

# A GUIDE TO THE JUVENILE JUSTICE ACT, 2018



MINISTRY OF PUBLIC SECURITY

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A Guide to the Juvenile Justice Act  
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# PART 1

## PRELIMINARY

“child” means a person who is under the age of eighteen.

“court” means any court that hears a matter where the person charged is a child or a juvenile.

“diversion” means the redirecting of the juvenile away from the formal court procedures to informal procedures.

“juvenile” means a person who is fourteen years old or older but under eighteen years of age.

“parent” includes any person who has the custody or control of the child or juvenile as a parent or guardian and who is under a legal duty to provide for the child or juvenile.

Some of the principles to be applied when the court has to treat with a child/juvenile are:

- The best interest of the child is of importance
- The well being of the juvenile must be promoted
- Detention is to be a last resort or option
- Encouraging the family of the child/juvenile to act/take responsibility for the child/juvenile

Care must be taken to ensure that children/juveniles are separated from adults.

It is presumed that no child under the age of fourteen is capable of or guilty of committing a criminal offence unless an evaluation of child proves otherwise. If a child is found to have the capacity to commit a criminal offence then the child shall be treated as a juvenile under this Juvenile Justice Act.

When a child is charged the court must order that the child be examined by a child care worker and the person who examines the child must submit a written report to the court within thirty days of the date of the order.

How the child is to be dealt with if the presumption is rebutted is set out.



**juvenile** means a person who is fourteen years old or older but under eighteen years of age.

## PART 2

### DIVERSION

Diversion is often the most appropriate and effective way to address juvenile crime. It allows for timely interventions focused on correcting offending behaviour. These measures are presumed to be adequate enough to hold a juvenile accountable for his or her action and should be used in such an instance.

Nothing prevents a juvenile who has previously been dealt with by the use of diversion or has been found guilty of an offence from being subject to diversionary measures.

Diversion measures should be designed to encourage the juvenile to acknowledge and repair the harm caused to the victim and community. It should also encourage the family of the juvenile as well as the community, to become involved

in the design and implementation of these measures. They should provide an opportunity for victims to participate in decisions related to the measures selected to receive compensation and promote reconciliation between the juvenile and the victim. In addition to all these, diversion measures should respect the rights and freedoms of juveniles and be proportionate to the seriousness of the offence; and prevent defaming the juvenile and the additional consequences that may flow from being subject to the criminal justice system.

Diversion measures are not intended to be harmful or hazardous to the physical or mental health of the juvenile and shall be suitable with regards to age and maturity. It shall not interfere with the juvenile's education.

**Examples of diversion measures may include any one of the following or any combination of them-**

- (a) an oral or written apology;**
- (b) placement under the supervision and guidance of the Chief Probation Officer;**
- (c) placement with a peer who can mentor and /or contribute to the positive behaviour of the juvenile;**
- (d) referral to counseling or therapy;**
- (e) compulsory attendance to any place for a vocational or educational purpose.**
- (f) returning any item to a victim;**
- (g) performance of community service or**
- (h) the family of the juvenile providing to a victim, some service or compensation.**







The Director of Youth is responsible for the development of diversion measures and these measures may be used to deal with a juvenile only if he or she cannot be adequately dealt with by a warning or referral.

The parent of a juvenile must be informed in writing about the diversion programme that is proposed. A victim also has a right to information. If a victim makes a request, he or she must be told who the juvenile is and how the matter was dealt with.

The Director of Public Prosecutions (DPP) (or a police officer) must consider whether or not to take further action, warn a juvenile or refer him or her for diversion before starting court proceedings.

If a decision is made not to take further action or to warn the juvenile or to refer him or her to diversion, this cannot be used in court against the juvenile to prove previous wrongdoing.

## PART 3

### ORGANIZATION

The court in this Act is the only court that can hear a charge against a person who it is claimed committed an offence when he or she was a juvenile. The court must deal with this person in keeping with this Act only.

Diversion measures or court proceedings may continue even after the juvenile attains the age of eighteen. If it is proven during the court proceedings that the offence was committed after the person turned 18 years old, that person shall be sentenced as an adult.

**If a VICTIM makes a request, he or she must be told who the JUVENILE is and how THE MATTER was dealt with.**

## PART 4

### PROCEEDINGS AGAINST JUVENILES

The Director of Public Prosecutions shall conduct pre-charge screening before a juvenile is charged.

The Director of Public Prosecutions must give written consent to a private individual who wishes to institute a charge against a juvenile.

A juvenile has the right to retain and instruct counsel and to exercise that right personally. He or she must be told, without delay, by the police officer of this right and be given an opportunity to exercise it.

If a juvenile is arrested and held in custody awaiting his or her appearance in court, the arresting officer must, within twenty four hours of the arrest, give a written notice to the parent of the juvenile and the Chief Probation Officer. The notice must state the place the juvenile is being held and the reason for the arrest. It must also include the name of the juvenile, the charge against the juvenile, and the time and place of appearance and a statement that the juvenile has the right to be represented by counsel. The

notice must be served personally but failure to give a notice does not invalidate any subsequent proceedings. The court can also order a parent of the juvenile to attend court. This order must be made in writing.

The court may refer the juvenile to the Chief Probation Officer for assessment at any stage of the proceedings to determine if he or she is in need of child welfare services.

If a police officer reasonably believes that a child is responsible for something that would have been an offence had the child been older, the police officer can arrange for the child to remain with his or her parent. Where this cannot happen the police officer shall arrange for the child to be handed over to the Chief Probation Officer.

Any person who aids, abets, counsels or procures a child in an instance where he or she would have committed an act which would be an offence if he or she was older then the person who so aids, abets, counsels or procures the child is guilty of that offence.

**A juvenile has the right to retain and instruct counsel and to exercise that right personally.**



# PART 5

## DETENTION BEFORE SENTENCING

A juvenile who has been arrested shall not be questioned or asked to make a written statement unless

- (a) the person questioning him or her has clearly explained that
  - he or she does not have to make a statement if he or she does not want to
  - his or her statement may be used against him or her in court
  - he or she has a right to consult a parent
- (b) he or she is given reasonable opportunity to consult with his or her representative
- (c) he or she is in the presence of a parent
- (d) in the absence of his or her parent, is in the presence of an adult other than a police officer.

If legal representation is requested for the juvenile, he or she shall not be asked to make a statement until eight hours has passed. This is to allow for a lawyer to be retained to act on behalf of the juvenile.

With the exception of the offences stated below, if a police officer arrests a juvenile, he or she shall:

- inform the Director of Public Prosecutions and Chief Probation Officer of the particulars of the arrest
- release the juvenile with the intention of issuing a summons
- release the juvenile on the juvenile or his or her parent or other adult entering into a recognizance before the officer in charge or another police officer without deposit of money or other valuable security.

Where a juvenile who has been arrested with or without a warrant by a police officer is taken into custody for any of the offences listed below, the arresting officer shall, no more than sixteen hours after the arrest inform the Director of Public Prosecutions and the Chief Probation Officer of the arrest. The police officer must state the name, address and age of the juvenile and the circumstances under which he or she was arrested. In addition, where a juvenile is charged with any of these serious offences, the court may order that the juvenile be held in a temporary holding facility until the completion of the trial. If the circumstances allow, the court may also order that the juvenile be placed in the custody of a responsible adult pending the trial.

1. Murder
2. Manslaughter
3. Attempted murder
4. Assault causing actual bodily harm (indictable)
5. Assault causing grievous bodily harm (indictable)
6. Unlawful possession of a firearm and ammunition

7. Robbery
8. Robbery under arms
9. Arson
10. Possession of narcotics
11. Trafficking in narcotics
12. Wounding with intent
13. Break and enter
14. Rape
15. Sexual activity with a child by abusing position of trust
16. Care worker engaging in causing or inciting sexual activity with a person with a mental disorder.

A police officer must not release a juvenile where he reasonably believes that it is in the public interest that the juvenile be held in custody. The court may issue a warrant for his or her arrest where the juvenile does not go to court.

There is a timeframe of forty eight hours for a juvenile to be taken to court after an arrest. Keeping a juvenile in custody should not be used as a substitute for appropriate child protection, mental health or other social measures including but not limited to recreation and education.

A court must not order that a juvenile be detained if he or she could not be sentenced to a period in detention if found guilty.

A juvenile may be detained in a temporary holding facility for juveniles or placed in the care of an adult prior to sentencing.

A juvenile against whom a charge is laid must appear before a court, and the court shall cause the charge to be read to the juvenile. If he or she is not represented by counsel the court must be sure that the juvenile understands the charge. The court must then explain to the juvenile that he or she may plead guilty or not guilty to the charge. If the court is not sure that the juvenile understands the charge or how to plead the court must order that the juvenile be represented by counsel. Representation by a lawyer can be through legal aid or other assistance programme or the magistrate can appoint a lawyer who will be paid by the State through the Registrar of the Supreme Court.

If the juvenile pleads guilty and the court finds that the facts support the charge, the juvenile shall be found guilty. If he or she pleads guilty but the court finds that the facts do not support the charge, the court shall proceed with the trial and find the juvenile guilty or not guilty.



## PART 6

### SENTENCING

No child or juvenile is to be sentenced to imprisonment. Sentencing serves the purpose of holding a juvenile accountable for an offence. It is also a means of promoting his or her rehabilitation, education and reintegration into society. Before ordering a custodial sentence, the court must review a pre-sentence report that is to be prepared by the Chief Probation Officer.

No child or juvenile shall be subject to imprisonment and where a juvenile is found guilty of an offence the finding of guilt shall not be recorded as a conviction. When a court finds a juvenile guilty of an offence and is ordering a sentence, the court shall make any one or more of the following orders that can be performed together -

- (a) warn the juvenile;
- (b) order that the juvenile be discharged;
- (c) require the juvenile to report to and be supervised by the Chief Probation Officer;
- (d) place the juvenile in the care of a relative or other adult;
- (e) if the juvenile is employed order him or her to pay a fine or compensation to the victim;
- (f) order the parent of the juvenile to pay a fine;
- (g) order the juvenile to make restitution of any property obtained as a result of the commission of the offence;
- (h) order the juvenile to perform a community service and to report to and be supervised by a probation officer or a person designated by the court;
- (i) place the juvenile on probation for a period not more than two years;
- (j) make a custody and supervision order, ordering that a period be served in custody in an open residential facility, and that a second period which is one half as long as the first, be served under supervision in the community subject to conditions, the total of the periods to be not more than two years from the date of the coming into force of the order;
- (k) make a deferred custody and supervision order for a period not more than six months subject to any conditions; or
- (l) order that the juvenile complies with any other reasonable and supplementary conditions

When a court finds a juvenile guilty of any of the offences listed below, and is ordering a sentence, the court shall make any one of the following orders or any number of them that can be performed together

- (a) place the juvenile on probation for a period not more than three years;
- (b) make a custody order placing the juvenile in an open residential facility for a period not more than three years;
- (c) commit the juvenile to custody in an open or secure residential facility for a period not more than five years;



- (d) make a custody and supervision order with respect to the juvenile, ordering that a period be served in custody in an open or secure residential facility and that a second period, which is one half as long as the first, be served under supervision in the community subject to conditions, the total of the periods not to be more than five years;
- (e) make a deferred custody and supervision order that is for a period not more than three years, subject to any conditions set out in sections 46 and 47;
- (f) make a supervision order that is for a period not more than three years, subject to any conditions set out in sections 46 and 47; or
- (g) make an order that the juvenile complies with any other reasonable conditions.

The court may order that a juvenile keep the peace and be of good behaviour as conditions of any probation. A court may in any probation or supervision order, also order that a juvenile do one or more of the following-

- (a) report to and be under the supervision of the Chief Probation Officer or a person designated by the court;
- (b) notify the Chief Probation Officer or person designated by the court of any change of address or any change in the juvenile's place of employment, education or training;
- (c) remain in Guyana, unless he or she obtains the permission of the court to leave;
- (d) make reasonable efforts to obtain and maintain suitable employment;
- (e) attend school or any other place of learning, training or recreation that is appropriate, if the court is satisfied that a suitable programme for the juvenile is available there;
- (f) reside with a parent, or any other adult who is willing to provide for the care and maintenance of the juvenile;
- (g) reside at a place that the Chief Probation Officer may specify;
- (h) advise the Chief Probation Officer or the person designated by the court immediately of any change-
  - (i) in the juvenile's address; or
  - (ii) in the juvenile's family or financial situation, that may reasonably be expected to affect the juvenile's ability to comply with the conditions of the sentence; and
  - (iii) comply with any other conditions set out in the order.

The court's use of community service is restricted and all court orders must be communicated to the juvenile in such a way as to ensure he or she understands it. The order must also state it's the commencement date.

A sentence comes into force on the date on which it is ordered. The court may however order that terms and conditions be complied with on a later date that must be specified.

A court that sentences a juvenile may direct that a sentence be served one after the other if the juvenile is sentenced while under sentence for another offence or is found guilty of more than one offence. No sentence or combination of sentences ordered at the same time for a single offence or with respect to different offences shall continue in force for more than five years.

If a Court sentences a juvenile after the commencement of, but before the completion of, any sentences ordered on the juvenile-

- (a) the sentence may be served consecutively to the sentences ordered in respect of the previous offence; and
- (b) the combined duration of all the sentences may be more than five years.

A sentence ordered against a juvenile continues after the juvenile becomes an adult.

If a juvenile has begun to serve a portion of a sentence in the community and at the time an additional custodial sentence is ordered, any probation, deferment of custody, serving a portion of the sentence in the community under supervision, shall cease to be operative and the juvenile shall be committed to custody until the end of the portion of the sentence.

The court shall record reasons for the sentences it orders and shall give a copy of this to the juvenile, his counsel or parent on request.

When a juvenile is committed to custody, the court shall issue or cause to be issued a warrant of committal.

In the course of being transferred to and from custody or to and from the court the juvenile may be held under the supervision and control of a police officer or in a temporary holding facility.

When making a custodial order the court shall specify the level of custody appropriate for the juvenile. After the court has determined the appropriate level of custody for the juvenile he or she shall be placed in the facility specified by the Director of Youth that contains that level of custody. Such facility may be an open or secured residential facility.

If a juvenile reaches the age of eighteen while serving a custodial sentencing, he or she may be transferred to a correctional facility for adults.

Procedures are provided for the transfer of the juvenile who becomes an adult, to an adult facility. The clerk of the court must forward to the principal of the facility and the Chief Probation Officer;

- a copy of the pre- sentence report
- the sentencing order
- reasons for the sentence together with the warrant of committal

The Chief Probation Officer shall designate a probation officer to work with the juvenile when a sentence is ordered committing him or her to custody. A probation officer shall supervise the juvenile when a portion of his or her sentence is served in the community.

## PART 7

### REVIEW OF SENTENCES

Review of some custodial sentences which are for a period of more than one year is provided for. The grounds, time and procedure for review are set out in the Act.

If the juvenile has appealed his or her sentence there can be no review of it until the appeal is completed.

If the Director of Youth does not bring the juvenile to court for the review of his or her sentence, the court may order him or her to do so.

No juvenile shall remain in a juvenile facility after he or she reaches the age of eighteen years, unless the court is sure that remaining in the facility would be in the best interests of him or her and would not affect the safety of others. If this is not the case, then as mentioned earlier, the juvenile would be transferred to an adult facility.

There can be no appeal of a review of a sentence.

## PART 8

### CUSTODY, SUPERVISION AND REHABILITATION

The purpose of the juvenile custody and supervision system is to contribute to the protection of society in the following ways:-

- carrying out court sentences by keeping juveniles in custody and supervising them in safe, fair and humane ways;
- exposing juveniles during their custody and supervision to programmes which would assist them to be rehabilitated, educated and reintegrated into their communities; and
- recognising that juveniles are a vulnerable group and require special attention and protection both during and after their period of custody and supervision, as well as the need for their rights and well-being to be guaranteed.

In order to achieve the purpose of the juvenile custody and supervision system the following principles are to be adhered to:-

- the least restrictive measures should be used based on the circumstances of each case;
- a juvenile who is sentenced to custody does not lose the rights that other juveniles enjoy; they are just temporarily removed or restricted;
- a juvenile who is sentenced to custody is entitled to regular contact with parents or other family members;
- the families of juveniles and members of the public must be involved in the system;
- forthright, fair and timely decisions should be made;
- juveniles should be able to have decisions reviewed in an effective and timely manner; and
- juveniles must be allowed to continue their education and training.

Juveniles in custody must be held separately from adults unless they are removed to a halfway house or an adult facility with other adults upon attaining the age of eighteen years or unless at the time when a sentence is imposed a juvenile has attained that age.

The Minister has a duty to establish residential facilities for custody, education and rehabilitation of juveniles who are sentenced to be in custody for a term, as well as temporary holding centers. There is provision for secure and open residential facilities.

Secure residential facilities are facilities that provide the most controlled and restrictive programs. Almost all programs and services are provided on-grounds. Access to and from such facilities is strictly controlled and they usually securely fenced.

Open residential facilities provide a non-secure environment for juveniles who require removal from the community but do not require the more restrictive setting or restraining environment of a secure facility.

Temporary holding centers are for juveniles:-

- i. with pending court matters;
- ii. who are awaiting transfer to a residential facility;
- iii. who are awaiting reintegration with their family and community after serving a period in custody; and
- iv. that the Juvenile Justice Committee (JJC) thinks should be held there.

Provision for the New Opportunity Corps to continue as an open residential facility is made. It would no longer be a secure residential facility.

Facilities operated by the ministry assigned responsibility for establishment and maintenance for other holding facilities for juveniles.

The Minister has a duty to appoint a Director of Youth who has overall responsibility for organizing and supervising the custody, education and rehabilitation of juveniles in all facilities.

The Minister is permitted to assign his/her powers and duties under the Act and make regulations for the smooth functioning of the Act.

## **Principal and staff of facilities**

The JJC is responsible for appointing a Principal and Deputy Principal to control, supervise and manage the facilities as well as for appointing the staff of these facilities.

The management and staff of facilities in existence prior to this Act coming into force and which become facilities under the Act shall be transferred as members of staff of those facilities.

## **Juvenile Justice Committee (JJC)**

The Minister is required to appoint the JJC and there is provision for the term of office of the JJC and composition. The duties and powers of the JJC are also set out and include:-

- i. making frequent visits to facilities;
- ii. hearing complaints of juveniles;
- iii. causing investigations of complaints;
- iv. causing investigations of abuses or irregularities;
- v. taking appropriate action in cases of complaints and irregularities;
- vi. keeping record of complaints and results of investigations;
- vii. making reports to the Minister about abuses, irregularities and other matters.

The JJC is required to submit an annual report to the Minister and the committee as a whole as well as each member has free access to the juvenile facilities.

A principal of facility must accept a juvenile ordered by a court to be committed to the facility unless the written order appears defective, and must keep a register of all juveniles so committed.

A facility has to be always open to accept juveniles referred to it and the maximum number, sex and ages of juveniles to be housed in each facility has to be stipulated by the Minister upon the advice of the JJC.

If the Director of Youth and the Chief Probation Officer agree or if a court directs, a juvenile may be transferred from one facility to another. If a juvenile is transferred the principal of the facility from which the transfer is being done has a duty to inform the juvenile's parents.

The principal has a duty to ensure that a juvenile is given the opportunity to receive religious support and practice his or her religion.

If a juvenile cannot receive adequate medical treatment at a facility that juvenile must be taken to a hospital or other institution to receive necessary medical assistance.

The Minister on the advice of the JJC must set the limits for disciplining a juvenile in a facility and the principal may instruct that a juvenile be disciplined in a reasonable manner and within the limits set by the Minister.

A juvenile cannot be disciplined by:-

- i. physical punishment or violence;
- ii. being deprived of food or drink;
- iii. cruel, inhumane or degrading treatment;
- iv. treatment that could negatively affect his or her physical, psychological or emotional wellbeing; or
- v. being kept away from educational training.

When a court orders a juvenile to be kept in or supervised at a facility the principal, after consulting the Chief Probation Officer, may set appropriate conditions in addition to those ordered by the court to support, and address the needs of the juvenile and foster his or her reintegration into the community.

If such conditions are set they must be explained to the juvenile, put into writing and a copy given to the juvenile and a parent or adult assisting him or her.

If a principal recommends to the JJC that a juvenile should be released from a facility for a period prior to completion of his or her term, for compassionate or humanitarian reasons or for the purpose of rehabilitating the juvenile or reintegrating him or her into the community, the JJC may authorise that the juvenile be sent on reintegration leave for a period not in excess of thirty days. Conditions may be applied to reintegration leave.

Such leave can be renewed but it can also be revoked for good reason. If the leave is revoked or if the juvenile breaches any condition of the leave the juvenile may be arrested and returned to the facility.

Failure to return without good cause when the period of leave has finished can be treated as a breach of discipline of the facility and any period of unauthorised absence will not be deducted from the period of time that the juvenile was ordered to be held or supervised at the facility. However, time spent on permitted leave shall be calculated as part of the period of custody ordered.

Apart from reintegration leave there is provision for authorized release of the juvenile at specified times for purposes such as attending school or any other educational institution, participating in sports or recreational activities, working or assisting the juvenile's family with chores.

The parents or adult assisting a juvenile must inform the principal of a facility of any change of his or her address.

The JJC has authority to allow the release of a juvenile from a facility before completion of his or her term of custody or supervision in exceptional cases on compassionate grounds.

There is also provision for early discharge of a juvenile in the event that the discharge date falls on a weekend or holiday. The juvenile would be released on the day before the holiday or weekend.

After a juvenile has completed his or her term of custody at a facility and is released the juvenile can be placed under supervision of a Probation Officer for a period to assist the juvenile in reintegrating into society.



## PART 9

### PUBLICATION, RECORDS AND INFORMATION

#### Protection of Privacy of Juveniles

Publication of information which may identify a juvenile as having been dealt with under the Act is prohibited unless it is in the course of administration of justice or for the purpose of the juvenile obtaining medical or similar treatment. Additionally, the court can permit such publication in the following cases:-

- i. cases involving serious offences in which the juvenile is a danger to others and it is necessary to have the juvenile apprehended; and
- ii. where a juvenile seeks the court's permission to publish and it is not contrary to the juvenile's best interest or the public interest to do so.

Apart from these cases, on becoming an adult the juvenile may disclose that he or she was dealt with under the Act once he or she is no longer in custody under the Act.

Publication of the names of juveniles who are witnesses or victims under the Act is also prohibited except with the consent of the juvenile or his or her parents or with the permission of the Court.

#### Access to records

Persons other than the juvenile and his or her counsel do not have free access to a juvenile's records. Access is permitted to certain persons for specified purposes.

The persons who may have access include:-

- i. the Director of Public Prosecutions (DPP);
- ii. the police;
- iii. a court;
- iv. parents or adults assisting the juvenile;
- v. the Chief Probation Officer; and
- vi. a government agent employee for statistical purposes.

There are various periods during which different types of records of a juvenile may be accessed. After these periods expire the record of a juvenile can no longer be accessed by anyone other than that juvenile or his or her counsel, unless the court so permits.

The court will only grant such permission in certain circumstances, including for statistical purposes and in the interest of the administration of justice.

## Disclosure of Information in a record

Disclosure of a juvenile's record is authorized in the following cases without the need to seek the court's permission:-

- i. A police officer may disclose information in a juvenile's record during an investigation of an offence or to an insurance company for the purposes of the company's investigation of a claim.
- ii. While prosecuting a matter the DPP may disclose information from a juvenile's record to a co-accused of the juvenile in relation to the offence for which the record is kept. During a prosecution, the DPP may disclose information that identifies a witness in a matter as a juvenile.
- iii. The Minister of Public Security or a police officer may disclose information in records pertaining to a juvenile for extradition purposes to the Minister of Foreign Affairs, who in turn may disclose such information to a foreign state.
- iv. The Director of CCPA and the Chief Probation Officer may disclose information contained in a juvenile's record for the purpose of preparation of a report required under the Act.
- v. Information may also be disclosed by officials to a person involved in the supervision or care of a juvenile if disclosure is necessary for that person to be able to perform their duties. Any such person to whom information is disclosed has a duty to keep it separate from other information, ensure that no other person has unauthorized access and destroy their copy after use.

Disclosure of records of juveniles in the above-stated cases is, however, not authorised after the end of the period of access specified in the Act.

During the period that records can be accessed, a court can authorise disclosure by the DPP or a police officer of any information about a juvenile in the following other cases where:-

- i. the juvenile has been found guilty of an offence involving serious personal injury;
- ii. the juvenile poses a risk of serious harm to persons; and
- iii. disclosure will assist in avoiding this risk.

The juvenile must have an opportunity to be heard before the court decides whether to authorise this disclosure, unless the juvenile cannot be located.

A person who is given access to a record or to whom information is disclosed is prohibited from disclosing this information to others without authority.

# PART 10

## GENERAL PROVISIONS

### Jurisdiction

A court can continue hearing a matter that was started by another court. If a decision was already given by the first court the other court can complete the matter by ordering a sentence. If no decision had been given the matter would be heard afresh. Where the matter is being heard afresh, if the parties consent, any evidence already taken can be used rather than taking it all over again. A sentence ordered in one magisterial district can be reviewed in another district.

### Exclusion from Hearing

Only a person whose presence is necessary in relation to a hearing related to a child will be allowed to be present during the hearing. For any other person to be present that person must obtain the permission of the court.

### Offences and Punishment

It is an offence for a juvenile to escape from a facility or any other place or while being taken from or to such a place during his or her period of custody.

If a juvenile who has escaped is arrested, he or she must be returned to the facility or other place. That juvenile may then either be disciplined according to the rules of the facility or other place or be charged and placed before the court.

It is an offence for anyone to assist or encourage a juvenile to escape from a facility or other place or to harbour that juvenile or prevent them from returning. Encouraging or aiding a juvenile to breach a term or condition of a sentence or other court order or preventing them from performing such is also an offence.

Taking or attempting to take prohibited items into a facility or delivering or attempting to take them to a juvenile in a facility is an offence.

Publication or disclosure of information contained in a record on a juvenile in cases not authorized by the Act or permitted by the Court is an offence.

### Procedure

Where a juvenile is charged for both indictable and summary offences they may be heard together. Separate trials are not necessary.

## Evidence

The general law on the admissibility of statements made by accused persons applies to juveniles. Additionally, for a statement made to a police officer or other person in authority by a juvenile who is a suspect to be admissible in evidence the provisions set out in the Act for taking of statements from juveniles must have been complied with and the statement must have been given voluntarily by the juvenile.

In relation to a statement made to a person who is not a person in authority, that statement would only be admitted into evidence if it was freely and voluntarily made. In this regard, a lawyer, parent or other adult that a juvenile consults for assistance during questioning by the police is not a person in authority.

A certificate of birth is evidence of the age of a person but if one is not available the court may accept or consider other reliable information, including the testimony of a parent or the appearance of that person.

A child or juvenile may give evidence before a court if the court has explained the duty to speak the truth and the consequences of failing to do so to that child or juvenile.

The forms used under the Criminal Law (Procedure) Act and Summary Jurisdiction (Procedure Act can be used under this Act where necessary.



# PART 11

## TRANSITIONAL PROVISIONS

After the coming into force of this Act, no matters can be started under the Juvenile Offenders Act, Cap. 10:03, the Training Schools Act, Cap 11:06 or sections 15 or 16 of the Education Act Cap. 39:01.

Where there are pending matters under the Juvenile Offenders Act for wandering, begging and like offences against a juvenile as defined by that the Act those matters shall be dismissed and the juvenile referred to the Chief Probation Officer.

Generally, however, where there are pending matters under the Juvenile Offenders Act, Cap. 10:03 against a person who was a child or juvenile as defined in this new Act, those matters shall continue to be dealt with under that old Act. If a juvenile is found guilty, then in such cases a sentence under this new Act shall be imposed.

Where there are pending matters under the Training Schools Act for wandering, begging and being a refractory witness against a person who was a child or juvenile as defined in this Act, those matters shall dismissed and the child referred to the Chief Probation Officer.

Pending charges for the offence of escape from school under the Education Act against a child or juvenile as defined by this Act shall continue to be dealt with under this Act. Pending charges under that Act for habitually wandering and disobedience of order for attendance at school against a child or juvenile as defined in this Act shall be dismissed and the child or juvenile referred to the Chief Probation Officer.

Offences committed before the coming into force of this Act but for which no proceedings had commenced shall be dealt with under this Act. If a juvenile has already been convicted under the Juvenile Offenders Act, he or she or the DPP may apply to the Court for the matter to be continued under this Act and for a sentence under this Act to be ordered.

Temporary holding facilities under the Juvenile Offenders Act and facilities operated as training schools under the Training Schools Act shall continue to be facilities under this Act.

## PART 12

### CONSEQUENTIAL AMENDMENTS AND REPEAL

#### **Consequential Amendments**

Clause 129 sets out the amendments to be made to the Education Act.

Clause 130 sets out the amendments to be made to the Probation Offenders Act.

Clause 131 sets out the amendments to be made to the Rehabilitation Offenders Act.

#### REPEAL

The Juvenile Offenders Act, Chapter 10:03 and the Training Schools Act, Chapter 11:06 are repealed.





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