

Juvenile Justice (Protection Care) Act, 2015

20 Jan 2022

Sec 1 - Juvenile Justice (Protection & Care) Act, 2015

Sec 2 (1) - Definitions:

1. Abandoned child परित्यक्त बालक
 - biological parents
 - Adopted father & mother (दत्तक)
 - guardian (संरक्षण)
 - ऐसे बच्चों की committee द्वारा जाँच करने पर परित्यक्त बालक घोषित किया गया है।Committee - child welfare committee (CWC) कोई भी बालक को ले जाए।
2. Adoption - गोद लिया जाना
एसी प्रक्रिया जिसके द्वारा biological माता - पिता अपने पुत्र का या संतान को स्थायी रूप से अपने से अलग कर देते हैं और adopted माता पिता को सौंप देते हैं। ऐसा दत्तक बालक वह सभी अधिकार एवं दायित्व प्राप्त कर लेता है। जो उसे जैविक माता पिता से प्राप्त है।
3. NA
4. NA
5. After care (पश्चातवर्ती देखरेख) - 81 वर्ष पूरा कर व 21 पूरा नहीं की वह इसमें आएँगे।
6. Authorised foreign adoption agency (अधिकृत विदेशी दत्तक ग्रहण अधिकरण किसे कहेंगे।
 - child welfare agency (बाल कल्याण समिति) non residential indian.
 - भारतीय मूल का व्यक्ति
 - original indian persons
7. NA
8. Begging (भीक माँगना)
 - public place पर भीक की माँग करना
 - भीक प्राप्त करना
 - private place - इस उद्देश्य से भीक माँगना, भीक प्राप्त करना या उसे प्रेरित करता है।
 - वह अपने लिए या अन्य किसी के लिये कर रहा हो।
 - part of body injury of cattle & publication come under bagging.
9. Best interest of child:
 - Basic right of child
 - basic needs (मूलभूत आवश्यकताएँ)
 - Identity
 - Social well-being (सामाजिक कल्याण)
 - intellectual development (बौद्धिक विकास)
10. Board - juvenile justice board (3 year punishment is maximum)
11. NA
12. Define child - ऐसा व्यक्ति जिसने 18 वर्ष की आयु प्राप्त नहीं की हो।
Sec 2 (35) Juvenile (किशोर) is defined - जिसने 18 वर्ष की आयु प्राप्त नहीं की हो।
Q. What is difference between child and juvenile?

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13. child in conflict with law. (विधि का उल्लंघन करने वाला बालक)
child in conflict with law which has not crossed age of 18 years & attempted the crime.
14. Child in need of care and protection. (बच्चे जिनको देखभाल एवं सुरक्षा की ज़रूरत है।)

15. Child friendly (बालक हितेशि)
 - Behaviour (व्यवहार)
 - Conduct (आचरण)
 - Practise (पद्धती)
 - Process (प्रक्रिया)
 - Environment (वातावरण) and
 - Treatment (उपचार)
16. Child is free for adoption declare by CWC.
17. Child welfare officer
 - Member of board
 - Member of committee
 - belongs to CWC is bound to work on the order.
 - someone who belongs to CWC has liability on him.
18. Child welfare police officer (defines in sec 107(1))
19. Children's home (बाल ग्रह)
 - Purpose of section 50 there is register home
 - this house in every district as group of district (संभाग)
 - Administrated by state, self, voluntary non-government institute.
20. Child court
 - Commission for protection of child rights Act 2005 (बालक अधिकार संरक्षण आयोग अधिनियम)
 - Protection of children from sexual offence Act 2012. (लैंगिक अपराधों से बालकों का संरक्षण अधिनियम)
 - इसके तहत न्यायालय गठित किया गया है।
 - जहाँ पर स्पेशल कोर्ट नहीं बनाई गई है वह पर सेशन न्यायालय है।
21. Child care institution (बालक देखरेख संस्था)
 - Children's home
 - Open shelter (खुला आश्रय)
 - Observation home (सुधार ग्रह)
 - Special home
 - Place of safety
 - Specialised adoption agency

These all are authorised for child care
22. Committee - means child welfare committee. (Sec 27 में इसका गठन बताया गया है)
23. NA

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24. Corporal punishment - शारीरिक दंड
 - Retribution for an offence अपराध के प्रतिशोध के लिए
 - Purpose of the disciplining of the child. बालक को अनुशासित करने के लिए
 - Reforming the child बालक को सुधारने के लिए
25. Children services - किसी बच्चे के लिए 24 hrs services देना
26. District child protection unit - कोई state govt द्वारा कोई unit sec 106 के तहत बनाई गई है जो इस Act के प्रवधानों को लागू कर सके।
27. Fit facility - govt institute or self finance institute which is registered under sec 55 and is declared fit.
28. Fit person - By board or committee after inquiry for some child to take care or take responsibility declared a person fit is eligible person.
29. Forster care - पोषण एवं देखभाल (assign someone else to take care of child)

30. Foster family - पालक कुटुम्ब
31. Guardian - biological parents and if biological parents desert a child then the person or board who take care of child is the guardian. बच्चे की देखभाल करने वाला।
32. Group foster care - जहां किसी बच्चे के माता पिता त्याग देते हैं तब जो group बच्चों के लिए family environment जैसा environment provide karta हो उस group को foster care group कहते हैं।
33. **Most Important**
 Heinous offence जगन्य अपराध - जिसमें कम से कम 7 वर्ष का कारावास है।
 Sec 45 Petty offence - छोटे अपराध - जिसमें अधिकतम 3 वर्ष का कारावास दिया जाए।
 Sec 54 Serious offence - घोर अपराध - जिसमें 3 वर्ष से ले कर 7 वर्ष का कारावास है।
34. Inter-country adoption अंतर्राष्ट्रीय दत्तक ग्रहण
35. Juvenile - who is less than 18 years
36. Narcotic drugs - it is same as Narcotics drugs Act.
37. No objection certificate (NOC) - a source authority issue a NOC about the child that the child can be adopted and for the person who is adopting that he can adopt the child.
38. Non resident Indian (NRI) - A person who is having Indian passport and living in foreign country.
39. Notification - state govt or central govt published in gazette notification.
40. Observation home - सम्प्रेषण ग्रह - By state govt or self or non-govt institute for child care and protection is done, those institute registered as per sec 47.
41. Open shelter - registered for the purpose of sec 43
42. Orphan child - अनाथ बच्चा (त्याग हुआ बच्चा - माता पिता या guardian appointed by court has deserted the child or a person who was suo moto taking care of a child and after sometime deserted him)
43. Overseas Indian - Foreign person registered as per citizenship act.
44. Person of the Indian origin - भारतीय मूल के व्यक्ति - who take birth in India or his parents or grandparents took birth in India.
45. **Already covered above**
46. Place of safety - the child who committed offence when he was child and he caught at the age of 21 now he will be placed in *place of safety*.
47. Prescribed
48. Probation officer - appointed by state govt or child protection unit for the *Probation of offenders Act*.
49. भावी दत्तक माता पिता (adopted mother father) - as per sec 57.
50. Public place - same as defined in **immoral traffic act**.
51. Registered
52. Relative
53. -
54. **Already covered above**
55. Special police unit - sec 107
56. Special home - sec 48 registered homes
57. Special adoption agency - any agency who is owned by state govt or self or non govt and who is registered under sec 65.
58. Sponsorship - किसी बच्चे के medical के लिए, उसकी पढ़ाई-लिखाई के लिए, उसके development के लिए या फिर किसी अन्य प्रकार की (financial help) वित्तीय सहायता प्रदान करे उसे sponsor कहते हैं।
59. State govt - as per article 239 of indian constitution.
60. Surrender child - esa baalak jiske maata pita ya sanrakshak dwara moral tarike se tyag diya gaya hai. Jo bacche ke maata pita apni duties ka palan nahi kar rahe he. ऐसा बच्चा जिसके माता-पिता ने या उसके guardian ने उस बच्चे को moral तरीके से त्याग दिया हो वह बच्चा surrender child कहलाता है।
61. Any word written in act which is not defined but defined in any other Act then we will consider the same meaning until that definition support this Act. इस अधिनियम में लिखा हुआ कोई भी शब्द जिसको परिभाषित नहीं किया गया है एवं उसकी परिभाषा किसी अन्य अधिनियम में दी गई है तो वह परिभाषा ही मान्य होगी; जब तक वह परिभाषा इस अधिनियम के हित में है तब तक।

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Sec 3: General principles to be followed in administration of Act - **16 principles:**

1. principle of presumption of innocence.
2. Principle of dignity and worth गरिमा और योग्यता का सिद्धांत - To prevent the dignity of the child e.g. No photo publication etc.
3. Principle of the participation भाग लेने का सिद्धांत - किसी की पीठ पीछे कोई कार्यवाही नहीं की जाएगी। उस व्यक्ति का भाग लेना (न्यालय) अनिवार्य है।
4. Principle of best interest सर्वोत्तम हित का सिद्धांत - कोई भी कार्यवाही की जाती है एवं कोई procedure नहीं होता है तो उस वक्त उस बालक के hit ko dekh kar kaam karegi
5. Principle of family responsibility पारिवारिक ज़िम्मेदारी का सिद्धांत - पारिवारिक liability में सबसे पहला right माता पिता का होगा, दूसरा adopted parents की होगी, तीसरा court द्वारा appoint guardian की होगी।
6. Principle of the safety सुरक्षा का सिद्धांत - अगर कोई बच्चे को कहीं पर लाया जाता है तब उस बोर्ड और committee की ज़िम्मेदारी है की उसकी सुरक्षा करे।
7. Positive measures सकारात्मक उपाय - अगर बच्चा असुरक्षित है, या उसके पहचान का विकास करना है तो उसको court गतिमान करेगी। एवं सुरक्षा की तरफ़ गतिमान करेगी।
8. Principle of non stigmatising semantics गैर कलंकित शब्दों का सिद्धांत - अपमानित करने वाले शब्दों या बातों का उपयोग नहीं किया जाएगा।
9. Principle of non-waiver of rights अधिकारों को त्याग नहीं करने का सिद्धांत - बच्चा किसी अधिकार छोड़ने की बात कहे कोर्ट में तो भी यही माना जाएगा की उसने अधिकार नहीं छोड़ा है।
10. Principle of the equality and non-discrimination समानता व भेदभाव न करने का सिद्धांत
11. Principle of the right to privacy and confidentiality निजता व गोपनीयता न भंग करने का सिद्धांत
12. Principle of the institutional as a measure of last resort अंतिम अवलम्ब के उपाय के रूप में संस्थात्मक का सिद्धांत - किसी भी बालक की कार्यवाही करने से पहले inquiry होगी। सारी तरह की जाँच की जाएगी एवं इसकी ज़िम्मेदारी किसी संस्था को सौंपा जाएगा। मानसिक रूप से, भरण पाषाण की जाँच की जाती है।
13. Principle of the representation of the restoration परिवार से मिलवाने का सिद्धांत है।
14. Principle of the fresh start नए सिरे से शुरू करने का सिद्धांत - कोई भी व्यक्ति कोर्ट के सामने लाया जाता है तो एक सवाल होता ही की ये आदतन अपराधी तो नहीं है इसके लिए उसके पीछे के record देखते हैं पर बच्चे के case में ऐसा कुछ नहीं होगा।
15. Principle of the diversion उपयोजन का सिद्धांत - समाज के लिए उसके कल्याण में जो ही उसकी करवाहि की जाएगी। Observation house में भेजते हैं। कोई भी कार्यवाही करने से पहले ये सब किया जाता है
16. Principle of the natural justice

3 Feb 2022 - Ramkripa Sir

Negotiable Instrument

Sec 138 to 147 (**important**)

Cheque should be issued only to get money.

Should be issued unconditional and to pay legal liability.

Promissory note means promise to pay something

Two person should be there for a cheque:

First one is the person to whom the cheque is released.

Second is the person who is releasing the cheque.

Essentials elements for a cheque to be covered under NI Act:

- Unconditional
- Two Person
- All the entries of cheques should be fulfilled by the person who is issuing the cheque.

Cheque should be issued only to make payment, it should not issue for any other purpose, like security or anything.

It should be issued to pay legal liability.

The expiry date of Cheque is 3 months from the maturity date of the cheque.

During these three months we can present it for number of times.

Premature cheque can also be issued. Premature cheque means, cheque with future date.

The premature cheque's value is considered as zero until it not reached the maturity date.

Punishment - Min 6 months and maximum upto 2 years imprisonment and the double cost of the cheque can be imposed.

Within the 30 days of bouncing date we have to send intimation cum demand notice to the issuer.

And in that notice we have to mention the **purpose of the issuing the cheque** and **which cheque, bank name, date, amount, cheque number**, with **whose signature**.

After issuing this cheque we have to write something like - according to your instructions I have presented that cheque before the bank to withdraw the money and that cheque is bounced by the bank on <date>.

Whenever a cheque bounces, the bank who bounces the cheque attached a printed written memo with numbers of reasons of cheque bouncing. And it will mark appropriate reason for whatever reason the cheque is bounced in that memo; with the signature of the manager.

The most popular reason is insufficient fund for cheque bouncing, when this reason arise then sec. 138 is applied.

It is presumed that the issuer is well aware of the fact that there is insufficient amount in the bank.

These everything we have to mention in the notice.

15 days of period shall be given to the issuer from the date he receive the notice.

In the notice we can only demand the amount which is mentioned in the cheque. If there are other expenses we mention it separately; we can't combine it with the cheque amount.

The notice should be sent by registered AD or post.

And these days, court has also permitted to send via email, courier or WhatsApp etc. but for that we have to prove the delivery of that notice.

The address should be correct in the notice.

If the cheque issuer deny to take notice, then it will be considered as received.

If address is not correct then we have to send to correct address.

4 Feb 2022 - Amar Singh Sir

Sec 4 Juvenile Justice board के गठन के बारे में बताता है - in every district there should be at least one board. And its jurisdiction will be at minimum at district level.

जिन बच्चों ने अपराध कर दिया है उनके बारे में inquiry करेगा।

जिन्होंने अपराध नहीं किया है तो उसके लिए CWC को अधिकार है।

Member in JJ board: 3 members

One Chief judicial magistrate. (He will be called as a principle magistrate) and needed minimum 3 years of experience.

Metropolitan chief judicial magistrate (महानगर मुख्य न्यायिक मजिस्ट्रेट)

जो सिटी Metropolitan city है वहाँ पर Metropolitan chief judicial magistrate होता है।

two other members - in which at least one female should be there. (Need seven years of experience in the child welfare field, law related knowledge etc.)

Powers of these members: All powers which is available with judicial magistrate will be there with this board.

Who can't be the members of this board:

- has any past record of violation of human rights or child rights.
- has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence.
- has been removed or dismissed from service of the Central Government or a State Government or an undertaking or corporation owned or controlled by the Central Government or a State Government.
- has ever indulged in child abuse or employment of child labour or any other violation of human rights or immoral act.

Those who become the member of board will get 60 days of training.

These member can resign from their post. But that resignation is according to the prescribed law.

राज्य सरकार को ये power होगा कि जो members है उनके खिलाफ कोई शिकायत मिलने पर जाँच करके के पद हटा सकती है परंतु principle magistrate को राज्य सरकार नहीं हटा सकती है। क्योंकि वह प्रधान magistrate है।

राज्य सरकार शिकायत पाने पर किन आधारों पर पद से हटा सकेगी

- शक्तियों को misuse करना
- तीन माह से वह JJ board की meeting में present नहीं होता है। परंतु अगर उसका कोई reasonable reason है तो उसको इसमें छूट दी जा सकती है।
- यदि किसी मेम्बर ने एक वर्ष में जितनी भी बैठक हुई है उसमें तीन चौथाई से कम बैठक में भाग लिया है।
- किसीको member बना दिया है परंतु member बनने के बाद उसने योग्यता खो दी है तब उसे हटाया जा सकता है।

Sec 5: एक बार का बालक हमेशा के लिए बालक (Placement of person, who cease to be a child during process of inquiry.)

Sec 6: उसेक विरुद्ध पलीस द्वारा कोई कार्यवाही कि जा रही है तो और 18 से ऊपर होने के बाद भी उसे बालक ही माना जाएगा। (Any person, who has completed eighteen years of age, and is apprehended for committing an offence when he was below the age of eighteen years, then, such person shall, subject to the provisions of this section, be treated as a child during the process of inquiry.)

Sec 6(2) ऐसे व्यक्ति को place of safety पर भेजा जाएगा।

(The person referred to in sub-section (1), if not released on bail by the Board shall be placed in a place of safety during the process of inquiry.)

Sec 7: Procedure in relation to the board - बोर्ड किस प्रक्रिया से कार्य करेगा।

- बच्चे के साथ friendly व्यवहार किया जाएगा।
- जो भी कार्यवाही की जाएगी वो उसके welfare के अनुसार होगी।
- बालक के प्रति भय कारित करने वाली कार्यवाही नहीं होगी।
- जो कार्यवाहियाँ होंगी वो court के equal नहीं होंगी।

Sec 7 (2) - A child in conflict with law may be produced before an individual member of the Board, when the Board is not in sitting.

Sec 7 (3) - A Board may act notwithstanding the absence of any member of the Board, and no order passed by the Board shall be invalid by the reason only of the absence of any member during any stage of proceedings: Provided that there shall be at least two members including the Principal Magistrate present at the time of final disposal of the case or in making an order under sub-section (3) of section 18.

Sec 7 (4) - In the event of any difference of opinion among the members of the Board in the interim or final disposal, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Principal Magistrate, shall prevail.

5 Feb 2022

Sec 8 - Power, responsibility and function of JJ Board

जिन बच्चों ने अपराध किया है उसकी सारी कार्यवाहियाँ ये बोर्ड करेगा और जो इसके क्षेत्राधिकार में है।

- A. ensuring the informed participation of the child and the parent or guardian, in every step of the process;
- B. ensuring that the child's rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation
- C. ensuring availability of legal aid for the child through the legal services institutions
- D. wherever necessary the Board shall provide an interpreter or translator, having such qualifications, experience, and on payment of such fees as may be prescribed, to the child if he fails to understand the language used in the proceedings
- E. directing the Probation Officer, or in case a Probation Officer is not available to the Child Welfare Officer or a social worker, to undertake a social investigation into the case and submit a social investigation report within a period of fifteen days from the date of first production before the Board to ascertain the circumstances in which the alleged offence was committed
- F. adjudicate and dispose of cases of children in conflict with law in accordance with the process of inquiry specified in section 14
- G. transferring to the Committee, matters concerning the child alleged to be in conflict with law, stated to be in need of care and protection at any stage, thereby recognising that a child in conflict with law can also be a child in need of care simultaneously and there is a need for the Committee and the Board to be both involved
- H. disposing of the matter and passing a final order that includes an individual care plan for the child's rehabilitation, including follow up by the Probation Officer or the District Child Protection Unit or a member of a non-governmental organisation, as may be required
- I. conducting inquiry for declaring fit persons regarding care of children in conflict with law
- J. conducting at least one inspection visit every month of residential facilities for children in conflict with law and recommend action for improvement in quality of services to the District Child Protection Unit and the State Government
- K. order the police for registration of first information report for offences committed against any child in conflict with law, under this Act or any other law for the time being in force, on a complaint made in this regard
- L. order the police for registration of first information report for offences committed against any child in need of care and protection, under this Act or any other law for the time being in force, on a written complaint by a Committee in this regard
- M. conducting regular inspection of jails meant for adults to check if any child is lodged in such jails and take immediate measures for transfer of such a child to the observation home; and
- N. any other function as may be prescribed.

Sec 9 - A magistrate who has no jurisdiction what he will do - the magistrate give direction to present that child in front of the JJ board or if he need care or protection the he should be present in front of committee. ऐसे बच्चे के age का भी निर्धारण किया जाएगा।

The magistrate increase the time to present that child in JJ board.

If some trial has been done by considering the child is of 18 years and final order has been passed. Then the objection can be taken and it will dismiss the old order if it is found that he was more than 18 years than; and the trial will proceed again.

Sec 10