

Telangana Borstal Schools Act, 1925

TELENGANA

India

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Act 5 of 1926

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Telangana Borstal Schools Act, 1925(Act No. 5 of 1926)Last Updated 13th January, 2020The Andhra Pradesh Borstal Schools Act, 1925 in force in the combined State, as on 02.06.2014, has been adapted to the State of Telangana, under section 101 of the Andhra Pradesh Reorganisation Act, 2014 (Central Act 6 of 2014) vide. the Telangana Adaptation of Laws Order, 2016, issued in G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.

Part I – Preliminary

1. Short title.

(1)This Act may be called [the Telangana Borstal Schools Act, 1925.] [Substituted by G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.](2)The [State Government] [The words 'State Government' throughout the Act were substituted by the Adaptation of Laws Orders, 1937 and 1950.] may, by notification from time to time, apply the whole or any of the provisions of this Act to adolescent offenders or any class thereof in any local area in the [State of Telangana] [Substituted by G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.], from such date as may be specified in the notification and may cancel or modify by such notification.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(1)"Adolescent offender" means any person who has been convicted of any offence punishable with imprisonment or who having been ordered to give security [under section 106 or section 118] [Substituted for the expression 'under section 118' by Act XXIII of 1958.] of the Code of Criminal Procedure has failed to do so and who at the time of such conviction or failure to give security is not less than 16 nor more than 21 years of age;(2)"Borstal school" is a corrective institution wherein adolescent offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the

prevention of crime;(3)"Inspector-General" shall mean the Inspector- General of Prisons and shall include any officer appointed by the State Government to perform all or any of the duties imposed by this Act on the Inspector-General;[(3-A) "prescribed" means prescribed by rules made under this Act] [Inserted by Act XXIII of 1958.];(4)["Probation officer" means a person appointed to be a probation officer under [the] [Added by the Andhra Pradesh Borstal Schools (Amendment) Act, 1951 (Act XI of 1951).] Telangana Probation of Offenders Act, 1936 (Act III of 1937).]

3. Establishment of Borstal schools.

(1)For the purposes of this Act, the State Government may establish one or more Borstal schools.(2)For every Borstal School a Visiting Committee shall be appointed by the State Government.

4. Rules.

(1)The State Government may after previous publication make rules for the purpose of carrying into effect the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may be made with regard to,-(a)the appointment, powers and duties of officials in such schools;(b)the treatment, maintenance, education, industrial training and control of the inmates;(c)the grant of permission to the inmates to absent themselves for short periods;(d)visits to and communications with the inmates;(e)the temporary detention of adolescent offenders until arrangements can be made for sending them to Borstal schools;(f)the powers and duties of probation officers under this Act;(g)[the constitution, procedure, powers and duties of the Investigating Committee.] [Added by Act XXIII of 1958.](3)All 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.[XXX] [Sub-section (4) was omitted by Act XIX of 1936.]

5. Application of the Prisons Act, 1894, and the Prisoners Act, 1900.

- Subject to any alterations, adaptations and exceptions, made by this Act and the rules framed under it, the Prisons Act, 1894, (Central Act 9 of 1894) and the Prisoners Act, 1900, (Central Act 3 of 1900) and the rules framed thereunder shall apply in the case of every Borstal school established under this Act as if it were a prison and the inmates prisoners.

6. Courts empowered under this Act.

- The powers conferred on Courts by this Act shall be exercised only by (a) the High Court, (b) a Court of Session, (c) a District Magistrate, (d) a Sub-divisional Magistrate, [XXX] [The expression '(e) a salaried Presidency Magistrate or any other Presidency Magistrate empowered by the State Government to sit singly' was omitted by the Andhra Adaptation of Laws (Amendment) Order, 1954 and for 'f 'e' was substituted.] and [(e)] [The expression '(e) a salaried Presidency Magistrate or any other Presidency Magistrate empowered by the State Government to sit singly' was omitted by the Andhra Adaptation of Laws (Amendment) Order, 1954 and for 'f 'e' was substituted.] any Magistrate

of the first class or any bench of Magistrates constituted under section 15 of the Code of Criminal Procedure, 1898, (Central Act 5 of 1898) invested with the powers of a Magistrate of the first class specially empowered by the State Government in that behalf; and may be exercised by such Courts whether the case comes before them originally, on appeal, or in revision.

7. Procedure when Magistrate is not empowered to pass sentence under this Act.

(1)When any Magistrate not empowered to pass sentence under this Act is of opinion that an adolescent offender is a proper person to be detained in a Borstal school he may, without passing sentence, record such opinion and submit his proceedings [and forward the adolescent offender,-(a)[XXX];(b)[XXX] [Clause (a) and in clause (b) the words 'in other cases' were omitted by the Andhra Adaptation of Laws (Amendment) Order, 1954.] to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate].(2)[The Magistrate to whom the proceedings are so submitted] [Substituted by the Madras Borstal Schools (Amendment) Act, 1938 (Madras Act XI of 1938).] may make such further inquiry (if any) as he may think fit and may pass such sentence or order dealing with the case as he might have passed if such adolescent offender had originally been tried by him.

Part II – Committal to Borstal Schools

8. Power of Court to pass sentence of detention in Borstal school.

- Where it appears to a Court having jurisdiction under this Act that an adolescent offender should, by reason of his criminal habits or tendencies, or association with persons of bad character, be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime, it shall be lawful for the Court, in lieu of passing a sentence of imprisonment, to pass a sentence of detention in a Borstal school for a term which shall not be less than two years and shall not exceed five years [but in no case extending beyond the date on which the adolescent offender will, in the opinion of the Court, attain the age of twenty-three years] [Added by the Madras Borstal Schools (Amendment) Act, 1936 (Madras Act XIX of 1936) which Act is since repealed.]:Provided that, before passing such sentence, the Court shall consider any report or representation which may be made to it [(including any report or representation made by the probation officer of the area in which the offender permanently resided at the time when he committed the offence)] [Inserted by the Andhra Pradesh Borstal Schools (Amendment) Act, 1951 (Act XI of 1951).] as to the suitability of the case for treatment in a Borstal school and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to profit by such instruction and discipline as aforesaid.

9. Limitation on powers conferred by section 8.

- Any person detained in a Borstal school for failure to furnish security when ordered to do so [under section 106 or section 118] [Substituted by the Andhra Pradesh Extension of Laws Act, 1958 (Act XXIII of 1958). Now see the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).] of the Code of Criminal Procedure 1898, shall be released on furnishing such security or on the passing of an order under section 124 of the Code.

10. Power of Inspector General to transfer prisoners to Borstal school.

- The Inspector General may, subject to rules made by the State Government, if satisfied that any adolescent offender undergoing imprisonment in consequence of a sentence passed either before or after the passing of this Act might with advantage be detained in a Borstal school, direct that such person shall be transferred from prison to a Borstal school, there to serve the whole or any part of the unexpired residue of his sentence. The provisions of this Act shall thereupon apply to such person as if he had been originally sentenced to detention in a Borstal school.

10A. [Power of State Government to transfer offenders sentenced to transportation to Borstal schools. [Inserted by the Madras Borstal Schools (Amendment) Act, 1939 (Madras Act XIII of 1939) which Act is since repealed.]

- [(1)] [Substituted by the Madras Borstal Schools (Amendment) Act, 1938 (Madras Act XI of 1938).] The State Government may, if satisfied that any offender who has been sentenced to transportation either before or after the passing of the [Madras] [Since repealed by the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).] Borstal Schools (Amendment) Act, 1939, and who at the time of conviction was not less than 16 nor more than 21 years of age, might with advantage be detained in a Borstal school, direct that such offender shall be transferred to a Borstal school, there to serve the whole or any part of the unexpired residue of his sentence. The provisions of this Act shall apply to such offender as if he had been originally sentenced to detention in a Borstal school. An order may be made under this section notwithstanding that the sentence of transportation has been subsequently commuted into a sentence of imprisonment.](2)[Notwithstanding anything contained in section 8, the term of detention of an offender who is transferred to the Borstal School under sub-section (1) shall be for a minimum period of two years.] [Inserted by Act No.3 of 2001.]

11. Preliminary inquiry and finding as to age of adolescent offender.

(1) Before passing a sentence under section 8 the Court shall inquire into the age of the offender and, after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon stating his age as nearly as may be. (2) A similar inquiry shall be made and finding recorded by every magistrate not empowered to pass sentence under section 8 before submitting his proceedings and forwarding an adolescent offender [to [XXX]] [Substituted by the Madras Repealing and Amending

Act, 1951 (Madras Act XIV of 1951) and the words 'the Chief Presidency or other salaried Presidency Magistrate or' were omitted by the Andhra Adaptation of Laws (Amendment) Order, 1954.] the District or Sub-divisional Magistrate] as required by subsection (1) of section 7.

12. Government to determine the Borstal school to which adolescent offender shall be sent.

- Every adolescent offender directed by a Court to be sent to a Borstal school shall be sent to such Borstal school as the State Government may, by general or special order, appoint for the reception of adolescent offenders so dealt with by such Court: Provided that, if accommodation in a Borstal school is not immediately available for such adolescent offender, he may be detained in a special ward or such other suitable part of a prison as the State Government may direct until he can be sent to a Borstal school. The period of detention so undergone shall be treated as detention in a Borstal school.

13. Removal from one school to another.

- The Inspector-General may at any time order an inmate to be removed from one Borstal school to another, provided that the whole period of his detention in a Borstal school shall not be increased by such removal.

13A. [Reception of offenders from, and transfer of offenders to, other States in India. [Inserted by the Andhra Pradesh Borstal Schools (Amendment) Act, 1951 (Act XI of 1951).]

(1) The State Government may, by general or special order notified in the [Telangana Gazette] direct that any specified Borstal school in this State shall be available for the reception of adolescent offenders in respect of whom a sentence of detention in a Borstal school or other school of a like nature has been passed by any Court or Magistrate in [any other part of India] [Substituted for the words 'any other State in India' by the Andhra Pradesh Adaptation of Laws Order, 1957.]; and thereupon, provision may be made for the removal of the adolescent offenders concerned accordingly: Provided that no such order shall be made without the consent of the Government of the other State concerned. (2) The State Government may direct any inmate of a Borstal school in this State to be transferred to any Borstal school or other school of a like nature in [any other part of India] [Substituted for the words 'any other State in India' by the Andhra Pradesh Adaptation of Laws Order, 1957.]: Provided that no such transfer shall be made without the consent of the Government of the other State concerned. (3) The State Government may consent to the transfer to a Borstal school in this State, of a person detained in any Borstal school or other school of a like nature in [any other part of India.] [Substituted for the words 'any other State in India' by the Andhra Pradesh Adaptation of Laws Order, 1957.]. (4) The provisions of this Act shall apply to any person who is removed or transferred to a Borstal school in this State in pursuance of sub-section (1) or sub-section (3), as if he had been originally sentenced to detention in a Borstal school in this State.]

14. Transfer of incorrigible etc., to prisons.

- Where a person detained In a Borstal school is reported to the State Government by the [Superintendent] [Substituted for the words 'Visiting Committee' by the Andhra Pradesh Borstal Schools (Amendment) Act, 1951 (Act XI of 1951).] of such school to be incorrigible or to be exercising a bad influence on the other inmates of the school [or in the case of a person directed to be sent to a Borstal school before the commencement of the [Madras] [Inserted by the Madras Borstal Schools (Amendment) Act, 1936 (Madras Act XIX of 1936).] Borstal Schools (Amendment) Act, 1936, to be over twenty-three years of age], the State Government may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the State Government may determine, but in no case exceeding, -(a) such unexpired residue, or (b) the maximum period of imprisonment fixed for the offence or the failure to give security as the case may be, or (c) the maximum period of imprisonment which the Court that tried him had authority to award under the Code of Criminal Procedure, 1898, (Central Act 5 of 1898) whichever is shortest.

Part III – Release on Licence

15. [Power to release on licence. [Substituted by the Andhra Pradesh Extension of Laws Act, 1958 (Act XXIII of 1958).]

(1) Subject to the prescribed conditions the Inspector-General may, on the recommendation of the Visiting Committee, at any time, after the expiration of six months from the commencement of the detention of an offender in a Borstal School, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal school and grant him a written licence permitting him to live under the supervision and authority of such, -(a) officer of the State Government; (b) secular institution; (c) religious society; or (d) responsible person; as may be approved by the Inspector-General and willing to take charge of the offender. (2) The Inspector-General may, subject to the prescribed conditions, discharge any offender who had been previously granted a licence but whose licence was subsequently revoked under section 17 and grant him a fresh written licence and in such case the provisions of this Act shall apply as if such fresh licence had been granted under sub-section (1). (3) A licence under this section shall be in force until the expiration of the term for which the offender was ordered to be detained in a Borstal school, unless sooner revoked or forfeited.]

16. Form of licence.

- Every licence granted under section 15 shall be in such form and shall contain such conditions as the State Government may by rules direct.

17. [Revocation of licence. [Substituted by the Andhra Pradesh Extension of Laws Act, 1958 (Act XXIII of 1958).]

(1) Subject to the prescribed conditions, the Inspector-General may, at any time, and in the case of a request made by the officer, institution, society or person, under whose supervision and authority the offender has by licence been permitted to live, shall, after considering the report of the Investigating Committee submitted to him under section 19-F, revoke a licence granted under section 15, and upon such revocation the offender shall be detained in a Borstal school until the expiration of the term for which he was ordered to be detained in such school: Provided that, if the Investigating Committee reports that the conduct of the offender has been such that he is unfit for detention in a Borstal school, the Inspector-General shall forward the report of the Investigating Committee to the State Government who may, - (i) direct the Inspector-General to revoke the licence as provided in this sub-section, or (ii) themselves revoke the licence and commute the unexpired residue of the term of detention of the offender to a term of imprisonment as provided in section 14. (2) If an offender removes himself from the supervision of the officer, institution, society or person under which he was by licence permitted to live, his licence shall be deemed to have been revoked from the date on which he has so removed himself.]

18. Escape and failure of licence.

- If any inmate escapes from a Borstal school or if any inmate absent on licence from a Borstal school removes himself from [the supervision of the officer, institution, society or person under which he was by licence permitted to live] [Substituted by the Andhra Pradesh Extension of Laws Act, 1958 (Act XXIII of 1958).] or fails to return from such supervision to the Borstal school, a, police officer not below the rank of a Sub- Inspector of Police may, without orders from a Magistrate and without warrant, arrest him and take him back to the Borstal school and his licence shall be forfeited with effect from the date of his escape or failure to return as the case may be.

19. Absence under licence to be counted towards period of detention.

- The time during which a person is absent from a Borstal school under a licence shall be treated as part of the term of his detention in the school; provided that where that person has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the term during which he is to be detained in the school. [Part III-A] [Part III-A was inserted by the Madras Borstal Schools (Amendment) Act, 1936 (Act XIX of 1936) which Act is since repealed by the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).] Control and Management of Borstal Schools

19A. Management of Borstal schools.

- Subject to the orders of the Inspector-General and subject also to the rules made by the State Government the control and management of every Borstal school shall vest in a Superintendent appointed by the State Government.

19B. Constitution, powers and duties of Visiting Committees.

(1)(a)Every Visiting Committee appointed under sub-section (2) of section 3 shall consist of the Sessions Judge, [the District Collector] [Substituted for the words 'the District Magistrate' by Act XXIII of 1958.], the District Educational Officer of the district in which the school is situated and four non-official members appointed by the State Government.(b)The non-official members shall hold office for a period of two years but shall be eligible for reappointment on the expiry of that period.(2)It shall be the duty of the Visiting Committee and its members,-(a)to visit the school either individually or collectively on such occasions as may be fixed by the rules made under this Act in that behalf for the purpose of ensuring that the provisions of this Act are duly given effect to;(b)to make such suggestions for the improvement of the training therein as are considered necessary and to report to the State Government or to the Inspector-General from time to time any matter, which, in their opinion, should receive attention and annually on the progress of the school;(c)to interview the inmates immediately after their arrival and to make suggestions, if any, as to the special training which each should receive;(d)to consider cases of release on licence under sub-section (1) of section 15 placed before them by the Superintendent; and(e)to consider such action as may be necessary in regard to the inmates whose term of detention is about to expire.(3)Subject to such rules as may be made in that behalf by the State Government every member of the Committee shall be entitled to call for information from the Superintendent, to examine the records of the school and to take such other action as he deems necessary for the due discharge of his duties.

19C. Classification of inmates.

(1)The inmates of a Borstal school shall be divided by the Superintendent according to their industry and good conduct into four grades, namely:- (1)the penal grade,(2)the ordinary grade,(3)the star grade,(4)the special star grade.(2)The privileges of each grade shall be higher than those of the grade preceding, if any.(3)Every inmate shall, on reception in a Borstal school, be placed in the ordinary grade.(4)The Superintendent may promote or reduce any inmate from one grade to another in accordance with the provisions of sub-section (5), the rules made under this Act and the general instructions of the Visiting Committee.(5)Promotions and reductions shall be regulated by close personal observations of the inmates and shall depend specially on their general behaviour, amenability to discipline and attention to instructions both literary and industrial.

19D. Punishments for offences.

(1)The punishments which may be inflicted on an inmate of a Borstal school for offences specified in the Prisons Act, 1894, and the rules made thereunder shall be in the following forms and in no other:- (i)Formal warning.(ii)Extra drill.(iii)Deprivation of any of the privileges of the grade.(iv)Reduction in grade.(v)Cuts on the hand by a rattan not exceeding six on each hand.(vi)[XXX] [Item (vi) was omitted by Act XXIII of 1958.](2)No punishment shall be awarded to any inmate by any official of the school except by the Superintendent or in his absence the official exercising his functions.

19E. Limitation of hours of work.

- No inmate of a Borstal school shall be made to work for more than eight hours a day: Provided that extra drill awarded as a punishment under sub-section (1) of section 19-D shall not be deemed for the purposes of this section, to be work.

19F. [Investigating Committee to investigate into complaints against offenders discharged on probation, etc. [Inserted by Act XXIII of 1958.]

(1)The State Government may, by notification in the Telangana Gazette, appoint an Investigating Committee.(2)The Inspector-General may, by an order in writing, require any offender,-(a)who is discharged on licence under section 15 and who is reported by the officer, institution, society or person under whose supervision he has been permitted to live to be of bad behaviour, or(b)who has committed breach of any of the conditions of the licence granted to him under section 15, to appear before the Investigating Committee within such time and at such place as may be specified in the order.(3)The Investigating Committee shall examine the offender and after making such inquiry as it thinks fit into his conduct, submit its report to the Inspector-General. If the Investigating Committee reports that the conduct of such offender has been such that he is unfit for further detention in a Borstal school the Inspector-General shall forward a copy of the report of the Investigating Committee to the State Government.(4)The offender shall, during the period of the proceedings under this section, be detained in a Borstal school or in a special ward or such other suitable place in a prison as the Inspector-General may, by general or special order, direct.(5)If the offender fails to appear before the Investigating Committee in accordance with the order made under sub-section (2) or escapes while under detention under sub-section (4), he may, on the requisition of the Inspector-General or any officer authorised by him in this behalf, be arrested by any officer of police without a warrant, and without any order of a Magistrate and brought before the Investigating Committee or sent under custody to the place of detention under sub-section (4), as the case may be.(6)The period commencing from the date on which the order under sub-section (2) is passed by the Inspector- General and ending with the date on which an order is passed by the State Government under section 17, shall be excluded in computing the total term of his detention in a Borstal school.]

Part IV – Appeal and Revision

20. Appeal and revision.

- For purposes of appeal and revision under the Code of Criminal Procedure, 1898, a sentence of detention under section 8 of this Act shall be deemed to be a sentence of imprisonment for the same period. Any person affected by an order of the Inspector- General under this Act may appeal to the State Government whose orders shall be final.

Part V – Miscellaneous

21. Minimum age-limit of adolescents in areas to which 36 [the Andhra Pradesh (Andhra Area) Children Act, 1920] has not been extended.

- In areas to which [the Andhra Pradesh (Andhra Area) Children Act. 1920.] [Substituted for the original short title by the First Schedule to the Andhra Pradesh Laws (Amendment of Short Titles) Act, 1961 (Act IX of 1961).] has not been extended, the figure 16 appearing in section 2 (1) of the Act shall be read as 15.

21A. [Power of State Government to discharge inmates. [Section 21-A was inserted by the Madras Borstal Schools (Amendment) Act, 1936 (Madras Act XIX of 1936).]

- The State Government may at any time order the discharge of an inmate of any Borstal school either absolutely or subject to such conditions as they may think fit.]

22. Removal of disqualification attaching to convictions for offences.

- The conviction of an adolescent shall not be regarded as a conviction for the purposes of any disqualification attaching to a conviction for any offence.