

No. 11 of 2005

VIRGIN ISLANDS
YOUTH COURTS ACT, 2005
ARRANGEMENT OF SECTIONS

Section

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I Assent

THOMAS TOWNLEY MACAN

Governor

16th April, 2005

VIRGIN ISLANDS

No. 11 of 2005

An Act to establish youth courts and for related matters.

[Gazetted 5th May, 2005]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and
commencement.

1. This Act may be cited as the Youth Courts Act, 2005 and shall come into operation on such date as the Governor may, by Proclamation published in the *Gazette*, appoint.

Establishment of
youth courts.
Cap. 44

2. (1) Notwithstanding the provisions of the Magistrate's Code of Procedure Act, the Executive Council may, by Order, provide for

- (a) the establishment of one or more youth courts in the Territory;
- (b) youth courts to be held elsewhere than in the buildings used as Magistrate's Courts;
- (c) fixing the time when youth courts shall be held; and
- (d) every youth court to be constituted of a Magistrate and at least one other person to be called an assessor to be selected by the Magistrate from a panel of assessors nominated by the Executive Council in accordance with subsection (2),

but nothing in the Order shall prevent a Magistrate sitting alone in any case where he considers that it would be impracticable for the court to be constituted in the manner aforesaid, or that it would be inexpedient in the interests of justice to adjourn the business of the court.

(2) For the purposes of subsection (1)(d), assessors nominated by the Executive Council may include social workers, members of the religious community, education psychologists, school guidance counsellors, teachers or any other member of the community that the Executive Council considers appropriate.

(3) For the purposes of subsection (2)(1)(d), the assessors shall advise the Magistrate on

- (a) the appropriateness of a sentence to be imposed on a child or young person before a youth court;
- (b) any matter that the Magistrate may refer to the assessors in relation to the trial of a child or young person before a youth court.

(4) Nothing in this section shall be deemed to confer on the assessors the powers of a Magistrate in rendering a decision in relation to any matter before the youth court.-

3. (1) As soon as possible after a child or young person is arrested or charged at a police station with an offence, the member of the Police Force who charged him shall take all reasonable steps to cause his parents to be notified of the charge and the time and the place when the child or young person will be brought before a youth court, whether the parents reside in the Territory or not.

Parents to be notified of charge and to attend court.

(2) A notice required by subsection (1) may be given by registered mail.

(3) The parents notified under subsection (1) shall attend the youth court, and remain in attendance during the proceedings, unless the court is satisfied that it would be unreasonable to require that attendance.

(4) Where a parent, who has been notified under subsection (1), fails, without reasonable excuse, to attend the court, or remain in attendance during the proceedings, the court may direct that a warrant be issued to bring him before the court at that or a further hearing.

(5) The court may proceed in the hearing referred to in this section notwithstanding

- (a) that the parents notified under subsection (1) are not present at the proceedings; or
- (b) that the notice required under subsection (1) has not been given.

Trial by youth
courts.
Cap. 44

4. When a child or young person within the meaning of the Magistrate's Code of Procedure Act is charged with any offence punishable on summary conviction, the Magistrate shall, unless the child or young person is charged jointly with any other person not being a child or young person, for the purpose of hearing the charge, sit in a youth court established under the provisions of this Act and, notwithstanding the provisions of any law to the contrary, the procedure to be followed on the hearing of such charge shall be in accordance with rules made under section 7.

Exclusion of the
public from
youth courts.

5. (1) In a youth court a person other than the members and officers of the court and the parties to the case, their parents, legal practitioners, and other persons directly concerned in the case, shall not, except by leave of the court, be allowed to attend.

(2) For the purposes of this section any person appointed by the Governor as a probation officer or social worker shall be deemed an officer of the court.

Restriction on
identification of
a child or young
person.

6. (1) Subject to this section, no person shall publish by any means any report

(a) of an offence committed or alleged to have been committed by a child or young person, unless with an order of the court, or

(b) of any hearing, adjudication, disposition or appeal concerning a child or young person who committed or is alleged to have committed an offence,

in which the name of the child or young person, a child or a young person who is a victim of the offence or a child or a young person who appeared as a witness in connection with the offence, or in which any information serving to identify such child or young person, is disclosed.

(2) Subsection (1) does not apply in respect of the disclosure of information in the course of the administration of justice, where it is not the purpose of the disclosure to make the information known in the community.

(3) Subsection (1) does not apply in respect of the disclosure of information by an officer of the court where the disclosure is necessary for procuring information that relates to the preparation of any report required by any other enactment.

(4) No person to whom information is disclosed pursuant to subsection (3) shall disclose that information to any other person unless the disclosure is necessary for the purpose of preparing the report for which the information was disclosed.

(5) Subsection (1) does not apply in respect of the disclosure of information to any professional or other person engaged in the supervision or care of a child or young person, including the representative of any school or any other educational or training institution, by an officer of the court, a police officer or any other person engaged in the provision of services to children and young persons where the disclosure is necessary

- (a) to ensure compliance by the child or young person with an order of any court concerning bail, probation or conditional supervision; or
- (b) to ensure the safety of staff, students or other persons, as the case may be.

(6) No person to whom information is disclosed pursuant to subsection (5) shall disclose that information to any other person unless the disclosure is necessary for a purpose referred to in that subsection.

(7) Any person to whom information is disclosed pursuant to subsections (5) and (6) shall

- (a) keep the information separate from any other record of the child or young person to whom the information relates;
- (b) subject to subsection (10), ensure that no other person has access to the information; and
- (c) destroy the information when the information is no longer required for the purpose for which it was disclosed.

(8) A Magistrate shall, on the *ex parte* application of a police officer, make an order permitting any person to publish a report described in subsection (1) that contains the name of a child or young person, or information serving to identify a child or young person, who has committed or is alleged to have committed an indictable offence, if the Magistrate is satisfied that

- (a) there is reason to believe that the child or young person is dangerous to others; and
- (b) publication of the report is necessary to assist in apprehending the child or young person.

(9) An order made under subsection (9) shall cease to have effect two days after it is made.

(10) The youth court may, on the application of a child or young person, make an order permitting any person to publish a report in which the name of that child or young person, or information serving to identify that child or young person, would be disclosed, if the court is satisfied that the publication of the report would not be contrary to the best interests of that child or person.

(11) The youth court may, on the application of the Attorney General or a police officer, make an order permitting the applicant to disclose to such person or persons as are specified by the court such information about a child or young person as is specified if the court is satisfied that the disclosure is necessary, having regard to the following:

- (a) the child or young person has been found guilty of an offence involving serious personal injury;
- (b) the child or young person poses a risk of serious harm to persons and the disclosure of the information is relevant to the avoidance of that risk.

(12) The youth court shall, before making an order under subsection (11), afford the child or young person or the parents of the child or young person an opportunity to be heard.

(13) An application under subsection (11) may be made *ex parte* by the Attorney General or police officer where the youth court is satisfied that reasonable efforts have been made to locate the child or young person and that those efforts have not been successful.

(14) A person who contravenes subsection (1), (4) or (6) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year or both.

Rules of
procedure.

7. The Executive Council may make rules regulating the procedure to be followed in youth courts.

Repeal, savings
and transitional
provisions.
Cap. 38

8. (1) The Juvenile Courts Act is hereby repealed.

(2) Subject to subsection (3), any reference in an enactment or in a document to the Juvenile Courts Act shall be construed and read as a reference to this Act, with any changes or adaptations as may be necessary.

(3) All proceedings pending in respect of any offences committed under the Juvenile Courts Act before the coming into force of this Act may be continued under this Act.

Passed by the Legislative Council this 22nd day of March, 2005.

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V. INEZ ARCHIBALD,
Speaker.

ALVA MC CALL,
Ag. Clerk of the Legislative Council.