includes [an Observation Home] or [any other suitable place or institution declared by an officer duly authorised by the State Government in this behalf] the occupier or manager of which is willing temporarily to receive a child or where [such Observation Home] or other suitable place or institution is not available, in the case of a male child only, a police station in which arrangements are available or can be made for keeping children in custody separately from other offenders;(m)"prescribed" means prescribed by rules made under this Act;(n)"probation of good conduct" means the release of a youthful offender on probation of good conduct on his personal recognizance. The expression 'probation of good conduct' order shall be construed accordingly;[(o) "prostitution" means prostitution as defined in the Suppression of Immoral Traffic in Women and Girls Act, 1956;](p)"society" means a body or association of individuals, whether incorporated or not;(q)"supervision" means the placing of a child

under the control of a [+Child Welfare Officer (Probation)] or other person for the purpose of securing proper care and protection of the child by his parent, guardian, relation or any other fit person to whose care the child has been committed. The expression 'supervision order' shall be construed accordingly;[(r) x x x](s)"youthful offender" means any child who has been found to have committed an offence.(2)Words and expressions used and not defined in this Act but defined in the [Code of Criminal Procedure, 1898] shall have the meanings assigned to them in that Code.

**5. Continuation of proceedings against child on his [completing] specified age. - For the purposes of this Act, a person shall be deemed to be a child, if at the time of the initiation of any proceedings against him under this Act or at the time of his arrest in connection with which any proceedings are initiated against him under this Act, such person [has not completed the age] as specified in clause (e) of section 4 :**

Provided that, it during the course of the proceedings under this Act such person [completes the age] specified in the said clause, the proceedings already commenced shall be continued and orders may be passed in respect of such persons under this Act as if such person was a child notwithstanding anything to the contrary in this Act.

**6. [Provisions of Act VIII of 1897, and of V of 1898 and of CV of 1956 not to apply to area in which this Act is brought into operation or to any [Approved Centre] etc. - [(1)] The provisions of the Reformatory Schools Act, 1897, and of sections 29B and 399 of the [Code of Criminal Procedure, 1898], shall cease to apply to any area in which Parts II to XI of this Act have been brought into operation.**

[(2)] Any youthful offender detained in a reformatory school in any area in pursuance of an order made under the Reformatory Schools Act, 1897, who continues to be detained therein on the date on which that Act ceases to apply to such area shall, as from t hat date, be deemed to have been detained under an order made under this Act as if he had been originally ordered to be detained in [an Approved Centre] and the reformatory school in which he is detained shall be deemed to be [an Approved Centre] established under this Act and the provisions of this Act shall, so far as may be, apply in respect of such offender, accordingly.(3)The Women's and Children's Institutions (Licensing) Act, 1956, shall not apply to any industrial school established, any industrial school or educational institution certified, any place declared as [an Observation Home], any institution or association recognised as approved place [or Observation Home or Approved Institution,] under this Act.]

## **Part II**

### **Powers and Functions of Courts Having Jurisdiction Under the Act**

**7. Juvenile courts. - For the purposes of this Act, the [State] Government may, by notification in the Official Gazette, establish one or more juvenile courts for any local area.**

**8. Courts empowered to exercise powers of juvenile courts. - The powers conferred upon a juvenile court under this Act shall, subject to the provisions thereof, be also exercisable by the following courts, whether trying any case originally, or on appeal or in revision, as the case may be -**

(a)the High Court,(b)a Court of session,[(c) x x x][(d) x x x](e)a salaried Presidency Magistrate,(f)a salaried Magistrate of the First Class.

**9. Powers of juvenile courts and other courts mentioned in section 8. - [Save as otherwise provided in this Act or any law for the time being in force relating to lunacy or leprosy,-]**

(1)where a juvenile courts has been established for any local area, such court shall try all cases in which a child is charged with the commission of an offence and shall deal with and dispose of all other proceedings under this Act, but shall not have power to try any case in which an adult is charged with an offence under Part VI of this Act;(2)where a juvenile court has not been established for any local area, no court other than courts empowered under section 8 to exercise the powers of a juvenile court shall have power to try any case in which a child is charged with the commission of an offence or to deal with or dispose of any other proceedings under this Act.

**10. No joint trial of child and adult in area where juvenile court exists. - (1) Notwithstanding anything contained in section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, no child shall be charged with or tried for any offence together with an adult if a juvenile court has been established for the area where the trial of such case is to take place.**

(2)If a child is accused of an offence for which under section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, such child and the adult could, but for the provisions of sub-section (1), have been tried together the court taking cognizance of the offence shall direct separate trials of the child and the adult; if a juvenile court has been established for the local area the child shall be tried by the juvenile court and the adult shall be tried separately by a court having jurisdiction to try the offence.

**11. Procedure in appealable summons cases to be followed by juvenile courts and magistrates courts in trials of children. - A juvenile court and in a case in which a child is not being tried jointly with an adult, a Magistrate empowered under section 8 to exercise the powers of a juvenile court shall, as far as practicable and subject to the provisions of this Act. follow the procedure provided by the [Code of Criminal Procedure, 1898], for summary trials in summons cases in which an appeals lies.**

**12. Sittings, etc. of juvenile courts etc. - (1) A juvenile court shall hold its sittings at such places, on such days and in such manner as may be prescribed.**

(2) In the trial of a case in which a child is charged with an offence and is not being tried jointly with an adult a court shall, as far as may be practicable, sit in a different building or room from that in which the ordinary sittings of the court are held, or on different days, or at different times from those at which the ordinary sittings of the court are held.

**13. Adult to be committed to sessions in a case to be committed to sessions. - In the trial of a case in which a child is being tried together with an adult in accordance with the provisions of this Act, if the Magistrate trying the case comes to the conclusion that the case is a fit one for committal to the court of session, he shall separate the case in respect of the child from that in respect of the adult and shall direct the adult alone to be committed to the court of sessions for trial and shall proceed with the trial of the case in respect of the child notwithstanding anything in the [Code of Criminal Procedure, 1898], or any other law for the time being in force.**

**14. Appearance of legal practitioners before juvenile courts. - Notwithstanding anything contained in any law' for the time being in force, a legal practitioner shall not be entitled to appear in any case or proceeding before a juvenile court, unless the juvenile court is of opinion that in public interests the appearance of a legal practitioner is necessary in such case or proceeding and authorises, for reasons to be recorded in writing, a legal practitioner to appear in such case or proceeding.**

**15. Presence of persons in juvenile courts. - Save as provided in this Act. no person shall be present at any sitting of a juvenile court except -**

(a)the members and officers of the court.(b)the parties to the case before the court and other persons directly concerned in the case including the Police Officers,(c)such other persons as the court specially authorises to be present.

**16. Withdrawal of persons from juvenile courts. - If at any stage during the course of a trial of a case or proceeding, a juvenile court considers it expedient in the interest of the child to direct any person including the parent, guardian or the spouse of the child or the child himself to withdraw, the court shall be entitled to give such direction and thereupon such person shall withdraw. If any person refuses to withdraw, the court may take steps to remove him.**

**17. Dispensing with attendance of child. - If at any stage during the course of the trial of a case or proceeding, the juvenile court is satisfied that the attendance of a child is not essential for the purposes of the hearing of the case or proceeding, the court may dispense with his attendance and proceed with the trial of the case in the absence of the child.**

**18. Withdrawal of persons from court when child is examined as witness. - If at any stage during the course of a trial of a case or proceeding in relation to an offence against, or any conduct contrary to, decency or morality, a child is summoned as a witness, any court trying the case or holding the proceeding may direct such persons as it thinks fit, not parties to the case or proceeding, their legal advisers and the officers concerned with the case or proceedings to withdraw. Such persons shall then withdraw. If any person refuses to withdraw the court may take steps to remove him.**

**19. Attendance at court or parent of child charged with offence, etc. - (1) Where a child brought before a court under this Act has a parent or guardian, such parent or guardian may in any case, and shall, if he can be found and if he resides within a reasonable distance, be required to attend the court before which any proceeding is held under this Act, unless the court is satisfied that it will be unreasonable to require his attendance.**

(2)The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of, or control over, the child :Provided that, such parent or guardian is not the father, the attendance of the father may also be required.(3)The attendance of the parent of a child shall not be required under this section in any case where the child was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a

court.

**20. Committal to approved place of child suffering from dangerous disease and its future disposal. - (1) When a child who has been brought before a court under any of the provisions of this Act is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment the court may send the child to [an Observation Home] or to any other place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment.**

(2) Where a child is found to be suffering from leprosy or is of unsound mind, he shall be dealt with under the provisions of the Lepers Act, 1898, or the Indian Lunacy Act, 1912, as the case may be. (3) Where a court has taken action under sub-section (1) in case of a child suffering from an infectious or contagious disease, the court before restoring the said child to his partner in marriage, if there has been such or to the guardian, as the case may be, shall where it is satisfied that such action will be in the interests of the said child call upon his partner in marriage or the guardian, as the case may be, to satisfy the court by submitting to medical examination that such partner or guardian will not re-infect the child in respect of whom the order has been passed.

**21. Factors to be taken into consideration in passing orders by courts. - For the purpose of any order which a court has to pass under this Act, the court shall have regard to the following factors :-**

(a) the character and age of the child, (b) the circumstances in which the child is living, (c) the reports made by the [Child Welfare Officer (Probation)], and (d) such other matters as may, in the opinion of the court, require to be taken into consideration in the interests of the child : Provided that, where a youthful offender is found to have committed an offence, the above factors shall be taken into consideration after the court has recorded a finding against the youthful offender that he has committed the offence.

**22. Reports of [Child Welfare Officers (Probation)] and other reports to be treated confidential. - The report of the [Child Welfare Officer, (Probation)] or any other report considered by the court under section 21 shall be treated as confidential :**

Provided that, if such report relates to the character, health or conduct of, or the circumstances in which, the child or parent is living, the court may, if it thinks expedient, communicate the substance thereof to the child or parent concerned, as the case may be, and may give the child or parent an opportunity to produce evidence as may be relevant to the matters stated in the report.

**23. Prohibition on publication of names, addresses, etc., of children involved in cases or proceedings [under any Act]. - No report in any newspaper, magazine or news-sheet of any case or proceeding in any court [under any Act,] in which a child is involved shall disclose the name, address or school or include any particulars calculated to lead to the identification of any such child, nor shall any picture be published as being or including a picture of any such child :**

Provided that, for reasons to be recorded in writing the court trying the case or holding the proceeding may permit the disclosure of any such report, if in its opinion such disclosure is in the interests of child welfare and is not likely to affect adversely the interests of the child concerned.

**24. Provisions of Criminal Procedure Code, 1898, to apply to trial of cases and conduct of proceedings under the Act unless excluded. - Except as expressly provided under this Act or the rules made thereunder, the procedure to be followed in the trial of cases and the conduct of proceedings under this Act shall be in accordance with the provisions of the [Code of Criminal Procedure, 1898.]**

### **Part III**

[Approved Centres, Approved Institutions, Classifying Centres and Observation Homes][25. Approved Centres, Approved Institutions and After-care Homes or Hostels. - (1) The State Government may establish and maintain industrial schools and other educational institutions for the reception of children and youthful offenders.(2)The State Government may prescribe conditions under which any private industrial school or other educational institution may be recognised as an Approved Institution for the reception of children or youthful offenders.(3)The State Government may establish and maintain or recognise any institution to be an After-care Home or Hostel for the Reception and Rehabilitation of children and youthful offenders during the period of their after-care.]

**26. Declaration of places as [Observation Homes]. - The [State] Government may by notification in the Official Gazette, declare any particular place as [an Observation Home] for the purposes of this Act.**

[27. Establishment and maintenance of Classifying Centres. - The State Government may establish and maintain Classifying Centres in the prescribed manner for the observation and proper classification of children and youthful offenders committed to them under this Act.



**28. Management of Approved Centres, After-care Hostels or Homes and Approved Institutions. - (1) For the control and management of every Approved Centre or Aftercare Home or Hostel established and maintained by the State Government, a Superintendent and a Committee of Visitors shall be appointed by the State Government and such Superintendent and Committee shall be deemed to be the managers thereof for the purposes of this Act.**

(2) Every Approved Institution and After-care Home or Hostel, recognised by the State Government shall be under the management of a governing body or managing body, the members of which shall be deemed to be the managers of the institution for the purposes of this Act.

**29. Privileges and liabilities of managers. - (1) The manager of an Approved Centre or of an Approved Institution shall be consulted by the authorities of a Classifying Centre before any child is sent to it.**

(2) The managers of an Approved Institution may decline to receive any child sent to it by a Classifying Centre under this Act : Provided that, where an Approved Institution has once accepted any child, it shall be bound to teach, train, lodge, clothe and feed him during the whole of the period for which he is liable to be detained in the institution, or until the withdrawal or resignation of the recognition of the institution.

**30. Medical inspection of Classifying Centres, Approved Centres or Institutions and After-care Homes or Hostels. - Any registered medical practitioner empowered in this behalf by the State Government may visit any Classifying Centre, Approved Centre, Approved Institution or After-care Home or Hostel at any time with or without notice to its managers in order to report to the Director (Child Welfare) on the health of the inmates therein and the sanitary condition of the Centre, Institution or Home or Hostel.]**

**31. Power of [State] Government to withdraw [recognition and to take over management]. - (1) The [State] Government if dissatisfied with the conditions, rules, management or superintendence of [an Approved Institution or recognised After-care Home or Hostel] may at any time by notice served on the managers of the [Institution or Home or Hostel] declare that the [the recognition thereof] is withdrawn as from a date specified in the notice and on such declaration the withdrawal [of the recognition] shall take effect and [the Institution or Home shall cease to be an Approved Institution or Home.]**

(2) The [State] Government may, instead of a withdrawing [the recognition] under sub-section (1),

by notice served on the manager of the [institution], prohibit the admission of children or youthful offender to the [institution] for such time as may be specified in the notice or until the notice is revoked. (3) The State Government, if dissatisfied with the conditions, rules, management or superintendence of an Observation Home, may at any time by notice served on the managers of that institution and after giving the managers a reasonable opportunity of being heard, cancel the declaration of that institution as an Observation Home, and shall by an order in writing take over the management of the institution in the prescribed manner for a temporary period not exceeding five years or for special reasons to be recorded in writing such further period not exceeding two years as may be specified in the order. (4) Whenever the management of any institution is taken over under sub-section (3), every person in charge of the management of such institution immediately before its management is taken over shall deliver possession of the property and fund of the institution to such officer as may be authorised by the State Government in this behalf. (5) During such period as the institution remains under the management of the State Government, - (a) the service conditions applicable to the employees of the institution immediately before the date on which the management was taken over, shall not be varied to their disadvantage; (b) all facilities which the institution had been affording immediately before such management was taken over, shall continue to be afforded; (c) the property and funds of the institution, if any, shall continue to be available to the State Government for being utilised or, as the case may be, spent for the purposes of the institution; and (d) no resolution passed at any meeting of the management of such institution shall be given effect to unless approved by the State Government. (6) After the expiry of the period for which the management of such institution has been taken over, the State Government shall hand over the institution together with the property and the funds of the institution to the management concerned]: Provided that, before the issue of a notice under sub-section (1) [(2) or (3)] a reasonable opportunity shall be given to the managers of the [institution] to show cause why the [recognition] may not be withdrawn or admission to the [institutions] may not be prohibited [or, as the case may be, the declaration of the Institution as the Observation Home may not be cancelled or the management of the Institution may not be taken over].

**32. Resignation of [recognition] by managers. - The managers of [an Approved Institution] may, on giving six months' notice in writing to the [State] Government through the [Director (Child Welfare)] of their intention so to do, [resign the recognition of the institution] and accordingly at the expiration of six months from the date of notice, unless before that time the notice is withdrawn, [the resignation of recognition shall take effect, and the institution shall cease to be an Approved Institution].**

**33. Effect of withdrawal or resignation of [recognition]. - A child or youthful offender shall not be received into [an Approved Institution] under this Act after the date of the receipt by the managers of the [Institution] of a notice of withdrawal of the [recognition] or after the date of a notice of resignation of the [recognition] :**

Provided that, the obligation of the managers to teach, train, lodge, clothe and feed any children or youthful offenders detained in the school at the respective dates aforesaid shall, except so far as the [State] Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

**34. Disposal of inmates on withdrawal or resignation. - [When an Approve d Centre or Approved Institution ceases to be an Approved Centre or Approved Institution] the children or youthful offenders detained therein shall be either discharged absolutely or on such conditions as the [State] Government may impose or transferred by order of the [Director (Child Welfare)] to some [other Approved Centre or Institution] in accordance with the provisions of this Act relating to discharge; and transfer.**

**35. [Inspection of Approved Institutions, etc.] - [(1) The State Government may cause any Approved Institution, After-care Home or Hostel, Observation Home and other institutions under this Act to be visited and inspected from time to time at all reasonable hours by the Director (Child Welfare) or any member of his inspecting staff for the purposes of securing the health and welfare of the children and the sanitation of the premises.**

(2)The Director (Child Welfare) or any member of his inspecting staff or any officer authorised by the Director (Child Welfare) shall have power to enter any of the institutions mentioned in sub-section (1) at all reasonable hours and to make complete inspection thereof and of all registers relating thereto for the aforesaid purposes.(3)Where any of such institutions is for the reception of girls, the inspection shall, where practicable, be conducted by a woman authorised or appointed by the Director (Child Welfare).(4)If the State Government is satisfied that the management of any Approved Institution, or of any of the other institutions referred to in sub-section (1) or the accommodation for, or the treatment of, the children therein is unsatisfactory, it may cause to be served upon the person responsible for the management of the institution such general or specific direction with respect to the matters aforesaid or any of them as it thinks expedient for the welfare of the children in the institution.](5)A direction under the foregoing sub-section may be varied by a subsequent direction or withdrawal by the [State] Government.(6)Where any such direction is not complied with, the District Magistrate in the mofussil of the Chief Presidency Magistrate in Greater Bombay may, on the complaint of any person appointed for the purpose by the [State] Government, cause a summons to be served upon the person in charge of the [institution referred to in sub-section (1)] and upon such other person as he may think fit and upon hearing the person summoned, may if he thinks fit, make an order for the removal of all children from the [said institution],(7)The District Magistrate or the Chief Presidency Magistrate, as the case may be, may, if he thinks fit, order that the direction shall be deemed to be modified to such extent as may be specified in such order and the direction shall have effect accordingly.(8)Any order for the removal of all children from such [institution] shall operate as an authority to any person named in the order and to any police officer not below the rank of an Inspector to enter [the institution] and to remove

the children therein to a place of safety.(9)Where an order has been made for the removal of all children from such [institution], [the institution] shall not be used for the reception of children without the consent of the [State] Government.[36. Inspection of Approved Centres, Approved Institutions, etc. - (1) Every Approved Centre shall be liable to inspection at all times and in all its departments by the Director (Child Welfare), Deputy Director (Child Welfare), Assistant Director (Child Welfare), Inspecting Officer (Child Welfare or an officer authorised in this behalf by the Director (Child Welfare) and shall be so inspected at least once in a quarter of every year.(2)The Director (Child Welfare), Deputy Director (Child Welfare), Assistant Director (Child Welfare), Inspecting Officer (Child Welfare) or any officer authorised by the Director (Child Welfare) in this behalf shall have a right to visit and inspect any of the institutions under this Act and shall be so inspected at least once in every year :Provided that, where any such institution is for reception of girls mainly and such inspection or visit is not made or paid by the Director or Deputy Director (Child Welfare), the visitor shall, whenever practicable, be a woman.]

## Part IV

### Officers, Their Powers and Duties

#### **37. Appointment of Officers. - [( 1) The State Government may, for the purpose of this Act, appoint the following officers:-**

(a)Director (Child Welfare).(b)Deputy Director (Child Welfare).(c)Assistant Director (Child Welfare).(d)Inspecting Officers (Child Welfare).(e)(i)Child Welfare Officers (Probation).(ii)Child Welfare Officers (Placement and Liaison).(iii)Child Welfare Officers (Case Work).(2)The State Government may, subject to such restrictions and conditions (if any) as it may impose, by order, delegate its power of appointment of officers of and below the rank of Child Welfare Officer referred to in clause (e) of sub-section (1) to the Deputy Director (Child Welfare).](3)Notwithstanding anything contained in sub-section (1) or (2), a juvenile court or any court empowered under section 8 to exercise the powers, of a juvenile court may, for the purposes of any particular case or proceeding, appoint any other person as [a Child Welfare Officer referred to in clause (e) of sub-section (1) of this section] if in its opinion such appointment is expedient or necessary.

#### **38. Supervision and control of [Child Welfare Officers (Probation)]. - [A Child Welfare Officer (Probation)] in the performance of his duties under this Act shall be an officer of the court, and shall be under the supervision and guidance of the juvenile court, where such court exists and [elsewhere of the court which passes any order under this Act in respect of the Child.]**

Nothing in this section shall derogate from the powers of supervision of the Chief Presidency Magistrate and the [Director (Child Welfare)] in Greater Bombay and the District Magistrate and the [Director (Child Welfare)] elsewhere.

**39. [Powers and duties of officers]. - The powers and duties of the [Director (Child Welfare), Deputy Director (Child Welfare), Assistant Director (Child Welfare), Inspecting Officers (Child Welfare) and of Child Welfare Officers (Probation)] shall be as those provided under the provisions of this Act and the rules made thereunder and in accordance with the general or special orders which the [State] Government or any officers authorised in this behalf, may make for the purpose of carrying out the provisions of this Act.**

## **Part V**

Measures for the Care and Protection of Destitute and Neglected Children, Etc.

**40. Children found homeless, destitute, etc. - Any police officer [or any Child Welfare Officer (Probation)] or other person authorised in this behalf in accordance with the rules made by the [State] Government, may bring -**

(i)before a juvenile court if such court is established for the area and is sitting,(ii)if a juvenile court is not established for the area or if it is not sitting before a Magistrate empowered under section 8 with the powers of a juvenile court, or(iii)if there is no court of the kind specified in items (i) and (ii) above, before any Magistrate.any person, who in his opinion is a child and who -(a)has no home, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or is found doing for a consideration any act under circumstances contrary to the well-being of the child; or(b)is destitute or is illegitimate without means of subsistence, other than that of charity, or has no parent or guardian, or has a parent or guardian unfit to exercise or incapable of exercising proper care and guardianship, or who is not exercising proper care and guardianship: or(c)is known to associate or live with any prostitute or person or persons of criminal or drunken habits; or(d)is lodging or residing in or frequently going to a place or places used for the purposes of prostitution; or(e)is otherwise likely to fall into bad association or to be exposed to moral danger, or to enter upon a life of crime.

**41. Procedure when Magistrate is not empowered to pass order under this Act. - When any Magistrate not empowered to exercise the powers of a juvenile court is of opinion that a person brought before him is a child, he shall record such opinion and submit the proceedings and forward the child to the nearest juvenile court having jurisdiction in the case or where such court does not exist to the [Sessions Judge] to whom he is subordinate.**

**42. Police Officer [Child Welfare Officer (Probation) and authorised person] to make report if child has parent. - If the child requiring care and protection on any of the grounds mentioned in clauses (a) to (e) of section 40, has a parent**

or guardian who has the actual charge of, or control over, the child, the police officer [or the Child Welfare Officer (Probation)] or other person authorised under section 40 shall, in the first instance make a report to the juvenile court established for the area or if one has not been established to the nearest magistrate empowered under section 8 to exercise the powers of a juvenile court or to any other nearest magistrate.

**43. Court or Magistrate may direct production of child by parent or guardian.** - The juvenile court, magistrate, or the other court to which or whom a report is made under section 42, may call upon such parent or guardian to produce the child before it or him in order to show cause why the said child should not during the pendency of the proceedings, be removed from his care; and may on suitable sureties being offered for the safety of such child and for his being brought before it or him, permit the child to remain in the actual charge or control of his parent or guardian, or may immediately order his removal, if necessary, by issuing a search warrant for the immediate production of the child to a place of safety, if it appears to the court or magistrate that the child is likely to be removed from the jurisdiction of the court or to be concealed.

**44. Examination of police officer or person producing or reporting.** - (1) The court before which a child is brought under section 40 or 41 shall examine the police officer [or the Child Welfare Officer (Probation)] or the authorised person who brought the child or made the report and record the substance of such examination and shall, as provided in section 43, send the child to [an Observation Home] for further inquiries.

(2) On the date fixed for the production of the child or for the inquiry or on any subsequent date to which the proceedings may be adjourned, the Court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order committing the child to a [Classifying Centre] or to the care of a fit person should not be passed and make any further inquiry it thinks fit.

**45. Committal of child to [Classifying Centre] or to fit person.** - [(1) If the court is satisfied on enquiry that such person is a child and is as described within the provisions of section 40 and that it is expedient so to deal with him the court may order the child to be committed to a Classifying Centre or to the care of a fit person named by the court until, if the child is a boy, such boy completes the age of eighteen years, and if the child is a girl, such girl

**completes the age of twenty years, or in exceptional cases for a shorter period, the reasons for such shorter period to stated in writing.]**

(2)The court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the court may require, to be responsible for the good behaviour and well-being of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life.(3)The court which makes an order committing a child to the care of a relative or other fit person under this section may in addition order that he be placed under supervision for any period not exceeding three years :Provided that, when the court thinks fit, it may allow such child to remain in the custody of a parent or guardian with a direction that he be placed under supervision, on such parent or guardian executing a bond with or without sureties in a prescribed form, and the court may from time to time during the supervision period adjourn the case and compel the production of the child in court to satisfy itself that the conditions of the said bond are being carried out :Provided further that, if it appears to the court on receiving a report from the [Child Welfare Officer (Probation)] or otherwise, that there has been a breach of the supervision order, it may, after making such inquiries as it deems fit, order the child in respect of whom the supervision order has been made [to be detained in a Classifying Centre] or committed to the care of a fit person.

**46. Sending of child having place of residence outside jurisdiction. - (1) In the case of a child whose ordinary place of residence lies outside the jurisdiction of the court before which it is brought, the court may, if satisfied after due inquiry that it is expedient so to do, send the child on his own bond back to a relative or a fit person who is fit and willing to receive him at his native place and exercise proper care and control of him.**

(2)Any breach of the said bond shall render the child liable to be committed lo a [Classifying Centre] or to the care of another fit person.

**47. Uncontrollable children. - (1) Where the parent or guardian of a child complains to the juvenile court or if a juvenile court is not established for the area to a Magistrate empowered under section 8 to exercise the powers of a juvenile court that he is not able to control his child, the court or magistrate, as the case may be, if satisfied on inquiry that the case appears to be one of which cognizance should be taken, shall remand the child for observation or treatment and order any further inquiries necessary.**

(2)If the court or magistrate is satisfied that it is expedient so to deal with the child under this Act, the court or magistrate may order the child to be [committed to a Classifying Centre if the child is a boy, till he completes the age of 18 years, and if the child is a girl till she completes the age of 20

years].(3)The court or magistrate may also, if satisfied that home conditions are satisfactory and what is needed is supervision, commit the child to the care of the person or guardian or relative or any other proper person under a bond with or without sureties and place him under supervision for a period not exceeding three years.

## Part VI

### Special Offences in Respect of Children

**48. Punishment for cruelty to children. - (1) Whoever having the actual charge of, or control over, a child wilfully assaults, illtreats, neglects, abandons or exposes him or causes or procures him to be assaulted, illtreated, neglected, abandoned or exposed or negligently fails to provide adequate food, clothes, or medical aid or lodging for a child in a manner likely to cause such child unnecessary mental and physical suffering shall, on conviction, be punished with imprisonment of either description for a term not exceeding two years or with fine which may extend to one thousand rupees or with both :**

Provided that, in case of married juveniles the court trying the offence under this section may sanction its composition for reasons to be recorded in writing :[Provided further that, in cases where such assault results in maiming the child, such imprisonment shall, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, be not less than six months and not more than ten years],(2)The infliction of reasonable punishments on a child for a proper reason shall not be deemed to be an offence under this section.

**49. Employing children for begging. - Whoever employs any child for the purposes of begging or causes any child to beg or whoever having the custody, charge or care of a child connives at or encourages the employment for the purpose of begging or the causing of a child to beg and whoever uses a child as an exhibit for the purpose of begging shall, on conviction, be punished with imprisonment of either description [for a term which shall, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, not be less than six months and not more than five years and fine which shall not be less than three hundred rupees.]**

**50. Penalty for being drunk while in charge of child, etc. - If any person is found drunk in any public street or other public place, whether a building or not. while having the charge of a child, and if such person is incapable by reason of his drunkenness of taking due care of the child, such person shall,**



**on conviction, be punished with fine which may extend to two hundred rupees.**

**51. Penalty for giving intoxicating liquor or dangerous drug to child. -**

**Whoever in any public street or other public place, whether a building or not, gives or causes to be given to any child any intoxicating liquor or dangerous drugs except upon the order of a duly qualified medical practitioner in case of sickness or other urgent cause shall, on conviction, be punished with fine which may extend to two hundred rupees.**

**52. Penalty for permitting child to enter places where liquor or dangerous drug is sold. - Whoever takes a child to any place where intoxicating liquor or dangerous drugs are sold or whoever being the proprietor, owner or a person in charge of such place permits a child to enter such place or whoever causes or procures a child to go to such place shall, on conviction, be punished with fine which may extend to two hundred rupees.**

**53. Inciting child to bet or borrow. - Whoever by words either spoken or written or by sign, or otherwise, incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child to borrow money or to enter into any transaction involving the borrowing of money shall, on conviction, be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.**

**54. Taking on pledge or purchasing articles from child. - Whoever takes an article on pledge from a child, whether offered by that child on his own behalf or on behalf of any person shall on conviction, be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.**

**55. Allowing or permitting child to be in brothel. - Whoever allows or permits a child over the age of four years to reside in or frequently go to a brothel shall, on conviction be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.**

**56. Causing or encouraging seduction etc. - (1) Whoever having the actual charge of, or control over, a girl under the age of eighteen years causes or encourages the seduction (which shall include inducement to indulge in immoral behaviour) or prostitution of that girl or causes or encourages any one other than her husband [x x x] to sexual intercourse with her shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.**

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction of a girl or to have induced her to behave immorally if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute, or person of known immoral character.

**57. Seduction or outrage of modesty. - Whoever seduces or indulges in immoral behaviour with a girl under the age of eighteen years shall, on conviction be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.**

**58. Young girls exposed to risk of seduction, etc. - If it appears to a court on the complaint of any person that a girl under the age of eighteen years is, with or without the knowledge of her parent or guardian exposed to the risk of seduction or prostitution, the court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.**

**59. Exploitation of child employees. - (1) Whoever secures a child ostensibly for the purpose of menial employment or for labour in a dock, factory or other establishment but in fact exploits the child for his own ends, withholds or lives on his earnings, shall, on conviction, be punished with fine which may extend to one thousand rupees.**

(2) Whoever secures a child ostensibly for any of the purposes mentioned in sub-section (1), but exposes such child to the risk of seduction, sodomy, prostitution or other immoral conditions, shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both. (3) Any person who avails himself of the labour of a child exploited in the manner referred to in sub-section (1) or (2) or for whose immoral gratification such child is used shall be liable as an abettor.

**60. Penalty for abetting escape of child or youthful offender. - Whoever -**

(a) knowingly assists or induces, directly or indirectly, a child detained in or placed out on licence [from a Classifying Centre, Approved Centre or Approved Institution to escape from such Centre or Institution] or from any person with whom, as the case may be, he has been placed out on licence, or any child to escape from the person to whose care he has been committed under the provisions of this Act, or (b) knowingly harbours, conceals, connives at or prevents from returning [to any such Centre or Institution] or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child who has so escaped or knowingly assists or connives at so doing, shall, on conviction, be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

**61. Penalty for use of [certain institutions] in contravention of section 35. - Whoever uses or knowingly permits to be used [any institution referred to in section 35 in contravention of that section] shall, on conviction, be punished with fine which may extend to five hundred rupees and to a further fine not exceeding fifty rupees in respect of each day during which the institution is so used or permitted to be used after the conviction.**

**62. Penalty for publication of report or pictures relating to children. - Whoever publishes any report or picture in contravention of the provisions of section 23, shall, on conviction, be punished with imprisonment of either description for a term not exceeding two months or with fine which may extend to five hundred rupees or with both.**

**63. Offences under this part cognizable. - All offences under this part shall be cognizable.**

## **Part VII**

### **Youthful Offenders**

**64. Bail of children arrested. - Where a boy [\* \* \*] apparently under the age of sixteen years [or a girl apparently under the age of eighteen years] is arrested on a charge of a non-bailable offence and cannot be brought forthwith before a court, the officer in-charge of the police station, or section to which such boy or girl is brought may. release the child on bail, if sufficient security is forthcoming but shall not do so where the release of the child shall bring him into association with any reputed criminal or exposes**

**him to moral danger or where his release would defeat the ends of justice.**

[64A. Power of Court to refuse bail in certain cases. - Where a boy apparently under the age of sixteen years and a girl apparently under the age of eighteen years is arrested on a charge of a non-bailable offence and is brought before a court, the court shall not release the child on bail if such release is likely to bring the child into association with any reputed criminal or shall expose him or her to moral danger or where his or her release would defeat the ends of justice.]

**65. Custody of children not enlarged on bail. - (1) Where a boy [x x x] apparently under the age of sixteen years [or a girl apparently under the age of eighteen years] having been arrested is not released under section 64 or otherwise, the officer in-charge of the police station or section shall cause him or her to be detained in the prescribed manner until he or she can be brought before a juvenile court or a court empowered under section 8 to exercise the powers of a juvenile court.**

(2) A court, on remanding or committing for trial a child who is not released on bail, shall order him to be detained in the prescribed manner. [66. Duty of police officer etc. to inform certain officers after arrest of child. - Immediately after the arrest of a child, it shall be the duty of the police officer or any other person effecting the arrest to inform the Child Welfare Officer (Probation) and officer in-charge of an Observation Home, of such arrest in order to enable the said Child Welfare Officer (Probation), and officer in-charge of the Observation Home to proceed forthwith in obtaining information regarding his antecedents and family history and other material circumstances likely to assist the juvenile court in making the final order.]

**67. Attendance of parent or guardian. - Where the child is arrested, the officer in-charge of the police station or section to which he is brought shall cause the parent or guardian of the child, if he can be found to be summoned at the court before which the child will appear.**

**68. Sentences that may not be passed on child. - (1) Notwithstanding anything to the contrary contained in any law, no youthful offender shall be sentenced to death or transportation or imprisonment.**

(2) When a child is found to have committed an offence of so serious a nature that the court is of opinion that no punishment, which under provisions of this Act it is authorised to inflict is sufficient or when the court is satisfied that the child is of so unruly or of so depraved a character that he cannot be committed to [Classifying Centre] or detained in a place of safety and that none of the other methods in which the case may be legally dealt with is suitable, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the [State] Government.

**69. Expressions "conviction" and "sentence" not to be used in relation to children. -** Save as provided in this Act, the words "conviction" and "sentence" shall cease to be used in relation to children dealt with under this Act and any reference in any enactment to a person convicted, a conviction or a sentence shall in the case of a child be construed as including reference to a person found guilty of an offence, a finding of guilty or an order made upon such a finding, as the case may be.

**70. No proceedings under Chapter VIII of Criminal Procedure Code against child. -** Notwithstanding anything to the contrary contained in the [Code of Criminal Procedure, 1898], no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

[71. Commitment of child or youthful offender to Classifying Centre. - Where a child is found to have committed an offence, the court, if satisfied on enquiry that it is expedient so to deal with the child, may order him to be committed to a Classifying Centre for such period of detention as will not, subject to the provisions of section 5, extend beyond the time in the case of a boy when he completes the age of eighteen years and in the case of a girl, when she completes the age of twenty years, or in exceptional cases for a shorter period, the reasons for such shorter period to be recorded in writing.]

**72. Other order of the court. -** A court may, if it shall think fit, instead of directing any youthful offender [to be detained in a Classifying Centre under section 71] -

(i) order him to be discharged after due admonition; (ii) without passing any final order, direct that he be released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person on such parent, guardian, relative or person executing a bond, with or without sureties, as the court may require, to be responsible for, the good behaviour and well-being of the youthful offender for any period not exceeding three years and for the observance of such other conditions as the court may impose for securing that the youthful offender may lead an honest and industrious life; (iii) if the offence committed by the youthful offender is punishable with fine and the youthful offender himself is over the age of fourteen years, order the offender to pay a fine.

**73. Repatriation. -** (1) In the case of a youthful offender whose ordinary place of residence lies outside the jurisdiction of the court before which he is brought, if the court is satisfied after due inquiry that it is expedient so to do, the court may send the youthful offender on his own bond back to a relative or a fit person, who is fit and willing to receive him at his native place and exercise proper care and control of him, notwithstanding the fact that the

**youthful offender has to be sent to a place outside the [State].**

(2)Any breach of the said bond shall render the youthful offender, if found at any time at any place within the [State] liable to be committed to [Classifying Centre] or to the care of another fit person.

**74. Power to order parent to pay fine etc., instead of child. - (1) Where the offence committed is punishable with fine and if the youthful offender is under fourteen years of age, the Court shall, order that the fine be paid by the parent or guardian of the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child.**

(2)An order under this section may be made against a parent or guardian who having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.(3)Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the [Code of Criminal Procedure, 1898.]

**75. Release of youthful offenders under supervision. - The court shall wherever possible order that the youthful offender released under section 72 be placed under supervision :**

Provided that, if it appears to the court on receiving a report from the [Child Welfare Officer (Probation)] or otherwise, that the youthful offender has not been of good behaviour during the period of supervision, it may proceed to pass such final order as it would have done, had it not placed the youthful offender on probation of good conduct.

**76. Postponement sine die. - Notwithstanding anything contained in the foregoing provision, the court may adjourn the case of a youthful offender sine die and may re-open at the stage of the proceedings at which it was left when adjourned, on additional grounds or material being placed before the Court.**

**77. Court empowered to exercise powers under one or more of preceding provisions. - In passing an order in respect of a youthful offender under this Part, it shall be lawful to the court to exercise its powers under any one or more of the foregoing provisions at the same time, if it is necessary and expedient to do so in (lie interests of the offender.**

## Part VIII

### Measure for Detention Etc. of Children and Youthful Offenders

**78. Detention of child in place of safety. - (1) Any police officer, not below the rank of sub-inspector [or Child Welfare Officer (Probation)] or a police officer or a person authorised in this behalf in accordance with rules made by the [State] Government may take to a place of safety any child in respect of whom an offence has been, or there is reason to believe has been, or is likely to be committed.**

(2) A child so taken to a place of safety and also any child, who seeks refuge in a place of safety may be detained until he can be brought before the Court : Provided that, such detention shall not in the absence of a special order of the court exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court. (3) The court may thereupon make such order as hereinafter provided.

**79. Court's powers for care detention of child. - (1) Where it appears to the court that an offence as stated in section 78 has been committed or is likely to be committed in respect of any child who is brought before it and that it is expedient in the interests of the child that action should be taken under this Act, the court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for the institution of proceedings against the person for having committed the offence in respect of the child or for the purpose of taking such other lawful action as may be necessary.**

(2) The order of detention made under sub-section (1) shall remain in force until such time as the proceedings instituted against any person for an offence referred to in sub-section (1) terminate in either conviction, discharge or acquittal : Provided that, if the proceedings terminated in conviction of the person, the order of detention shall remain in force for a further period of one month. (3) An order passed under this section shall be given effect to, notwithstanding that any person claims the custody of the child.

**80. Victimised child to be sent to Juvenile Court or [First Class Magistrate]. - Any court by which a person is convicted of having committed an offence in respect of a child, or before which a person is brought for trial for any such offence or by which a person is bound over to keep the peace towards a child shall direct that the child against whom the offence has been committed, or in relation to the alleged offence against whom the trial is in**

**progress, or in relation to keeping the peace towards whom the adult concerned has been bound over shall be produced before a juvenile court with a view to that court making such interim and final, orders as may be proper, provided that in an area where no juvenile court has been established, [the court if it is not competent to exercise the powers of juvenile court under section 8 shall submit the proceedings and forward the child to the salaried First Class Magistrate.]**

**81. Order for committal of victimised children. - The court before which a child is produced in accordance with section 79 may order the child in prescribed manner -**

(a)to be committed [to a Classifying Centre until the child, if he is a boy completes the age of eighteen years and if she is a girl, completes the age of twenty years] or in exceptional cases for a shorter period the reasons for such shorter period to be recorded in writing, or(b)to be committed to the care of a relative or other fit person, on bond, with or without surety as the court may require, such relative or fit person being willing and capable of exercising proper care, control and protection of the child and of observing such other conditions, including, where necessary supervision for any period not exceeding three years, as the court may impose in the interest of the child :Provided that, if the child has a parent or guardian, fit and capable, in the opinion of the court, of exercising proper care, control and protection, the court may allow the child to remain in his custody or may commit the child to his care on bond, with or without surety, in a prescribed form and for the observance of such conditions as the court may impose in the interest of the child.

**82. Supervision of victimised children. - The court which makes an order committing a child to the care of his parent, guardian or other fit person under the foregoing provisions may in addition order that he be placed under supervision.**

**83. Breach of supervision. - If it appears to the court on receiving a report from the [Child Welfare Officer (Probation)] or otherwise, that there has been a breach of the supervision order relating to the child in respect of whom the supervision order had been passed, it may after making such inquiries, as it deems fit. order the child to be [detained in a Classifying Centre or to the care of a fit person].**

**84. Repatriation of victimised child. - (1) In the case of a child, the ordinary place of whose residence is outside the jurisdiction of the court before which he is produced if the court is satisfied after due inquiry that it is expedient so**



**to deal with the child, the court may order the child to be sent on his own bond back to a relative or a fit person who is fit and willing to receive him at his native place and exercise proper care and control of him notwithstanding the fact (hat the place or residence of such child may be at any place outside the [State].**

(2)For breach of a bond taken under sub-section (1) the child shall be liable to be committed to a [Classifying Centre] or to the care of a fit person if found again in the [State].

**85. Reasons to be recorded for order under sections 81 to 84. - The reasons for every order made under sections 81 to 84 shall be recorded in writing and may be made by the court in the absence of the child.**

**86. Order under sections 81 to 84 to be in force even if conviction of alleged victimisation is set aside. - Where an order is made under sections 81 to 84 and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order made under the said sections shall remain in force but it shall be open to the person so acquitted or discharged from his bond to keep the peace to apply for a reconsideration of the said order in consequence of the altered circumstances.**

**87. Warrant to search for child. - (1) If it appears to a juvenile court or any other court duly empowered under this Act from information on oath or solemn affirmation laid by any person who, in its opinion, is acting in the interests of the child, that there is reasonable cause to suspect that an offence has been or is being committed or unless immediate steps be taken will be committed in respect of the child, the court may issue, a warrant authorising any police officers named therein to search for such child and if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence has been or is being committed in respect of the child to take him to and detain him in a place of safety until he can be brought before it and the court before whom the child is brought may in the first instance [remand him to a place of safety.]**

(2)The court issuing warrant under this section may in its discretion by the same warrant direct that any person accused of any offence in respect of the child be apprehended and brought before it, or direct that if such person executes a bond with sufficient sureties for his attendance before the magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from

custody.(3)The police officer executing the warrant shall be accompanied by the person laying the information if such person so desires and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.(4)In any information or warrant under this section the name of the child shall be given if known.

**88. Information to [Child Welfare Officer (Probation)] and officer in-charge of [an Observation Home] by police or any person effecting arrest. - (1) It shall be duty of a police officer immediately after effecting the arrest of a child to inform a [Child Welfare Officer (Probation)] and officer incharge of [an Observation Home] for the purpose stated in section 66.**

(2)It shall be the duty of any other person effecting such arrest to inform a [Child Welfare Officer (Probation)] and officer in-charge of [an Observation Home] for the like purpose as provided in section 66.(3)The juvenile court for the purpose of such inquiry may, remand the child even in his absence from time to time for a period of not more than fourteen days at a time until available information has been obtained.

## **Part IX**

### **Maintenance and Treatment of Committed Children**

**89. Period of detention. - [Notwithstanding anything contained in this Act, the period of detention in the case of a boy under the age of fifteen years, and in the case of a girl under the age of seventeen years shall be such as will result in the boy being detained until he reaches the age of eighteen years and the girl being detained until she completes the age of twenty years :**

Provided that, the period of detention, in the case of a boy of over fifteen years of age, shall be not less than two years, and in the case of a girl of over seventeen years of age, shall be not less than two years :]Provided further that, where special circumstances exist and the interest of the child so demands, it shall be open to the court for reasons to be recorded in writing, to pass an order for a shorter period of detention.

**90. Contribution of parents. - (1) The court which makes an order for the detention of a child or youthful offender in a [Classifying Centre] or for the committal of a child or youthful offender to the care of a relative or other fit person may make an order or the parent or other person liable to maintain the child, or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner.**

(2)The court before making any order under sub-section (1) shall inquire into the circumstances of the parent or other person liable to maintain the youthful offender or child and shall record evidence, if any, in the presence of the parent or such other person as the case may be.(3)Any order made under this section may be varied by the court on an application made to it by the party liable or otherwise.(4)The person liable to maintain a child or youthful offender shall for the purposes of sub-section (1) include in the case of illegitimacy his putative father :Provided that, where the child or youthful offender is illegitimate and an order for his maintenance has been made under section 488 oi the Code of Criminal Procedure, 1898', the court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named to be applied by him or them, as the case may be, towards the maintenance of the child or youthful offender.(5)Any order under this section may be enforced in the same manner as an order under section 488 of the [Code of Criminal Procedure, 1898.][91. Provision as to religion. - (1) In determining the Approved Centre, Approved Institution or other person to whose custody a child is to be committed or entrusted under this Act, the Classifying Centre or the court shall ascertain the religious denomination of the child and shall, if possible, in selecting such Approved Centre, Approved Institution or other person have regard to the facilities which are afforded for instruction in his religion.(2)When a child is committed to the care of an Approved Centre or Approved Institution in which facilities for instruction in his religion are not afforded, or is entrusted to the care of a fit person or other person under circumstances in which it appears that no special facilities for bringing up of the child in his religion exist, the authorities of such Approved Centre or Approved Institution or such fit person or other person shall not bring up the child in any religion other than his own.(3)Where it is brought to the notice of the Director (Child Welfare) or of the court that a breach of sub-section (2) has been committed, it shall be open to the Director (Child Welfare) or the court to transfer the child from the custody of such institution or person.]

**92. Placing out on licence. - [(1) Subject to the prescribed conditions, the Director (Child Welfare) may, at any time after the expiration of six months from the commencement of the detention of a child in an Approved Centre or Approved Institution and on the recommendation of the visitors or managers of the Approved Centre or Approved Institution or on application by a parent, other relation or guardian reinforced by local inquiries made through the Maharashtra State Probation and After-care Association, or otherwise, release such child from the Centre or Institution and grant him a written licence in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such responsible person or society willing to take charge of the child and approved by the Director.]**

(2)Any licence granted under sub-section (1) shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.[(3) The Director (Child Welfare) may at any time by order in writing revoke any licence, and order the child to return to the Approved Centre or Approved Institution and shall do so at the desire of the person or society with whom or under

whose supervision he is licensed to live. If the child refuses or fails to return to the Centre or Approved Institution, the Director may, if necessary, call for the papers and deal with the case himself making such order as he thinks fit in the interest of the child or direct the arrest of the child and cause him to be placed before the court or taken back to the Approved Centre or Approved Institution.](4)When a licence has been revoked or forfeited and the child or youthful offender refusing or failing to return to the [Approved Centre or Approved Institution] has been arrested and placed before the court under the provisions of sub-section (3) the court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or youthful offender issue a summons requiring the parent or guardian to attend at the court on, such day as may be specified in the summons and to produce the child or youthful offender, and, if he fails to do so without reasonable excuse he shall, in addition to any other liability to which he may be subject under provisions of this Act on conviction, be punished with fine which may extend to fifty rupees.(5)Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the [Code of Criminal Procedure, 1898.]](6) The time during which a child is absent from an Approved Centre or Approved Institution in pursuance of a licence granted under this section shall be deemed to be part of the time of his detention in the Approved Centre or Approved Institution, provided that, where a child has failed to return to the Approved Centre or Approved Institution on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the Approved Centre or Approved Institution.]

**93. Action by Police [or Child Welfare Officer (Probation)] with escaped children. - (1) Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer [or Child Welfare Officer (Probation)] may arrest without a warrant a child who has escaped [from an Approved Centre or Approved Institution] or from the supervision of a society or a person under whose supervision he was directed to remain, and shall send the child back [to the Approved Centre,] institution, society or the person without registering any offence or prosecuting the child, and the said child shall not be deemed to have committed any offence by reason of such escape but he shall be dealt with by the authorities of the institution concerned in such manner as they think fit.**

(2)When a child absconding [from a Classifying Centre or an Approved Centre or Approved Institution] of fit person has been arrested at a different place, he shall be detained in a place of safety pending his removal [to the Classifying Centre, Approved Centre, Approved Institution] or fit person.

## Part X

### Appeals

#### **94. Appeals. - (1) Any person aggrieved by a final order may appeal to the Courts hereinafter mentioned.**

(2) If a final order is passed - (a) by a juvenile court, an appeal shall lie in the Greater Bombay to the Chief Presidency Magistrate and in other places to the [Court of Session]; (b) by a Magistrate (not being a Presidency Magistrate) empowered under section 8 to exercise the powers of a juvenile court, an appeal shall lie to the Court of Session; (c) by a Presidency Magistrate or a Court of Session, an appeal shall lie to the High Court. (3) Except as provided in this section no appeal shall lie from any order passed under this Act by a juvenile court or any other court empowered to exercise the powers of a juvenile court under section 8.

#### **95. Application of Criminal Procedure Code to appeals. - The provisions of sections 419 to 431 (both inclusive) of the [Code of Criminal Procedure, 1898,] shall matatis mutandis apply to appeals against final orders, as if the said orders were the orders of conviction and sentence passed by a Criminal Court.**

#### **96. Period of limitation of appeals. - (1) The period of limitation for an appeal against a final order [shall be ninety days for an appeal to any court] from the date of the order appealed against.**

(2) The provisions of sections 5, 7, and 12 of the [Indian Limitation Act, 1908,] shall apply to the filing of such appeals.

## Part XI

### Miscellaneous

#### **97. Discharge and transfer. - (1) The [State] Government may at any time order a child or youthful offender to be discharged from [an Approved Centre or Approved Institution] either absolutely or on such conditions as the [State] Government approves.**

(2) (a) The [State] Government may order a youthful offender who has attained the age of sixteen years [detained in an Approved Centre or Institution] to be transferred to a Borstal School established under the Bombay Borstal Schools Act, 1929, in the interest of discipline or for other

special reasons;(b)any boy or girl over the age of sixteen years, who has been released on licence, and who has committed a breach of licence conditions and whom it is not advisable to send back to his [own Approved Centre or Institution] may be transferred to a Borstal School or institution :Provided that, the whole period of the detention of the child or youthful offender shall not be increased by the transfer.(3)Upon the transfer of a child or youthful offender to a Borstal School under sub-section (2) the provisions of the Bombay Borstal Schools Act, 1929, shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act.(4)The [State] Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the [State] Government approves.[98. Transfer between institutions and those of like nature in different parts of India. - (1) The State Government may, in consultation with the managers of any Approved Centre or Institution, consent to the transfer to that Centre or institution of any child or youthful offender in respect of whom an order has been made by a competent authority in any other part of India of the nature of an order under this Act directing him to be sent to Approved Centre or reformatory school or Institution of like nature, and upon such transfer, the provisions of this Act shall apply to such child or youthful offender.(2)The State Government may direct any child or youthful offender to be transferred from any Approved Centre or Institution to any centre or institution of a like nature in any other part of India in respect of which provision similar to that in the State of Maharashtra is made by the Government of that part under any law in force therein :Provided that, no such child or youthful offender shall be transferred under this section to any other part of India without the consent of the Government of that part.

**99. Transfer of children of unsound mind or suffering from leprosy. - (1)**  
**Where it appears to the State Government that any child detained in a Classifying Centre, Approved Centre or Approved Institution under any order of a court is of unsound mind or a leper, the State Government may, by an order setting forth the grounds of belief that the child is of unsound mind or leper, order his removal to a mental hospital or leper asylum or other place of safe custody thereto be kept and treated as the State Government directs during the remainder of the term for which he has been ordered to be detained or, if on the expiration of that term, it is certified by a medical officer that it is necessary for the safety of the child or of others that he should be further detained under medical care or treatment there until he is discharged according to law.**

(2)Where it appears to the State Government that the child has become of sound mind or is cured of leprosy, the State Government shall, by order direct the person having charge of the child which is still liable to be kept in custody, to send him to the Approved Centre or Approved Institution from which he was removed, or if the child is no longer liable to be kept in custody, order him to be discharged :Provided that, where, the removal of a child due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the institution in which the child is detained to apply to a juvenile court of the area or to the nearest court empowered to exercise the

powers of a juvenile court under section 8 of this Act for an immediate order of committal to a mental hospital or a leper asylum until such time as the order of the State Government can be obtained in the matter.

**100. Transfer from one institution to another. - The Director (Child Welfare) may direct any child or youthful offender to be transferred from one institution to another, whether an Approved Centre or Approved Institution ;**

Provided that, the total period of detention of the child or youthful offender shall not be increased by such transfer.]

**101. Compensation for false and frivolous or vexatious information. - (1) If in any case in which an information has been laid by any person under the provisions of section 87, the magistrate after such inquiry as he may deem necessary is of opinion that such information was false and either frivolous or vexatious, the magistrate may for reasons to be recorded in writing direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid.**

(2) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show. (3) The magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a term not exceeding thirty days. (4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be apply. (5) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him but any amount paid as compensation shall be taken into account in any subsequent civil suit relating to such matter. (6) When an order for the payment of compensation is made under sub-section (1), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of an appeal has expired.

**102. Removal of disqualification attaching to convictions. - When a youthful offender is found to have committed any offence the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code or section 565 of the [Code of Criminal Procedure, 1898,] or operate as a disqualification for office or any employment or election under any law.**

**103. Power to amend orders. - Without prejudice to the powers of courts of appeal and revision any custody order, supervision order or probation order may be amended by the court which made such order in respect of the person named as custodian, supervisor or [Child Welfare Officer (Probation)] and such other details as may be deemed necessary, provided that in the case of an order committing a child to an institution no such order shall, subject to the proviso hereinbelow be amended except in relation to the period of duration, such amendment being by way of extension of the period only :**

Provided that, in case of emergency and for immediate necessity a committal order may be varied by any of change in the institution to which the order relates such variation being subject to confirmation by the [Director (Child Welfare)].

**104. Control over custodian of child. - [Subject to the supervision, direction and control of the Director (Child Welfare), any person] to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care for the period stated by the court notwithstanding that he is claimed by his parent or any other person.**

[105. Power to send child to Observation Home, etc., when it is committed to Classifying Centre under Act. - Whenever under any of the provisions of this Act, it is provided that a child shall be committed to a Classifying Centre, then such child shall subsequently be sent in the prescribed manner to an Observation Home or an Approved Centre or Institution according to the circumstances of each case and in the interest of the child :Provided that, for reasons to be recorded in writing, the child may, instead of being sent to a Classifying Centre, be ordered to be retained or sent to an Observation Home or may be sent to an Approved Centre or Approved Institution.]

**106. Bonds taken under the Act. - The provisions of Chapter XLII of the [Code of Criminal Procedure, 1898] shall, so far as may be, apply to bonds taken under this Act.**

[107. Officers to be public servants. - The Child Welfare Officers, Assistant Directors and Deputy Director (Child Welfare) and the Director (Child Welfare) and all other persons authorised or entitled to act under any provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.



**107A. Delegation of powers and duties. - The State Government may, by notification in the Official Gazette, direct that all or any of the powers conferred or duties imposed on the Director (Child Welfare) by or under this Act may, subject to such restrictions and conditions, if any, as may be specified in the notification, be exercised or performed also by such of the officers appointed under this Act as may be specified in the notification.]**

**108. Protection of action taken under this Act. - No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.**

**109. Rules. - (1) The [State] Government may make rules for carrying out the purposes of this Act.**

(2) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely :-(a) the procedure to be followed by juvenile courts and other courts empowered to exercise the powers of juvenile courts under section 8 in the trial of cases and the conduct of proceedings under the Act : (b) the places at which days and the manner in which a juvenile court shall hold its sittings under sub-section (1) of section 12; (c) the conditions subject to which institutions and associations shall be recognised as approved places for the purpose of sub-section (1) of section 20; (d) the establishment or certification, management, maintenance, records and accounts of [Approved Centres and Approved Institutions]; the education and industrial training of inmates in such institution, and their leave of absence; the appointment of visitors and their tenure of office: the inspection of [such and other institutions] for the reception of [x x x] children; and the internal management and discipline of [the aforesaid institution] and release on licence of inmates therein: (e) the conditions under which any private industrial school or other educational institution may be recognised by the State Government as an Approved Institution under sub-section (2) of section 25; (e-i) the manner in which the State Government may establish and maintain Classifying Centres under section 27; (e-ii) the manner in which the management of institutions referred to in sub-section (3) of section 31 may be taken over by the State Government; (f) the powers and duties of [Director (Child Welfare), Deputy Director (Child Welfare), Assistant Director (Child Welfare), Inspecting Officers (Child Welfare) and Child Welfare Officers (Probation)] under section 39; (g) the recruitment and training of personnel responsible for work under the Act; (h) the conditions in which societies may be recognised by the [State] Government for providing [Child Welfare Officers (Probation)] their employment and matters incidental to their appointment, authorisation, resignation and removal and remuneration and expenses payable to them; (i) the manner of authorising persons for the purposes of sections 40 and 78; (j) the manner in which a child or youthful offender shall be sent back to his native place under sections 46 and 73; (k) the manner in which children shall be detained in custody by officers in-charge of police stations or sections under sub-section (1) and the manner in which children shall be ordered to be detained by courts under sub-section (2) of section 65; (l) the manner in which a child shall be ordered to be committed to [a Classifying Centre] or to the care of a relative or other fit

person under clauses (a) and (b) of, and the form of bond under the proviso to, section 81;[(m) \* \* \*](n)the manner in which contribution for the maintenance of a child may be ordered to be paid under sub-section (1) of section 90;(o)the conditions under which a child may be released from [an Approved Centre or Approved Institution] on licence and the form and conditions of such licence under sub-section (1) of section 92;[(o-i) the manner in which a child shall be sent to an Observation Home or an Approved Centre or Institution under section 105;](p)the conditions subject to which children may be committed to the care of persons under this Act and the obligations of such persons towards the children so committed:(q)any other matter which is or may be prescribed under the Act.(3)The power to make rules under this Act shall be subject to the condition of previous publication.(4)The rules made under this Act shall be published in the Official Gazette and on such publication shall have effect as if enacted in this Act.[(5) Every rule made under this section shall be laid, as soon as may be, alter it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the Official Gazette of such decision, have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under the rule.]

## **110. Repeal of Bombay 13 of 1924. - The Bombay Children Act, 1924, is hereby repealed :**

Provided that -(a)juvenile courts established under the repealed Act shall be deemed to be juvenile courts established under this Act:(b)certified schools established or certified fit person institutions, remand homes, approved places and voluntary homes recognised under the repealed Act shall be deemed to be recognised under this Act;(c)all licences and certificates granted and transfers made under the repealed Act shall be deemed to be granted or made under (his Act:(d)all cases, proceedings and appeals pending before any court under the repealed Act shall be continued and disposed of by the said courts notwithstanding anything in this Act as if they were cases, proceedings and appeals under this Act;(e)all appeals against orders of courts appointed under the repealed Act which would have laid under that Act shall be deemed to be appeals from orders made by courts under this Act and shall be presented to the courts empowered to hear appeals under this Act and shall be disposed of accordingly;(f)any appointment, notification, notice, order, rule or form made or issued under the repealed Act shall continue to be in force and be deemed to have been made or issued under the provisions of this Act in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act.[111. Further repeals and savings. - (1) On the commencement of the Bombay Children (Extension and Amendment) Act, 1963, the Central Provinces and Berar Children Act, 1928 and the Hyderabad Children Act, 1951, shall stand repealed :Provided that, anything done or any action taken (including any appointment, notification, notice, order, rule or form made or issued any juvenile court established or any certified school established or certified, any place of safety or fit person recognised, any licence or certificate granted or withdrawn, any warrant issued,

any bail granted, any remand, any committal for trial or custody, any discharge, or transfer of a child or youthful offender made, or any contribution directed to be paid) under any such law shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.(2)The mention of particular matters in this section shall not affect the general application to this Act of section 7 of the Bombay General Clauses Act, 1904 (which relates to the effect of repeals).]Notifications[No. RDH. 1086/3029 (27) CA-III.] - In exercise of the powers conferred by section 26 of the Bombay Children Act, 1948 (Bombay LXXI of 1948), the Government of Maharashtra hereby declares the following place as place of safety for Observation Home for boys for the purposes of the said Act, namely:-House No. 1989, Near Police Station, Gadchiroli (A building owned by Advocate B. T. Nandnapawar, Gadchiroli).