



RJS

Rajasthan Judicial Services

Rajasthan High Court (RHC)

Volume - 8

**The Juvenile Justice Act 2015, The Protection of Women from Domestic Violence Act 2005, The Indecent Representation of Women (Prohibition) Act 1986, The Protection of Children from Sexual Offences Act 2012, The Sexual Harassment of Women at Workplace Act 2013, Rajasthan Excise Act 1950 & The Information Technology Act 2000**



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# 1

## CHAPTER

# The Juvenile Justice (Care and Protection of Children) Act, 2015

### Purpose of the Act

This Act aims to:

- Combine and update laws related to:
  - ✓ **Children in conflict with law** (i.e., juveniles accused or found guilty of offences), and
  - ✓ **Children in need of care and protection** (e.g., abandoned, abused, orphaned children).
- Ensure their:
  - ✓ **Basic needs** are fulfilled.
  - ✓ Proper **care, protection, development, treatment, and rehabilitation**.
  - ✓ Integration into society using a **child-friendly approach**.
- Establish **special procedures, institutions, and authorities** for handling such cases.

### Constitutional Backing:

- The Act is in line with various **constitutional provisions** that empower the State to safeguard children's rights:
  - ✓ **Article 15(3)**: Allows special laws for children.
  - ✓ **Article 39(e) & (f)**: Obliges the State to ensure children are not abused and have a healthy development.
  - ✓ **Article 45**: Provides for early childhood care and education.
  - ✓ **Article 47**: Duty of the State to improve public health and nutrition.

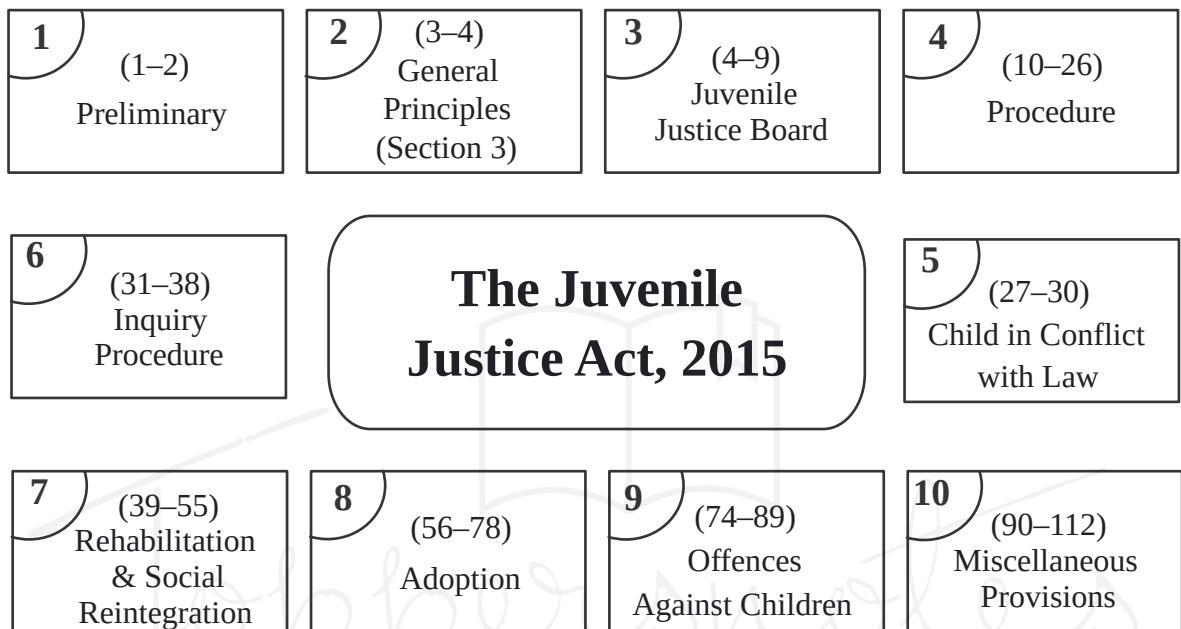
### International Commitments:

- India has ratified several **international treaties** for child welfare, including:
  - ✓ **UN Convention on the Rights of the Child (CRC)** (1992).
  - ✓ **Beijing Rules (1985)** – United Nations Standard Minimum Rules for Juvenile Justice.
  - ✓ **UN Rules for the Protection of Juveniles Deprived of Liberty (1990)**.
  - ✓ **Hague Convention on Inter-country Adoption (1993)**.

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➤ **Need for Re-enactment:**

- ✓ To align with:
  - **International standards,**
  - **Changing social realities, and**
  - **Emerging challenges**, the earlier Juvenile Justice Act, 2000 was replaced by this comprehensive legislation in **2015**.



- **Act No.** 2 of 2016
- **Assent of the President:** 31 Dec 2015
- **Came into force:** 15 Jan 2016
- There are **10 Chapters** and **112 Sections**

## CHAPTER - 1

### Preliminary

## Section 1 – Short Title, Extent, Commencement and Application

### **Clause (1): Short Title**

The name of the Act is "The Juvenile Justice (Care and Protection of Children) Act, 2015"

### **Clause (2): Extent:** The Act applies to the whole of India.

Note: Originally, there was an exception for Jammu and Kashmir, but after the abrogation of Article 370, this Act now fully applies there as well.

### **Clause (3): Commencement**

The Act comes into force on a date notified by the Central Government through the Official Gazette.

The Act officially came into force on 15th January 2016.

### **Clause (4): Application**

This law overrides any other existing law with respect to children.

It applies to all legal matters concerning:

- (i) Children in Conflict with Law (CCL): Matters like apprehension, detention, trial, punishment, and rehabilitation of juveniles accused of offences.
- (ii) Children in Need of Care and Protection (CNCP): Matters like rehabilitation, adoption, social reintegration, and restoration of vulnerable or abandoned children.

## Section 2 – Definitions with Clause Numbers

### **A. Definitions Related to Child**

Clause	Term	Meaning
2(12)	Child	A person who has not completed 18 years of age.
2(35)	Juvenile	Synonym for child, under 18 years.
2(13)	Child in Conflict with Law	A child alleged/found to have committed an offence before attaining 18 years.
2(14)	Child in Need of Care and Protection	A child who is abandoned, orphaned, abused, neglected, ill, missing, exploited, vulnerable, or at risk of child marriage (12 detailed grounds).
2(1)	Abandoned Child	Deserted by parents/guardians, declared so by the Committee after inquiry.
2(60)	Surrendered Child	Child relinquished by parent/guardian to the Committee due to factors beyond their control.
2(42)	Orphan	Child without parents/guardian or whose guardian is unwilling/incapable to care.

## B. Adoption and Related Authorities

Clause	Term	Meaning
2(2)	Adoption	Legal process where child becomes lawful child of adoptive parents.
2(3)	Adoption Regulations	Rules framed by CARA and notified by Central Government.
2(6)	Authorised Foreign Adoption Agency	Foreign agency authorized by CARA to sponsor inter-country adoption.
2(7)	Authority	Central Adoption Resource Authority (CARA) under Section 68.
2(11)	Central Authority	Defined under Hague Convention for inter-country adoption.
2(34)	Inter-country Adoption	Adoption by NRI, OCI, foreigner from India.
2(49)	Prospective Adoptive Parents	Eligible individuals seeking to adopt.
2(37)	No Objection Certificate	Issued by CARA for inter-country adoption.
2(38)	Non-Resident Indian (NRI)	Indian passport holder living abroad for over one year.
2(43)	Overseas Citizen of India (OCI)	As defined under Citizenship Act, 1955.
2(44)	Person of Indian Origin (PIO)	Person with Indian ancestry and PIO card.
2(52)	Relative (for adoption)	Paternal/maternal uncles, aunts, grandparents.

## C. Institutions & Child Protection Bodies

Clause	Term	Meaning
2(10)	Board	Juvenile Justice Board (JJB) under Section 4.
2(22)	Committee	Child Welfare Committee (CWC) under Section 27.
2(20)	Children's Court	Court designated under POCSO or Sessions Court for child matters.
2(21)	Child Care Institution (CCI)	Includes all institutions providing care: Children's Home, Observation Home, Open Shelter, etc.
2(19)	Children's Home	For children in need of care & protection.
2(40)	Observation Home	For children in conflict with law during inquiry.
2(56)	Special Home	For children found guilty, needing rehabilitation.
2(41)	Open Shelter	Temporary shelter for urgent child care.
2(46)	Place of Safety	Institution for safe custody (not jail), as ordered by Board or Children's Court.
2(27)	Fit Facility	Recognised institution for temporarily caring for a child.
2(28)	Fit Person	Person declared suitable to care for child.
2(57)	Specialised Adoption Agency	Recognised agency for adoption of orphans/surrendered/abandoned children.

2(26)	District Child Protection Unit (DCPU)	District-level child protection authority under supervision of District Magistrate.
2(26A)	District Magistrate	Includes Additional DM, now central in child-related decision-making.
2(53)	State Agency	State Adoption Resource Agency (SARA) under Section 67.

#### D. Officers & Services

Clause	Term	Meaning
2(17)	Child Welfare Officer	Officer attached to CCI, implements Board/Committee directions.
2(18)	Child Welfare Police Officer	Police officer specially designated for juvenile matters.
2(48)	Probation Officer	Officer under Probation of Offenders Act or Legal-cum-Probation Officer under DCPU.
2(25)	Childline Services	24×7 helpline for children in crisis.
2(58)	Sponsorship	Financial/other aid to families for child's needs.

#### E. Child-Centric Concepts

Clause	Term	Meaning
2(9)	Best Interest of Child	Ensuring child's rights, safety, identity, and development.
2(15)	Child Friendly	Humane and sensitive behaviour/environment for children.
2(16)	Child Legally Free for Adoption	Declared so by Committee after due inquiry under Section 38.
2(29)	Foster Care	Temporary care by family other than biological family.
2(30)	Foster Family	Family selected to provide foster care.
2(32)	Group Foster Care	Family-like setting for multiple CNCP children.
2(24)	Corporal Punishment	Infliction of pain to punish a child—strictly prohibited.
2(8)	Begging	Soliciting alms in public or private place, or exposing wounds to gain sympathy.

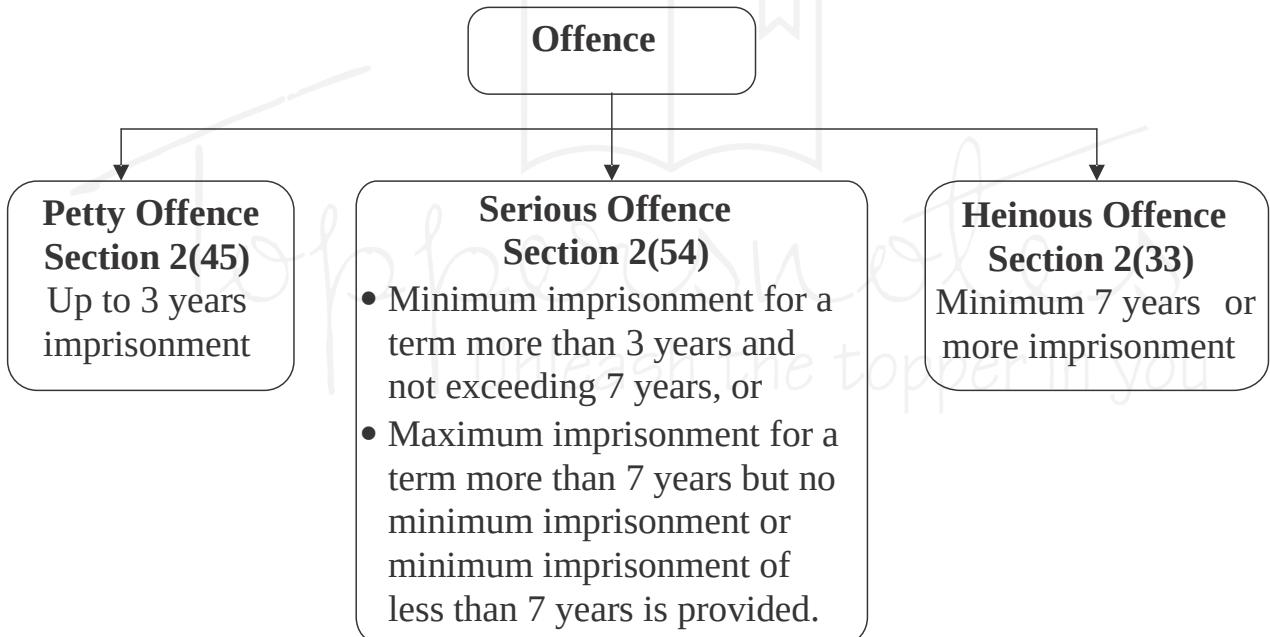
#### F. Other Definitions

Clause	Term	Meaning
2(31)	Guardian	Natural or any person recognised by Board/Committee to be in charge of child.

2(51)	Registered	Institutions/facilities registered under Section 41.
2(23)	Court	Civil court with jurisdiction over adoption/guardianship (District, Family, or City Civil Court).
2(55)	Special Juvenile Police Unit (SJPU)	Special police wing to deal exclusively with children.
2(47)	Prescribed	As defined by rules under this Act.
2(59)	State Government (UT)	Refers to Administrator appointed under Article 239.

### G. Offences and Legal Categories

Clause	Term	Meaning
2(33)	Heinous Offences	Punishment 7 years or more imprisonment.
2(54)	Serious Offences	Punishment between 3 to 7 years, or over 7 years with no minimum sentence.
2(45)	Petty Offences	Punishment up to 3 years imprisonment.

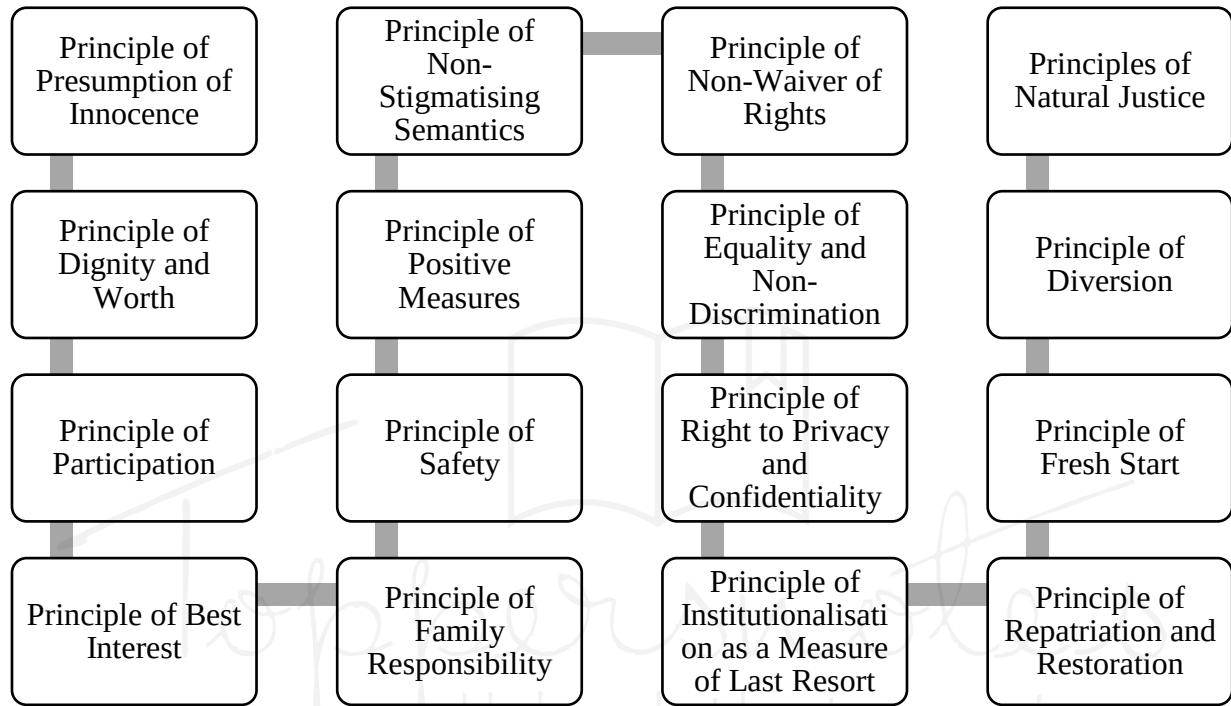


## CHAPTER - 2

### General Principles of Care and Protection of Children

#### Section 3: Fundamental Principles in Administration of the Act

All authorities—Central Govt, State Govt, Juvenile Justice Board, Child Welfare Committee, and other agencies—must follow these **core principles** while applying the Act:



#### 1. Presumption of Innocence

- ✓ Every child (below 18 years) is presumed innocent.
- ✓ No assumption of criminal intent.

#### 2. Dignity and Worth

- ✓ Every individual must be treated with **equal dignity and human rights**.

#### 3. Participation

- ✓ A child has the right to be heard in all matters affecting them.
- ✓ Their views should be considered as per their **age and maturity**.

#### 4. Best Interest of the Child

- ✓ All decisions must focus on the **child's overall well-being and full development**.

#### 5. Family Responsibility

- ✓ The child's **biological, adoptive, or foster family** has the **primary duty** of care and protection.

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## 6. Safety

- ✓ The child must be protected from **harm, abuse, and neglect** at all stages of the care/protection process.

## 7. Positive Measures

- ✓ Use of **family, community, and available resources** to ensure the child's welfare and identity development.

## 8. Non-Stigmatising Semantics

- ✓ Avoid **accusatory or negative language** in any official process involving the child.

## 9. Non-Waiver of Rights

- ✓ A child's rights **cannot be waived**—not by the child, family, or any authority.
- ✓ Not using a right doesn't mean it's given up.

## 10. Equality and Non-Discrimination

- ✓ No discrimination based on **gender, caste, religion, birthplace, disability**, etc.
- ✓ Ensure **equal treatment and opportunity**.

## 11. Right to Privacy and Confidentiality

- ✓ The child's identity and details must be **kept confidential** in all proceedings.

## 12. Institutionalisation as Last Resort

- ✓ Institutional care (children's homes, etc.) should be used **only when no other option is available**, after proper inquiry.

## 13. Repatriation and Restoration

- ✓ The child must be reunited with their family or original environment unless it harms their interest.

## 14. Fresh Start

- ✓ Records of children under this Act must be **wiped clean** (with limited exceptions), allowing them a new beginning.

## 15. Diversion

- ✓ **Alternatives to formal court trials** should be encouraged, unless not suitable for the child or society.

## 16. Natural Justice

- ✓ All proceedings must follow fairness, no bias, fair hearing, and right to appeal/review.

## CHAPTER – 3

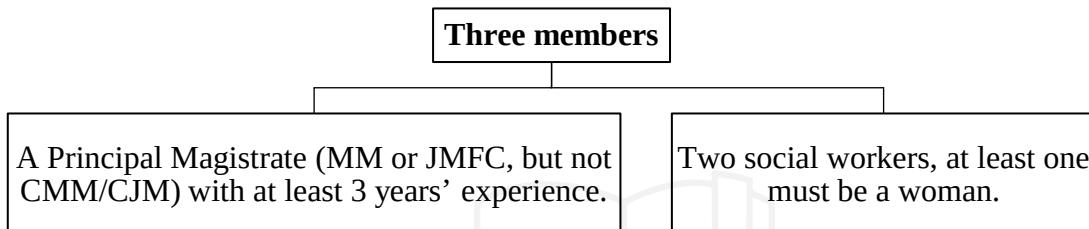
### Juvenile Justice Board

#### **Section 4: Juvenile Justice Board (JJB)**

##### **1. Establishment of Board**

- ✓ Despite anything in CrPC, every district must have one or more Juvenile Justice Boards (JJB).
- ✓ These Boards handle cases related to children in conflict with law.

##### **2. Composition of the Board**



- ✓ This team acts as a Bench and has the same powers as the Magistrate under CrPC.

##### **3. Eligibility of Social Workers**

- ✓ Must have:
  - At least 7 years of active involvement in child-related work (health, education, welfare), or
  - Be a practicing professional with a degree in child psychology, psychiatry, sociology, or law.

##### **4. Disqualification Criteria**

A person cannot be appointed if they:

- (i) Have a history of violating child or human rights.
- (ii) Were convicted of an offence involving moral turpitude, unless fully pardoned or conviction reversed.
- (iii) Were removed/dismissed from government service or PSU.
- (iv) Were involved in child abuse, child labour, or immoral acts.

##### **5. Training Requirement**

- ✓ All members, including the Principal Magistrate, must be provided training and sensitisation on child care, protection, rehabilitation, and laws within 60 days of appointment.

##### **6. Term and Resignation**

- ✓ Term of office and resignation process of Board members shall be as prescribed by rules.

## 7. Termination of Members (other than Magistrate)

The State Government may remove a member after inquiry if:

(i) They misuse the powers

(ii) Miss proceedings for 3 months consecutively without valid reason.

(iii) Attend less than (3/4) sittings of Board in a year.

(iv) Become ineligible as per disqualification rules (sub-section 4).

## Section 5: Placement of Person Who Ceases to Be a Child During Inquiry

### ➤ Continuation of Inquiry

- ✓ If a child turns 18 during the pendency of inquiry, the Board can continue the inquiry.
- ✓ It does not matter that the child is now an adult.
- ✓ The Board will treat the person as a child and pass orders as if he/she were still below 18 years.

**Legal effect:** Turning 18 during inquiry does **not stop** the process under Juvenile Justice Board.

## Section 6: Placement of Person Who Committed Offence Below 18 Years but Apprehended After 18

### 1. Applicability

- ✓ If a person is apprehended after turning 18, but the offence was committed when he/she was under 18,
- ✓ Then such person shall be treated as a child for the purposes of inquiry.

### 2. Custody During Inquiry

- ✓ If such person is not granted bail, they must be kept in a “place of safety” (not regular jail) during inquiry.

### 3. Procedure

- ✓ Inquiry against such person will be done as per Juvenile Justice procedures, not adult criminal procedures.

## Section 7: Procedure in Relation to the Board

### 1. Meetings and Child-Friendly Procedures

- ✓ The Board shall:
  - Meet as per rules prescribed.
  - Follow procedures that are child-friendly.
  - Ensure that the venue:
    - ☞ Is not intimidating to the child.
    - ☞ Does not resemble a regular court (informal, child-sensitive environment).

## 2. Production Before Individual Member

- ✓ If the Board is not in session, a child in conflict with law may be produced before any single member of the Board.
- ✓ Ensures that urgent matters like bail or custody decisions can be made even when the full Board is not present.

## 3. Validity of Proceedings Despite Absence

- ✓ The Board can proceed even if some members are absent.
- ✓ However, for:
  - Final disposal of the case, or
  - An order under Section 18(3) (serious offence inquiry),
  - At least two members, including **the Principal Magistrate**, must be present.
- ✓ This ensures fairness in crucial decisions, while allowing flexibility in routine proceedings.

## 4. Difference of Opinion

- ✓ If there is a difference in opinion among members:
  - The majority view will prevail.
  - If there is no majority (i.e., all three differ or it is 1:1), the Principal Magistrate's opinion shall prevail.
- ✓ This gives decisive authority to the Principal Magistrate in case of a tie.

# **Section 8: Powers, Functions and Responsibilities of the Board**

## 1. Exclusive Jurisdiction of the Board

- ✓ **The JJB alone** (not regular courts) will handle **all cases involving children in conflict with law** within its jurisdiction.
- ✓ This is **notwithstanding any other law**, unless otherwise provided in this Act.

## 2. Powers of High Court & Children's Court

- ✓ Powers of the Board can also be exercised by:
  - **High Court**, or
  - **Children's Court**, when a case comes before them via:
    - ☞ **Section 19** (serious offences by children),
    - ☞ **Appeal, Revision**, or **other proceedings**.

## 3. Functions and Responsibilities of the Board

- ✓ The Board has several **child-centric responsibilities**, including:

Protection of Rights
Legal Aid
Interpreter or Translator
Social Investigation Report
Adjudication
Transfer to Child Welfare Committee
Final Order and Rehabilitation Plan
Fit Person Inquiry
Monthly Inspections
FIR for Offences Against Children in Conflict with Law
FIR on Complaint by Committee
Inspection of Adult Jails
Other Functions

**(a) Participation:** Ensure **informed participation** of both:

- ✓ The **child**, and
- ✓ The **parent or guardian**, at **every stage** of the process.

**(b) Protection of Rights:** Ensure the **child's rights are protected** during:

- ✓ **Apprehension**,
- ✓ **Inquiry**,
- ✓ **Rehabilitation**, and
- ✓ **Aftercare**.

**(c) Legal Aid**

- ✓ Ensure the child gets **legal aid** through **legal services institutions** (e.g., DLSA).

**(d) Interpreter or Translator**

- ✓ If the child does **not understand the language** of the proceedings:
  - Provide an **interpreter or translator** (as per qualifications and prescribed fees).

**(e) Social Investigation Report**

- ✓ Direct a **Probation Officer** (or Child Welfare Officer / Social Worker if not available) to:
  - Conduct a **social investigation** and
  - Submit the report within **15 days** of first production of the child before the Board.

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**(f) Adjudication**

- ✓ Inquire and dispose of cases as per **Section 14** (procedure for inquiry).

**(g) Transfer to Child Welfare Committee**

- ✓ If the child appears to be also in need of care and protection, the Board can transfer the case to the Child Welfare Committee (CWC).
- ✓ Recognises that a child in conflict with law may also need care and protection.

**(h) Final Order and Rehabilitation Plan**

- ✓ Final order must include an individual care plan for:
  - Rehabilitation,
  - Follow-up by Probation Officer / District Child Protection Unit / NGO worker, as needed.

**(i) Fit Person Inquiry**

- ✓ Conduct inquiry to declare someone as a fit person for care of the child.

**(j) Monthly Inspections**

- ✓ Board must inspect residential facilities (e.g., observation homes) at least once a month.
- ✓ Recommend improvements to District Child Protection Unit and State Government.

**(k) FIR for Offences Against Children in Conflict with Law**

- ✓ Can order police to register an FIR for offences against any child in conflict with law, under:
  - This Act, or
  - Any other law.

**(l) FIR on Complaint by Committee**

- ✓ On written complaint by the Child Welfare Committee, Board may order police to register FIR for offences against children in need of care and protection.

**(m) Inspection of Adult Jails**

- ✓ Conduct regular inspections of adult jails to check for any child wrongly lodged.
- ✓ If found, take steps to transfer the child to an observation home or place of safety.

**(n) Other Functions**

- ✓ Perform any other functions as may be prescribed by the rules.

## **Section 9: Procedure by a Magistrate Not Empowered Under JJ Act**

### **1. Magistrate Believes Accused is a Child**

- ✓ If a Magistrate (not part of Juvenile Board) feels the accused is a child, he must:
  - Immediately record this opinion.
  - Forward the child along with records of proceedings to the Juvenile Justice Board (JJB).
  - This must be done without delay.

---

## 2. If Claim of Being a Child is Made

- ✓ If a person claims:
  - That they are a child, or
  - Were a child at the time of the offence,
- ✓ And this claim is made in any court, then:
  - The court must hold an inquiry to determine the age.
  - It can take evidence, but not affidavits.
  - The court must record a finding of the person's age as nearly as possible.
- ✓ Important Note (Proviso):
  - The claim of being a child can be made at any stage:
    - ☞ Even after final disposal of the case.
  - This rule applies even if the person has crossed 18 years or
    - ☞ Had already crossed 18 before the JJ Act came into force.
  - The claim must be handled under JJ Act and rules.

## 3. If Found to Be a Child on Date of Offence

- ✓ If the court finds that the person:
  - Was a child at the time of offence, and
  - Has committed the offence,
- ✓ Then the court must:
  - Forward the person to the Juvenile Justice Board.
  - Any sentence passed by the regular court will be considered void.

## 4. Interim Custody During Age Inquiry

- ✓ While the age claim is being inquired into:
  - The person can be kept in protective custody.
  - But must be placed in a "place of safety", not a regular jail.

## CHAPTER - 4

### Procedure in Relation to Children in Conflict with Law

#### **Section 10: Apprehension of Child Alleged to Be in Conflict with Law**

##### **1. Production Before the Board**

- ✓ When a child is apprehended by the police, they must:
  - Be placed immediately under the charge of:
    - ☞ The Special Juvenile Police Unit, or
    - ☞ A Child Welfare Police Officer.
  - Be produced before the Juvenile Justice Board (JJB):
    - ☞ Without delay, and
    - ☞ Within 24 hours, excluding travel time.

Important Proviso:

- ✓ A child must not be kept in:
  - A police lock-up, or
  - A jail, under any circumstance.

##### **2. State Government Rule-Making Power**

- ✓ The State Government shall frame rules to ensure:
  - (i) How and by whom (including NGOs) a child may be produced before the Board.
  - (ii) Manner of sending the child to an observation home or place of safety, depending on the situation.

#### **Section 11: Role of Person in Whose Charge the Child Is Placed**

##### **Responsibility as a Parent**

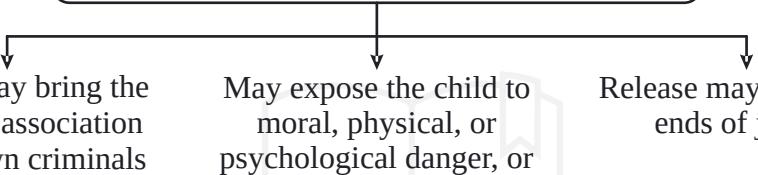
- A person (e.g., foster parent, institution head, NGO) in whose charge the child is placed by the Board:
  - ✓ Shall have the same responsibility as a parent for:
    - Care, protection, and maintenance of the child,
  - ✓ As long as the Board's order is in force.
- Proviso:
  - ✓ The child will remain in such custody even if:
    - Claimed by parents or relatives,
    - Unless the Board believes the parents/claimants are fit to take charge of the child.

## **Section 12: Bail to a Child Alleged to Be in Conflict with Law**

### **1. General Rule: Bail Must Be Granted**

- ✓ If a person who is apparently a child is:
  - Apprehended or detained by police, or
  - Appears/is brought before the Juvenile Justice Board (JJB),
- ✓ Then, he/she shall be released on bail, with or without surety, OR placed:
  - Under supervision of a Probation Officer, or
  - In the care of a fit person.
- ✓ Exception – Bail May Be Denied If:

**There are reasonable grounds to believe:**

  
Release may bring the child into association with known criminals      May expose the child to moral, physical, or psychological danger, or      Release may defeat the ends of justice

- ✓ In such cases, the Board must record reasons in writing.

### **2. If Bail Is Denied by Police**

- ✓ If the officer-in-charge of the police station does not release the child on bail,
- ✓ Then the child must be sent to:
  - An observation home, or
  - A place of safety, until produced before the JJB.
- ✓ Police lock-up or jail is not allowed.

### **3. If Bail Is Denied by the Board**

- ✓ If the Board denies bail, it must pass an order to send the child to:
  - An observation home, or
  - A place of safety,
- ✓ For the duration of the pending inquiry.

### **4. Bail Conditions Not Fulfilled**

- ✓ If the child fails to comply with bail conditions within 7 days,
- ✓ The child must be produced before the Board for:
  - Modification of the bail conditions.

## **Section 13 – Information to Parents, Guardian or Probation Officer**

To ensure that the parents/guardians and probation officer are informed when a child is apprehended, and to assist the Board in inquiry through a detailed background report.

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## 1. Duty of Police to Inform:

When a child alleged to be in conflict with law is caught:

- ✓ The Child Welfare Police Officer or Special Juvenile Police Unit must immediately inform:
  - (i) The parent or guardian, if they can be located, and ask them to appear before the Juvenile Justice Board.
  - (ii) The Probation Officer, or if not available, a Child Welfare Officer, for preparing a Social Investigation Report.

## 2. Purpose of Social Investigation Report:

- ✓ **This report must be submitted within 2 weeks to the Board.**
- ✓ It contains:
  - Child's family background
  - Antecedents (past behavior, history, etc.)
  - Any other details that may help the Board in inquiry.

## 3. If Bail is Granted:

- ✓ The Probation Officer or Child Welfare Officer must be informed by the Board when a child is released on bail.

# **Section 14 – Inquiry by Board regarding Child in Conflict with Law**

## 1. Duty of the Board

- ✓ When a child is brought before the Board for an alleged offence, the Board must conduct an inquiry to find out whether the child has committed any offence or not.
- ✓ The Board can pass suitable orders under Section 17 (in case if the child is innocent) or Section 18 (in case if he is found guilty) after conducting the inquiry.

## 2. Time Limit for Completion of Inquiry [4 + 2 = 6]

- ✓ Normal Limit: Inquiry must be completed within 4 months from the child's first appearance before the Board.
- ✓ Extension: If necessary, Board may extend the time by maximum 2 months, with written reasons.

## 3. Heinous Offence (Preliminary Assessment – Section 15)

- ✓ Must be completed within 3 months from the first appearance of the child before the Board.

Recently the question has come up before the supreme court that:

Whether the period provided for completion of preliminary assessment under Section 14(3) of the Act is mandatory or directory?