

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

Bill

To provide for criminal justice system for juveniles

WHEREAS it is expedient to provide for criminal justice system and social reintegration of juveniles;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.**-(1) This Act may be called the Juvenile Justice System Act, 2018.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**-In this Act, unless there is anything repugnant in the subject or context,-

(a) "best interest of the child" means the basis for any decision taken regarding the child to ensure fulfillment of his basic rights and needs, identity, social well-being, physical, emotional and psychological development;

(b) "child" means for the purposes of this Act a person who has not attained the age of eighteen years;

(c) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(d) "diversion" means an alternative process of determining the responsibility and treatment of a juvenile on the basis of his social, cultural, economic, psychological and educational background without resorting to formal judicial proceedings;

- (e) "Government" means the Federal Government or the Provincial Government, as the case may be;
- (f) "guardian" in relation to a juvenile means a parent or a person who has been appointed as a guardian by the court or a person who has actual care of the child;
- (g) "heinous offence" means an offence which is serious, gruesome, brutal, sensational in character or shocking to public morality and which is punishable under the Pakistan Penal Code, 1860 (Act XIV of 1860) or any other law for the time being in force with death or imprisonment for life or imprisonment for more than seven years with or without fine;
- (h) "juvenile" means, a child who may be dealt with for an offence in a manner which is different from an adult;
- (i) "Juvenile Court" means a court established under section 4;
- (j) "Juvenile Justice Committee" means a committee established under section 10;
- (k) "Juvenile Rehabilitation Centre" means a place where a juvenile may be kept and given education, vocational or technical training for his mental, moral and psychological development and includes certified institutions, juvenile training institutions, borstal institutions, vocational centres, *dar-ul-amaan* and women crises centres established by the Government or by voluntary organization certified by the Government;
- (l) "juvenile offender" means a child who is alleged to have committed or who has been found to have committed an offence;
- (m) "major offence" means an offence for which punishment under the Pakistan Penal Code, 1860 (Act XIV of 1860) or any other law for the time being in force is more than three years and up to seven years imprisonment with or without fine;

- (n) "medical officer" means a medical officer notified as such by the Government;
- (o) "minor offence" means an offence for which maximum punishment under the Pakistan Penal Code, 1860 (XLV of 1860) or any other law for the time being in force is imprisonment up to three years with or without fine;
- (p) "observation home" means a place where a juvenile is kept temporarily after being apprehended by police as well as after obtaining remand from Juvenile Court or otherwise for conducting inquiry or investigation for the purposes of this Act;
- (q) "prescribed" means prescribed by rules made under this Act;
- (r) "probation officer" means a person appointed under the Probation of Offenders Ordinance, 1960 (XLV of 1960); and
- (s) "suitable person" means any person, trust, association or society duly recognized by law whose object is welfare and protection of children.

Explanation. - person in this clause means the guardian of a juvenile or any other person appointed by a Juvenile Court for the purposes of this Act.

3. **Legal assistance.**- (1) Every juvenile or a child who is victim of an offence shall have the right of legal assistance at expense of the State.

(2) A juvenile shall be informed about his rights available under the law by a legal practitioner within twenty four hours of taking him into custody.

(3) A legal practitioner appointed by the Government or by the Juvenile Court for providing legal assistance to a child victim of an offence or a juvenile shall have at least seven years standing at the Bar.

4. **Juvenile Court.**- (1) The Government in consultation with the concerned High Court shall [by notification in the official Gazette] establish or designate one or more Juvenile Courts, within a period of three months of the commencement of this Act.

(2) A Juvenile Court may be established for one or more sessions divisions and in that case the Juvenile Court may hold trial of a case at such place as the High Court may specify.

(3) No person shall be appointed as a Judge of a Juvenile Court unless he is or has been a Sessions Judge or an Additional Sessions Judge or a Judicial Magistrate vested with powers under section 30 of the Code or a practicing advocate who has at least ten years standing at Bar and the latter shall be appointed on such terms and conditions as the Government may determine in consultation with the concerned High Court.

(4) The Juvenile Court shall have exclusive jurisdiction to try cases in which a juvenile is accused of commission of an offence.

(5) Subject to sub-section (4), on commencement of this Act all cases pending before a trial court in which a juvenile is accused of an offence shall stand transferred to the Juvenile Court having jurisdiction.

(6) The Juvenile Court shall not, merely by reason of a change in its composition or transfer of a case under sub-section (5) be bound to recall or re-hear any witness who has given evidence and may act on the evidence already recorded.

(7) If any court taking cognizance of an offence finds that an accused brought before it is a juvenile, it shall transfer his case to the Juvenile Court for further proceedings.

(8) On taking cognizance of an offence, the Juvenile Court shall decide the case within six months.

(9) Where the case is not decided within six months in terms of sub-section (8), the Juvenile Court shall seek extension from the High Court concerned explaining the reasons for not being able to decide the case within prescribed time-limit. If no such extension has been

sought by the Juvenile Court, the complainant or the juvenile may make an application to the High Court in this respect.

(10) The Juvenile Court may hold its sitting at a place, other than the place in which the ordinary courts hold sittings for trial of other cases.

5. **Arrest of a juvenile.**- (1) The arrested juvenile shall be kept in an observation home and the officer-in-charge of the police station shall, as soon as possible,-

- (a) inform guardian of the juvenile, if he can be found, of such arrest and inform him of the time, date and name of the Juvenile Court before which the juvenile shall be produced; and
- (b) inform the concerned probation officer to enable him to obtain such information about the juvenile and other material circumstances which may be of assistance to the Juvenile Court for making inquiry.

(2) No juvenile shall be arrested under any of the laws dealing with preventive detention or under the provisions of Chapter VIII of the Code.

(3) The report under section 173 of the Code shall also describe the steps taken by the officer-in-charge for referring the matter to the Juvenile Justice Committee for disposal of case through diversion, where it was so required under section 9.

6. **Release of a juvenile on bail.**- (1) Notwithstanding anything contained in the Code, a juvenile accused of bailable offence shall, if already not released under section 496 of the Code, be released by the Juvenile Court on bail with or without surety unless it appears that there are reasonable grounds for believing that the release of such juvenile may bring him in association with criminals or expose him to any other danger. In this situation the juvenile shall be placed under the custody of a suitable person or Juvenile Rehabilitation Centre under the supervision of probation officer. The juvenile shall not under any circumstances be kept in a police station under police custody or jail in such cases.