



ST. CHRISTOPHER AND NEVIS

CHAPTER 4.15

CHILD JUSTICE ACT and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2020

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CHAPTER 4.15
CHILD JUSTICE ACT

AN ACT TO ESTABLISH A JUDICIAL PROCESS FOR CHILDREN ACCUSED OF COMMITTING OFFENCES THAT AIMS AT PROTECTING THE RIGHTS OF CHILDREN AND FOR OTHER RELATED MATTERS.

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Child Justice Act.

Interpretation.

2. In this Act, unless the context otherwise requires—

“acknowledging responsibility” means an admission of responsibility for an offence by a child without a formal admission of guilt;

“appropriate adult” means—

- (a) a member of the family of the child; or
- (b) a custodian or guardian of the child,

who has attained the age of eighteen years, but excludes a parent;

“assessment” means the assessment of a child by a probation officer pursuant to Part VI;

“assessment centre” means any place established or certified by the Minister under section 8 to receive a child in conflict with the law;

“available services” includes social services, legal aid and child care services;

“Bail Act” means the Bail Act, Cap. 3.24;

“biological father” includes a man who is biologically the father of a child, a man who was adjudged to be the father of a child and a man who is a father as a result of artificial conception procedures under the Status of Children Act, Cap. 12.14;

“biological mother” includes a woman who gave birth to a child and a woman who is a mother as a result of artificial conception procedures under the Status of Children Act, Cap. 12.14;

“biological parent” means a biological mother or a biological father of a child;

“Board” means the Probation and Child Welfare Board established under section 3 of the Probation and Child Welfare Board Act, Cap. 12.12;

“child” means a person under the age of eighteen;

“child in conflict with the law” means a child who is alleged to have committed an offence;

“Child Justice Committee” means the Child Justice Committee referred to under section 6 and appointed by the Board;

“Children (Care and Adoption) Act” means the Children (Care and Adoption) Act, Cap. 12.01;

“Commissioner of Police” means the Chief of Police appointed under section 11 of the Police Act, Cap. 19.07;

“community service” means work for a community organisation or other work of value to the community performed by a child without payment;

“compulsory school attendance order” means an order requiring a child to attend school for a specified period of time, which attendance is to be monitored by a specified person;

“correctional supervision” means a community based sentence referred to in section 60;

“Court” means a court having jurisdiction in respect of child or juvenile matters pursuant to the Juvenile Courts Act, Cap. 3.16;

“Criminal Procedure Act” means the Criminal Procedure Act, Cap. 4.06;

“detention” includes confinement in police custody, a place of safety or other secure residential facility;

“Director” means the Director of Probation and Child Protection Services;

“diversion” means the adoption of informal procedures, rather than formal court procedures, in relation to cases where it is alleged that a child has committed an offence, pursuant to Part VII;

“diversion option” means a plan or programme with a specified content and duration set out in three levels under section 39;

“family group conference” means a gathering convened by a probation officer as a diversion or sentencing option under section 59;

“family time order” means an order requiring a child to spend a specified number of hours with his or her family, pursuant to section 39;

“good behaviour order” means an order requiring a child to abide by an agreement made between the child and his or her family to comply with certain standards of behaviour, pursuant to section 39;

“initial inquiry” means a procedure referred to in Part VII which takes place after an assessment and before trial in a court;

“Minister” means the Minister responsible for Social Services;

“parent” includes—

- (a) a biological or adoptive parent who has the parental responsibility of the child;
- (b) a person, who has stood *in loco parentis* to a child for a period of not less than one year and who has a continuing relationship with the child; or
- (c) a legal guardian of the child who has custody or guardianship rights of the child,

but does not include a person acting as care giver on behalf of the Director;

“parental responsibility”—

- (a) means the duties, powers, responsibilities and authority; and

- (b) includes the rights and obligations;
the parent of a child has in relation to that child;
- “place of safety” means any place or institution, not being a police cell, lock-up or a correctional facility, whereby the person in charge is willing temporarily to receive and take care of a child in conflict with the law and which, in the opinion of the Child Justice Committee, may be a place of safety for a child;
- “police custody” includes custody by the police in any rehabilitation or assessment centre;
- “positive peer association order” means a positive peer association order, pursuant to section 39(2)(f);
- “probation officer” means an officer appointed as such under section 7 of the Probation and Child Welfare Board Act, Cap. 12:12;
- “reporting order” means an order requiring a child to report to a specified person at a time specified in such order so as to enable the person to monitor the behaviour of the child, pursuant to section 39(2)(b);
- “residential requirement” means compulsory residence in a secure residential facility or a place other than the home of the child;
- “restorative justice” means the promotion of reconciliation, restitution and responsibility through the involvement of a child, the parents of a child, the members of family of the child, the victim and the community;
- “secure residential facility” means a residential facility established or certified by the Minister under section 9 and designated to receive sentenced children;
- “supervision and guidance order” means an order placing a child under the supervision and guidance of a mentor or peer in order to guide the behaviour of the child;
- “symbolic compensation” has the meaning assigned to it in section 65(2).

Principles to be applied when dealing with children.

- 3.** (1) The Court or a person performing any function pursuant to the provisions of this Act shall be guided by the following principles—
- (a) the best interest of the child, the safety, welfare and well-being of the child shall be the paramount consideration;
 - (b) a child shall as far as possible be given an opportunity to respond before any decision is taken which affects the child;
 - (c) a child shall be addressed in a manner appropriate to his or her age, level of maturity and intellectual development;
 - (d) a child shall be treated in a manner which takes into account his or her beliefs;
 - (e) all procedures to be carried out pursuant to this Act shall be conducted and completed in a timely manner;
 - (f) parents and families shall have the right to assist their children in proceedings under this Act and, wherever possible, to participate in decisions affecting their children;
 - (g) all consequences arising from the commission of an offence by a child shall be proportionate to the circumstances of the child, the nature of

the offence and the interests of society, and a child shall not be treated more severely than an adult would have been in the same circumstances;

- (h) a child lacking in—
 - (i) family support;
 - (ii) educational support; or
 - (iii) employment opportunities if the child is between the ages of 16 and 18, shall have equal access to available services; and
- (i) every effort shall be made to ensure that children receive equal treatment to other children when having committed similar offences.

(2) A Judge, Magistrate, the Director or the members of the Child Justice Committee shall consider the following principles when making a decision regarding the release of a child from detention—

- (a) preference shall be given to the release of the child into the care of a parent or an appropriate adult, with or without the imposition of conditions;
- (b) if the release of a child into the care of a parent or an appropriate adult is not feasible, the release of the child on bail or a bond shall be considered;
- (c) if the child shall be detained, as a measure of last resort, the least restrictive form of detention appropriate to the child and the offence shall be selected.

(3) A child who is in detention in police custody—

- (a) shall be—
 - (i) detained separately from adults;
 - (ii) detained with children of the same sex and monitored by police officers of the same sex;
 - (iii) detained in conditions which will reduce the risk of harm to that child, including the risk of harm caused by other children;
- (b) shall have the right—
 - (i) to adequate food and water;
 - (ii) to medical treatment;
 - (iii) to reasonable visits by a parent, sibling, guardian, an attorney-at-law, registered social worker, probation officer, health worker, religious counsellor, family members, any other person having a close and wholesome relationship with the child;
 - (iv) of access to reading material;
 - (v) to adequate exercise, as may be prescribed; and
 - (vi) to adequate clothing, as may be prescribed.

PART II

APPLICATION AND CRIMINAL RESPONSIBILITY

Application of Act.

4. (1) Subject to subsections (2) and (3) and section 5, this Act shall apply to—
- (a) a person who is alleged to have committed an offence and who, at the time of the alleged commission of the offence, was under the age of eighteen years; and
 - (b) a person referred to in paragraph (a) who attained the age of eighteen years before proceedings that were instituted against him or her, pursuant to this Act, have been concluded.
- (2) The Criminal Procedure Act shall apply to any person referred to in subsection (1), except in so far as this Act provides for different procedures in respect of that person.
- (3) The Director of Public Prosecutions, in the circumstances described in subsection (4), may direct that this Act shall apply to a person who is alleged to have committed an offence and who, at the time of the alleged commission of the offence—
- (a) was at least ten years old but under the age of twelve years;
 - (b) was over the age of eighteen years but under the age of twenty-one years;
 - (c) was over the age of eighteen but is mentally handicapped.
- (4) A direction referred to in subsection (3) may be issued if—
- (a) where applicable, the person commits a further offence while serving a residential sentence imposed pursuant to this Act and after having reached the age of eighteen years; or
 - (b) in the opinion of the Director of Public Prosecutions, any other circumstance merits the issuance of a direction under that subsection.

Criminal responsibility.

5. (1) It shall be presumed that a child under the age of twelve years is not capable of or guilty of committing a criminal offence.
- (2) Pursuant to subsection 4 (3), a person who is at least ten years old and under the age of twelve years shall not be criminally responsible for an act or omission unless it is proved that at the time of doing the act or making the omission, he or she had the capacity to know that he or she ought not to do the act or make the omission.
- (3) If the Director of Public Prosecutions intends to prosecute a child for an offence pursuant to subsection (2), he or she shall issue a certificate in the prescribed form confirming such an intention to prosecute.
- (4) Subject to subsection (6), if the certificate referred to in subsection (3) is not issued within twenty-one days after the initial inquiry, the Director of Public Prosecutions shall be regarded as having declined to institute proceedings to prosecute.
- (5) In issuing a certificate under subsection (3), the Director of Public Prosecutions may have regard to any relevant information, but shall have regard to—

- (a) the appropriateness of diversion pursuant to this Act;
- (b) the educational level, cognitive ability, domestic and environmental circumstances, age and maturity of the child;
- (c) the nature and gravity of the alleged offence;
- (d) the impact of the alleged offence upon any victim of such offence;
- (e) an assessment report done by a probation officer pursuant to section 26 (4); and
- (f) an evaluation or a report of a counsellor or psychologist, who attended the initial inquiry, pursuant to section 28(1) (e) if applicable.

PART III

CHILD JUSTICE COMMITTEE

Child Justice Committee.

6. (1) The Child Justice Committee shall be appointed by the Board and shall be responsible for exercising the powers and discharging the duties conferred on it pursuant to this Act.

(2) The Child Justice Committee shall consist of the following members—

- (a) a Magistrate or senior Attorney-at-Law of at least seven years standing; and
- (b) two social workers.

(3) A Magistrate appointed pursuant to subsection (2) shall be a person who has experience or training in child psychology or child welfare and may be a member of the Board.

(4) A social worker appointed pursuant to subsection (2) shall be a person who is or was actively involved in health, education or welfare activities pertaining to children and may be a member of the Board.

(5) The term of office of a member of the Child Justice Committee and other matters of appointment including resignation shall be as prescribed.

(6) The appointment of a member of the Child Justice Committee shall be terminated by the Minister where the member—

- (a) has been convicted of an offence punishable by imprisonment or by a fine exceeding five thousand dollars; or
- (b) fails to attend proceedings of the Child Justice Committee for three consecutive months without any valid reason.

Procedures of Child Justice Committee.

7. (1) The Child Justice Committee shall meet at least twice monthly and shall observe such rules of procedure in regard to the transaction of any business at its meetings as may be prescribed.

(2) Subject to subsection (3), the Child Justice Committee may act notwithstanding the absence of any member of the Child Justice Committee, and no order made by the Child Justice Committee shall be invalid by reason only of the

absence of any member during any stage of any proceedings before the Child Justice Committee.

(3) There shall be at least two members of the Child Justice Committee present, including the Magistrate at the hearing of any proceeding by the Child Justice Committee.

(4) In the event of any difference of opinion among members of the Child Justice Committee in the interim of final disposition, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Magistrate shall prevail.

(5) The Board may make Rules relating to the proceedings before the Child Justice Committee.

PART IV

ESTABLISHMENT OF ASSESSMENT CENTRES AND SECURE RESIDENTIAL FACILITY

Assessment Centre.

8. (1) The Minister may establish and maintain, either by his or her Ministry or pursuant to an agreement with a voluntary organisation, an assessment centre for the temporary reception of any child in conflict with the law prior to or pending the completion of an initial inquiry regarding the child pursuant to this Act.

(2) Notwithstanding subsection (1), where the Minister is of the opinion that any institution other than an assessment centre referred to in subsection (1), is fit for the temporary reception of a child in conflict with the law pending an initial inquiry, the Minister shall certify such institution as an assessment centre for the purposes of this Act.

(3) The Minister may make rules to provide for the management of an assessment centre including the standards and the various types of services to be provided by it.

(4) A child who, on commission of an alleged offence is not placed under the charge of a parent and is sent to an assessment centre, shall be initially kept in a reception unit of the assessment centre for initial assessment, care and classification, giving due consideration to the age, physical and mental status of the child and the degree of the alleged offence.

Secure residential facility.

9. (1) The Minister may establish and maintain, either by his or her Ministry or pursuant to an agreement with a voluntary organisation, a secure residential facility as may be required for the reception and rehabilitation of a child that has been sentenced.

(2) Notwithstanding subsection (1), where the Minister is of the opinion that any institution other than a secure residential facility established pursuant to subsection (1), is fit for the reception of a child that has been sentenced, the Minister shall certify that institution as a secure residential facility.

(3) The Minister may make rules or Regulations to provide for the management of a secure residential facility including the standards and various types of services to be provided by that facility.

(4) The rules or Regulations made under subsection (3) may also provide for the management, classification and separation of a child on the basis of age and the nature of the offence committed by the child and his or her physical and mental status.

PART V

METHODS OF SECURING ATTENDANCE OF CHILD AT INITIAL INQUIRY

Methods of securing attendance of child.

10. (1) The methods which may be used by a police officer for securing the attendance of a child in conflict with the law, at an initial inquiry, are—

- (a) apprehension;
- (b) summons; or
- (c) a written notice.

(2) Before a police officer uses any of the methods referred to in subsection (1), the police officer shall consult with the Director of Public Prosecutions as to whether or not the matter should be set down for an initial inquiry.

Apprehension.

11. (1) Unless there are compelling reasons justifying an apprehension a child shall not be apprehended for an offence stated in the First Schedule.

(2) A warrant to apprehend issued pursuant to the Criminal Procedure Act in respect of a child shall direct that the child be brought to appear at an initial inquiry.

(3) The police officer on apprehending a child shall promptly notify the parent, or if the parent cannot be found, an appropriate adult.

(4) Where a police officer has notified a parent or an appropriate adult of an apprehension pursuant to subsection (3), the police officer shall inform the child and a parent or appropriate adult in the presence of the child of—

- (a) the nature of the allegation against the child;
- (b) the rights of the child; and
- (c) the immediate procedures to be followed pursuant to this Act and any other relevant law in force in Saint Christopher and Nevis,

in language that the child should be able to understand.

(5) The police officer who has apprehended a child, or any other police officer shall not later than twenty four hours after the apprehension, inform a probation officer of the apprehension in the manner prescribed by the Minister.

(6) If the police officer is unable to inform a probation officer of the apprehension and comply with the requirements of subsection (5), he or she shall submit a written report to the Child Justice Committee at the initial inquiry, in the manner prescribed by the Minister, giving reasons for the non-compliance.

(7) A child who has been apprehended shall, whether an assessment of the child has been effected or not, be taken by a police officer to appear at an initial inquiry within forty eight hours after the apprehension.

(8) The police officer responsible for the investigation of a case with respect to a child shall ensure that the child is assessed pursuant to Part VI, before the commencement of the initial inquiry.

(9) Where a child who is accused of an offence referred to in the First Schedule, has not been released from police custody before appearing at an initial inquiry the police officer who apprehended the child shall provide the Child Justice Committee with a written report, in the manner prescribed by the Minister, giving the reasons why the child is not released.

(10) A police officer shall not apprehend a child under the age of twelve years who is alleged to have committed an offence but—

- (a) shall inform a probation officer of the particulars of the child as may be prescribed; and
- (b) may remove the child to a place of safety if the police officer has reasons to believe that it is necessary to do so for the safety and best interest of the child.

Summons.

12. (1) A summons issued in respect of a child pursuant to the Criminal Procedure Act, shall specify the place, date and time of the initial inquiry.

(2) A copy of the summons relating to the alleged offence by the child shall be served on the parents of the child or an appropriate adult.

(3) A police officer shall—

- (a) not later than twenty-four hours after the service of the summons referred to in subsection (1) inform a probation officer of the serving of the summons in the prescribed manner;
- (b) as soon as is reasonably possible, but prior to the commencement of the initial inquiry, explain the following to the child, in the presence of a parent or appropriate adult—
 - (i) the nature of the allegation against him or her;
 - (ii) the rights of the child; and
 - (iii) the immediate procedures to be followed pursuant to this Act or any other relevant law in force in Saint Christopher and Nevis,in a language that the child should be able to understand.

Written notice.

13. (1) Subject to section 31, a police officer may direct a child to appear at an initial inquiry at a specified time on a specified date and to remain in attendance at the initial inquiry.

(2) Pursuant to subsection (1), a police officer who directs a child, shall also—

- (a) direct the parent or an appropriate adult to bring the child or cause the child to be brought to appear at the initial inquiry; and

- (b) complete and hand to the child and the parent or an appropriate adult, as the case may be, a written notice on which shall be entered the offence in respect of which the initial inquiry will be conducted and the time and place at which the child shall appear.
- (3) A police officer shall—
- (a) when he or she hands the written notice to a child, the parent or an appropriate adult, as the case may be—
 - (i) inform the child, the parent or appropriate adult of the nature of the allegation against the child;
 - (ii) inform the child, the parent or appropriate adult of the rights of the child; and
 - (iii) explain to the child, the parent or appropriate adult the immediate procedures to be followed pursuant to this Act, in a language that the child should be able to understand; and
 - (b) not later than twenty-four hours after handing the written notice to the child, inform a probation officer that he or she has done so.
- (4) A person who fails to comply with a direction issued pursuant to this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding three months.

Uncertainty as to age of person.

14. If a police officer is uncertain as to the age of a person suspected of having committed an offence but has reason to believe that the person is a child, the police officer shall treat the person as a child for the purposes of this Part, subject to the ascertainment of the age of the person at the initial inquiry.

Release of child into care of parent or appropriate adult before initial inquiry.

15. (1) Subject to section 16, a police officer shall release a child who is in detention in police custody and who is accused of an offence referred to in the First Schedule, into the care of the parent or an appropriate adult, before the child appears at the initial inquiry unless—

- (a) exceptional circumstances, as may be prescribed, warrant detention;
 - (b) the parent or an appropriate adult cannot be located or is not available and all reasonable efforts have been made to locate the parent or appropriate adult; or
 - (c) there is a substantial risk that the child may be a danger to any other person or to himself or herself
- (2) Subject to section 16, a police officer may release a child who—
- (a) is accused of an offence referred to in the First Schedule but has not been released pursuant to subsection (1); or
 - (b) is in detention in police custody and who is accused of an offence referred to in the Second Schedule,

into the care of a parent or an appropriate adult on any one or more conditions referred to in subsection (3) and the police officer shall inform the Director of Public Prosecutions of his or her decision under this subsection.

(3) A child may be released pursuant to subsection (2) on condition that the child—

- (a) appears at a specified place and time for assessment;
- (b) does not interfere with a witness, tamper with evidence or associate with a person or group of specified people; and
- (c) resides at a particular address;
- (d) complies with any terms or conditions that the court or Director of Prosecutions may order.

Director of Public Prosecutions may authorise the release of child.

16. (1) Notwithstanding section 15, the Director of Public Prosecutions may, authorise the release of a child from detention in police custody into the care of the parent or an appropriate adult on any of the conditions referred to in section 15(3).

(2) If a release is authorised under subsection (1), the written notice referred to in section 17, shall be handed to the child and to the person into whose care the child is released.

Duty of police officer and person into whose care the child is released.

17. (1) A police officer who releases a child from detention in accordance with section 15 or who releases a child on the direction of the Director of Public Prosecutions in accordance with section 16, and places the child in the care of a parent or an appropriate adult, shall—

- (a) at the time of release of the child, complete and hand to the child and to the person into whose care the child is released, a written notice in the prescribed form on which shall be entered the offence in respect of which the child is being accused, any conditions relating to the release of the child and the place, date and time at which the child shall appear for the initial inquiry;
- (b) direct a parent or appropriate adult to bring the child or cause the child to be brought to appear at the initial inquiry at a specified place, date and time and to remain in attendance and, if any of the conditions referred to in paragraph (a) have been imposed, to ensure that the child complies with the said conditions; and
- (c) direct the child to appear at the initial inquiry at a specified place, date and time and to remain in attendance and, if any of the conditions referred to in paragraph (a) have been imposed, to comply with those conditions.

(2) A person who fails to comply with a notice issued pursuant to section 17(1)(a) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding three months.

Release of child on recognisance prior to initial inquiry.

18. (1) If a child is taken into police custody with or without a warrant, and cannot be brought forthwith before the Child Justice Committee, the police officer in charge of a police station to which the child is brought shall inquire into the matter and shall in any case—

- (a) unless the child is accused of an offence referred to in the Third Schedule;
- (b) unless it is necessary in the best interest of the child to remove him or her from association with any undesirable person; or
- (c) unless the police officer has reason to believe that the release of the child would defeat the ends of justice,

release the child on recognisance, with or without sureties, for such an amount as will, in the opinion of the officer, secure the attendance of the child at the initial inquiry.

(2) The recognisance provided pursuant to subsection (1) may require the attendance at the initial inquiry of the parent or the appropriate adult and the child.

(3) The provisions of the Bail Act shall apply in relation to bail for children in conflict with the law.

(4) The Director of Public Prosecutions may, in consultation with the police officer charged with an investigation, authorise the release of a child accused of an offence referred to in the Second Schedule on recognisance prior to the appearance of the child at the initial inquiry, subject to reasonable conditions if the release of the child into the care of a parent or an appropriate adult is deemed appropriate.

(5) Where a child is released under this section, a probation officer may monitor the child in a manner prescribed.

Child accused of certain offences not to be released from detention.

19. Subject to section 3(3) and 20, a police officer shall not release a child accused of an offence referred to in the Third Schedule from detention in police custody.

Detention in place of safety.

20. If a child cannot for any reason be released—

- (a) into the care of a parent or an appropriate adult; or
- (b) on recognizance,

the child may be detained in a place of safety.

Report of injury sustained by child.

21. (1) If a child in detention in police custody complains of an injury sustained during apprehension or otherwise, whilst in detention, the police officer to whom such complaint is made shall report the complaint to the police officer in charge of the police station where the child was apprehended, and the police officer in charge of the police station shall delegate a police officer to take the child to a medical doctor for examination as soon as is reasonably possible.

(2) The report of the medical doctor shall be included in the appropriate police file.

Register of children in detention in police custody.

22. (1) The police officer in charge of a police station shall keep a register in which prescribed details regarding the detention in police custody of all children shall be recorded.

(2) The register referred to in subsection (1) may be examined by such persons as may be prescribed.

PART VI

ASSESSMENT OF A CHILD

Duty of probation officer to assess child.

23. Subject to subsections 11(5) and 11(8), a probation officer who receives notification from a police officer pursuant to Part V that a child has been apprehended, served with a summons or issued with a written notice, shall assess the child in a place that is conducive to privacy before the child appears at the initial inquiry relating to that child.

Persons to attend assessment.

24. (1) Subject to section 25(2) and (3), the parent or an appropriate adult shall attend the assessment of the child.

(2) A child shall be present at his or her assessment.

(3) The following persons may attend the assessment of a child—

(a) the Director of Public Prosecutions;

(b) the attorney-at-law representing the child;

(c) a police officer; and

(d) any other person permitted by the probation officer to attend.

Powers and duties of probation officer prior to assessment.

25. (1) A probation officer shall within a reasonable time, not exceeding forty-eight hours, before the assessment of a child issue a notice in the prescribed form to the parent or an appropriate adult to appear at the assessment.

(2) A notice issued pursuant to subsection (1) shall be delivered by a police officer on the request of the probation officer in the prescribed manner.

(3) A person notified pursuant to subsection (1) may apply to the probation officer for permission to be absent or excluded from the assessment, and if the probation officer grants such permission, the permission shall be in writing.

(4) A probation officer may in the prescribed manner, request a police officer to—

(a) obtain any documentation required for the completion of the assessment of a child;

(b) locate the parent of a child or an appropriate adult; and

(c) provide transport, in order to secure the attendance of the assessment, for the child and his or her parent or appropriate adult.

(5) A probation officer shall make every effort to locate a parent or an appropriate adult for the purposes of concluding the assessment of a child.

(6) If all reasonable efforts to locate a parent or an appropriate adult have failed, the probation officer shall conclude the assessment in the absence of such

persons and the probation officer shall record his or her efforts to locate either the parent or appropriate adult.

Powers and duties of probation officer at assessment.

26. (1) A probation officer shall—
- (a) explain the purpose of the assessment to—
 - (i) the child; and
 - (ii) parent or an appropriate adult;
 - (b) inform the child of his or her rights in the prescribed manner;
 - (c) explain the procedures to be followed under this Act to—
 - (i) the child; and
 - (ii) the parent or an appropriate adult; and
 - (d) inquire from the child whether he or she intends to acknowledge responsibility for the offence in question,
- in a language that the child should be able to understand.
- (2) The probation officer, shall, at any stage during the assessment—
- (a) consult individually with any person who may have information relating to an assessment and who is at the assessment;
 - (b) contact or consult any person who is not present at the assessment and who may have information relating to an assessment and if such information is obtained, the child shall be informed of the information, in a language that the child should be able to understand;
 - (c) make a determination on the need for further assessment by a counsellor or psychologist or other professional, pursuant to section 5(5)(f).
- (3) Where a child is accused with another child, the probation officer may conduct the assessment of the children simultaneously.
- (4) The probation officer shall—
- (a) encourage participation of the child during the assessment process;
 - (b) complete an assessment report at the end of an assessment in the prescribed manner and shall provide recommendations with respect to—
 - (i) the prospects of diversion;
 - (ii) the possible release of the child into the care of a parent or an appropriate adult, if the child is in detention; or
 - (iii) the placement, where applicable, of the child in a particular place of safety or an assessment centre.
- (5) If it appears to the probation officer that the child does not intend to acknowledge responsibility for the alleged offence, this shall be indicated in the assessment report.
- (6) The probation officer shall submit the report referred to in subsection (4) (b) to the Director of Public Prosecutions prior to the commencement of the initial inquiry undertaken pursuant to Part VII.

PART VII

INITIAL INQUIRY AND DIVERSION

Nature and objectives of initial inquiry.

27. (1) An initial inquiry shall be held in respect of a child after an assessment pursuant to Part VI.

(2) The appearance of a child at an initial inquiry before the Child Justice Committee shall be the equivalent of a first appearance before a court as contemplated under the Criminal Procedure Act.

(3) The objectives of an initial inquiry are to—

- (a) provide an opportunity for the Director of Public Prosecutions to assess whether there are sufficient grounds for the matter to proceed to trial;
- (b) establish whether the matter can be diverted before a trial;
- (c) identify a suitable diversion option, where applicable;
- (d) ensure that all available information relevant to the child, his or her circumstances and the offence is considered in order to make a decision on diversion and placement of the child;
- (e) ensure that the views of all persons present are considered before a decision is taken by the Child Justice Committee;
- (f) encourage the participation of the child and his or her parent or an appropriate adult in decisions concerning the child; and
- (g) determine the release or placement of the child pending—
 - (i) conclusion of the initial inquiry; or
 - (ii) appearance of the child in Court.

(4) An initial inquiry shall be held in such place as the Child Justice Committee may determine having regard to privacy and confidentiality.

(5) The Child Justice Committee shall conduct the proceedings in an informal manner by asking questions, interviewing persons at the initial inquiry and using other lawful methods to obtaining information.

Persons to attend initial inquiry.

28. (1) The following persons shall attend an initial inquiry—

- (a) the child;
- (b) the parent or an appropriate adult;
- (c) the probation officer who conducted the assessment of the child;
- (d) the Director of Public Prosecutions; and
- (e) any other person as may be considered necessary by the Child Justice Committee.

(2) The Child Justice Committee may exclude the parent or an appropriate adult from attending the initial inquiry if their presence at the initial inquiry is not in the best interest of the child.

(3) If an initial inquiry proceeds in the absence of the probation officer who conducted the assessment of the child, the assessment report shall be made available at the initial inquiry unless the assessment has been dispensed with pursuant to section 30(3).

(4) The following persons may attend an initial inquiry—

- (a) the attorney-at law representing the child;
- (b) a police officer; and
- (c) any other suitable person as may be permitted by the Child Justice Committee.

Procedure relating to initial inquiry.

29. (1) At the commencement of an initial inquiry the Child Justice Committee shall—

- (a) determine the age of the child;
- (b) in the prescribed manner—
 - (i) explain the purposes of the initial inquiry to the child;
 - (ii) inform the child of the nature of the allegation against him or her;
 - (iii) inform the child of his or her rights; and
 - (iv) explain to the child the immediate procedures to be followed under this Act.

(2) The Director of Public Prosecutions shall ensure that the Child Justice Committee has a copy of the assessment report prepared pursuant to section 26(4)(b), if available.

(3) A person attending an initial inquiry may submit to the Child Justice Committee information regarding a previous diversion or conviction of the child concerned.

(4) A child, the attorney-at-law representing the child, the parent, an appropriate adult, the Director of Public Prosecutions shall be given an opportunity to question the probation officer who prepared the assessment report on the child or any other person giving evidence at the initial inquiry.

(5) If the child in respect of whom an initial inquiry is being conducted, is a co-accused with one or more children, a joint initial inquiry may be held.

(6) Where a joint initial inquiry is held pursuant to subsection (5), different decisions may be made in respect of each child.

(7) If a child does not acknowledge responsibility for the offence with which he or she is being charged, no further questions regarding the offence may be put to the child and the Director of Public Prosecutions may set the matter down for trial in the Court.

(8) The Child Justice Committee shall keep a record of all proceedings relating to an initial inquiry.

Powers and duties of the Child Justice Committee with respect to an initial inquiry.

30. (1) The Child Justice Committee shall conduct all initial inquiries pursuant to this Part relating to a child in conflict with the law.

- (2) The Child Justice Committee may—
- (a) subpoena or cause to be subpoenaed any person whose presence is necessary for the conclusion of an initial inquiry;
 - (b) permit the attendance of any other person who may be able to contribute to the initial inquiry;
 - (c) request any further documentation or information which may be necessary or relevant to the initial inquiry;
 - (d) after consideration of the information contained in an assessment report, elicit any information from any person attending the initial inquiry to supplement or clarify the information in the assessment report;
 - (e) take such steps as may be necessary to establish the truth of any statement or the correctness of any submission; and
 - (f) where the conduct of the proceedings of the initial inquiry or any aspect of it is in dispute, rule on the conduct of the initial inquiry in a manner consistent with this Act.

(3) Notwithstanding section 27(1), if a child has not been assessed at the commencement of the initial inquiry, the Child Justice Committee may dispense with the assessment if it is in the best interests of the child to do so.

(4) The Child Justice Committee shall ensure that the child, the attorney-at-law representing the child, the parent or an appropriate adult—

- (a) know of the recommendations in the report prepared by the probation officer; and
- (b) are informed of any diversion option and the aims and content of such option,

in a language that the child should be able to understand.

(5) If the probation officer is present at the initial inquiry, the Child Justice Committee may request him or her to explain, elaborate upon or justify any recommendation or statement made in the assessment report, and provide additional information.

(6) The Child Justice Committee shall consider the reports regarding the apprehension of the child and the detention in police custody provided by the police officer who apprehended the child.

Failure to appear at initial inquiry.

31. (1) A child or his or her parent or an appropriate adult, who has been directed to appear at an initial inquiry by a police officer pursuant to section 13 and who fails to do so, commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding three months.

(2) Subsection (1) shall apply with the changes required by the context and subject to sections 61 and 62 to a child who has been released in the care of his or her parent or an appropriate adult and who fails to comply with the direction contained in the written notice referred to in section 13 or with any condition imposed pursuant to section 15(3).

Release of child at initial inquiry and on recognisance or bail.

32. (1) The Child Justice Committee shall release a child who is in detention, into the care of the parent or an appropriate adult if—

- (a) the initial inquiry is not disposed of at the first appearance of the child before the Child Justice Committee; and
- (b) it is in the interest of justice to so release the child.

(2) In considering whether or not it would be in the interest of justice to release a child into the care of the parent or an appropriate adult, the Child Justice Committee shall have regard to the recommendation made by the probation officer and any other relevant factors, including—

- (a) the best interests of the child;
- (b) whether the child has any previous convictions;
- (c) the availability of the parent or an appropriate adult;
- (d) the likelihood of the child returning to the initial inquiry for a further appearance;
- (e) the period for which the child has already been in detention since apprehension;
- (f) the imposition of a curfew on release;
- (g) the probable period of detention of the child until conclusion of the initial inquiry;
- (h) the risk that the child may be a danger to himself or herself or to any other person;
- (i) the state of health of the child;
- (j) the reason for any delay in the disposal or conclusion of the initial inquiry and whether such delay was due to any fault on the part of the State or on the part of the child or his or her attorney-at-law;
- (k) whether detention would prejudice the child in the preparation of his or her case;
- (l) the likelihood that, if the child is found guilty of the offence he or she will be detained for a substantial period;
- (m) the fact that the child is twelve years and presumed to lack criminal responsibility; and
- (n) the receipt of a written confirmation by the Director of Public Prosecutions that he or she intends to charge the child with an offence referred to in the Third Schedule.

(3) The Child Justice Committee may in releasing a child pursuant to subsection (1) require the child—

- (a) to appear before the Child Justice Committee at a specified place and time;
- (b) to report periodically to a specified person or place;
- (c) to attend a particular school;
- (d) to reside at a particular address;

- (e) to be placed under the supervision of a specified person; or
- (f) not to interfere with a witness, tamper with any evidence or associate with any person or group of specified persons.

(4) If the Child Justice Committee releases a child into the care of a parent or an appropriate adult, the Child Justice Committee shall direct the parent or the appropriate adult, as the case may be, to bring the child or ensure that the child appears at a specified time and place and, if a condition has been imposed pursuant to this section, to ensure that the child complies with the condition.

(5) A parent or an appropriate adult into whose care a child is placed who fails to comply with a direction issued under subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding three months.

(6) If a child has been released into the care of his or her parent or an appropriate adult and the child fails to comply with a condition imposed pursuant to subsection (3) the Child Justice Committee may direct that the child be detained in a place of safety.

(7) The Child Justice Committee may, after consideration of the facts release a child on bail or recognisance having regard to the factors referred to in subsection (2) and subject to one or more of the conditions referred to in subsection (3).

Detention of child after first appearance before the Child Justice Committee.

33. (1) The Child Justice Committee may direct the detention of a child in a place of safety if—

- (a) the proceedings of the initial inquiry are postponed pursuant to section 34 or
- (b) the release of the child into the care of his or her parent or an appropriate adult is for any reason not possible; or
- (c) the child is to appear for trial pursuant to section 43.

(2) The Child Justice Committee shall have regard to the recommendations made by the probation officer when deciding where to place the child pursuant to subsection (1).

(3) If a place of safety is not available, the child shall be detained in a detention facility at the police station that is suitable for the detention of children and provide for children to be detained separately from adults and for female children to be separate from male children.

(4) A child of fourteen years or older who is charged with an offence referred to in the Third Schedule shall be detained in a correctional facility if the Child Justice Committee feels there is a substantial risk that the child may cause harm to other children in a place of safety.

(5) Where the Child Justice Committee issues a direction that a child be detained in correctional facility, the Child Justice Committee shall record the reasons for issuing such a direction.

(6) If the Child Justice Committee issues a direction for the detention of a child pursuant to subsection (1)(c), the child shall appear before the Child Justice Committee at a time and place to be determined by the Child Justice Committee.

(7) Where a child appears before the Child Justice Committee pursuant to subsection (6), the Child Justice Committee shall—

- (a) determine whether or not the detention remains necessary;
- (b) if ordering further detention of the child, record the reasons for its decision;
- (c) consider a reduction of the amount of bail or recognisance, if applicable;
- (d) inquire whether or not the child is being properly treated and kept under suitable conditions; and
- (e) if satisfied that the child is not properly treated and kept under suitable conditions, inspect and investigate the treatment and conditions and make appropriate remedial recommendation to the Minister.

Postponement of initial inquiry.

34. (1) The Child Justice Committee may postpone the proceedings of an initial inquiry for a period not exceeding fourteen days for the purposes of—

- (a) securing the attendance of a person necessary for the conclusion of the initial inquiry;
- (b) obtaining information necessary for the conclusion of the initial inquiry;
- (c) establishing the attitude of the victim regarding diversion;
- (d) the planning of a diversion option;
- (e) finding alternatives to pre-trial residential detention;
- (f) assessing the child, where no assessment has previously been undertaken and it is found that assessment may not be dispensed with;
- (g) noting a confession;
- (h) noting an admission;
- (i) holding of an identity parade;
- (j) securing an attorney-at-law to represent the child; or
- (k) any other matter which the Child Justice Committee deems necessary.

(2) If the proceedings of an initial inquiry is postponed pursuant to subsection (1) (g), (h) or (i), the Child Justice Committee shall inform the child of his or her right to have his or her parent or an appropriate adult present during the proceedings.

(3) Subject to section 35, the Director of Public Prosecutions shall set the matter down for trial in the Court, if the initial inquiry is not concluded within the period specified in subsection (1).

Postponement of initial inquiry for detailed assessment.

35. (1) Notwithstanding section 34, the Child Justice Committee may postpone the proceedings of an initial inquiry for a period not exceeding seven days if there are exceptional circumstances warranting a further assessment of the child, and if these circumstances relate to—

- (a) the possibility that the child may be a danger to others or to himself or herself;
- (b) the fact that the child has a history of repeatedly committing offences or abscondment;

- (c) the social welfare history of the child;
- (d) the possible admission of the child to a sexual offender's programme, substance abuse programme, therapeutic treatment programme or other intensive programme; or
- (e) the possibility that the child may be a victim of sexual or other abuse.

(2) A detailed assessment shall be conducted in the home of the child, unless this is not in the best interests of the child, or is impossible, in which case the assessment may be conducted at a place of safety or an assessment centre.

Decision regarding diversion.

36. (1) The Child Justice Committee shall ascertain whether a matter before it may be diverted after consideration of the following—

- (a) any recommendations made by the Director of Public Prosecutions ;
- (b) the assessment report, unless this has been dispensed with pursuant to section 30(3);
- (c) the views of all persons present at the initial inquiry and any information provided by such persons;
- (d) any information requested pursuant to section 30(2)(c); and
- (e) the willingness of the child to acknowledge responsibility for the offence.

(2) If the Child Justice Committee decides that the matter may be diverted, the Child Justice Committee shall issue a direction for diversion in the prescribed manner in respect of the child concerned.

(3) In addition to the diversion options in section 39, the Child Justice Committee may, after consultation with the persons present at the initial inquiry, develop an individual diversion option which meets the purposes of and standards applicable to the diversion set out in that section.

Purposes of diversion.

37. (1) The purposes of diversion are to—

- (a) encourage the child to be accountable for the harm which he or she has caused;
- (b) meet the particular needs of the child;
- (c) promote the reintegration of the child into the family and the community;
- (d) provide an opportunity to those affected by the harm caused by the child to express their views on its impact on them;
- (e) encourage the rendering to the victim of some symbolic benefit or the delivery of some object as compensation for the harm caused by the child;
- (f) promote the reconciliation between the child and the person or community affected by the harm caused by the child;
- (g) prevent stigmatisation of the child and any other adverse consequences from the child having been subject to the criminal justice system; and

- (h) prevent the child from having a criminal record.

Child to be considered for diversion under certain circumstances.

38. A child shall be considered for diversion if—

- (a) the child and his or her parent or an appropriate adult, consent to the diversion and the diversion option;
- (b) the child understands his or her right to remain silent and has not been unduly influenced to acknowledge responsibility for an alleged act or omission; and'
- (c) there is sufficient evidence to prosecute the child.

Levels of diversion options.

39. (1) At the initial inquiry, the Child Justice Committee, in directing a diversion option in respect of a child, may direct a level one, level two or level three diversion option and in selecting the level that is appropriate for the child, the Child Justice Committee shall consider—

- (a) the background of the child;
 - (b) the educational level, cognitive ability and the environmental circumstances of the child;
 - (c) the proportionality of the option recommended or selected in respect of the circumstances of the child;
 - (d) the nature of the offence and the interests of the community or society; and
 - (e) the age and developmental needs of the child.
- (2) A level one diversion option referred to in subsection (1) includes—
- (a) an oral or written apology to a specified person or institution;
 - (b) a formal caution in the prescribed form with or without conditions;
 - (c) placement under a supervision and guidance order in the prescribed form for a period not exceeding six months;
 - (d) placement under a reporting order in the prescribed form;
 - (e) the issue of a compulsory school attendance order in the prescribed form for a period not exceeding six months;
 - (f) the issue of a positive peer association order, requiring a child to associate with a person whom the probation officer has reason to believe can contribute to the positive behaviour of the child, in the prescribed manner in respect of a specified person in a specified place for a period not exceeding six months;
 - (g) the issue of a family time order in the prescribed form for a period not exceeding six months;
 - (h) the issue of a good behaviour order in the prescribed form;
 - (i) the issue of an order prohibiting the child from visiting, frequenting or appearing at a specified place in the prescribed form;
 - (j) referral to counselling or therapy for a period not exceeding six months;

- (k) compulsory attendance at a specified place for a specified vocational or educational purpose for a period not exceeding five hours each week, for a maximum of six months;
 - (l) symbolic compensation to a specified person or an institution; and
 - (m) restitution of a specified object to a specified victim of an alleged offence where the object concerned may be returned or restored.
- (3) A level two diversion option referred to in subsection (1) includes—
- (a) the options referred to in subsection (2) except that the maximum periods referred to in that subsection shall for the purposes of this subsection be nine months;
 - (b) compulsory attendance at a specified vocational or educational institution purpose for a period not exceeding eight hours each week, for a maximum of nine months;
 - (c) performance of some service without remuneration for the benefit of the community under the supervision or control of an organisation or institution, or a specified person or group identified by a probation officer effecting the assessment, for a maximum period of fifty hours, and to be completed within a maximum period of nine months;
 - (d) provision of some service or benefit to a specified victim in an amount which the family of the child is able to afford;
 - (e) where there is no identifiable person to whom restitution or compensation may be made, provision of some service or benefit or payment of compensation to an organisation, charity or welfare organisation for the benefit of the community.
- (4) A level three diversion option referred to in subsection (1) includes—
- (a) referral to a programme which does not exceed twelve months and which has a residential element that shall not exceed thirty five days in total and twenty one consecutive days during the operation of the programme;
 - (b) performance of some service without remuneration for the benefit of the community under the supervision and control of an organisation or institution, or a specified group of persons, identified by a probation officer and for a period of two hundred and fifty hours which shall be completed within one year and no more than thirty five hours per week;
 - (c) where the child is not attending formal schooling, compulsory attendance at a specified place for a specified vocational or educational purpose for a period not exceeding twelve months and no more than thirty five hours per week; and
 - (d) referral to counselling or therapeutic intervention in conjunction with any of the options listed in this subsection.
- (5) A level three diversion option shall apply to a child over the age of fourteen years in cases where the relevant law under which the offence is committed imposes a sentence of detention for a period not exceeding twelve months.
- (6) On the selection of a diversion option, the Child Justice Committee or the Court shall designate a probation officer or other suitable person to monitor the compliance of the child with the selected diversion option and in the event of a child

failing to comply with any condition of the diversion option, the probation officer or specified person shall notify the Child Justice Committee or the Court of such failure.

(7) The types of offences to which level one diversion options, level two diversion options or level three diversion options apply are set out in the Fourth Schedule and the diversion options would also apply to similar offences to those set out in the Fourth Schedule.

Minimum standards applicable to diversion and diversion options.

40. (1) A child may be required to perform community services as an element of diversion, with due consideration to the age and development of the child.

(2) A diversion option shall—

- (a) promote the dignity and well-being of the child, and the development of his or her sense of self-worth and ability to contribute to his or her community and society;
- (b) not be exploitative, harmful or hazardous to the physical or mental health of the child;
- (c) be appropriate to the age and maturity of the child; and
- (d) not interfere with the education or schooling of the child.

(3) A diversion option presented to the Minister by a government department, an agency or a non-governmental organisation, which meets the requirements of subsection (1), and which has a predetermined content and duration and which involves a service to children on a regular basis may be registered by the Minister in the prescribed manner.

(4) The Director shall keep a register in the prescribed manner of all children who have been subjected to diversion.

Failure to comply with diversion direction.

41. (1) If a child fails to comply with a diversion direction, the Child Justice Committee shall on being notified of such failure in the prescribed manner, issue a warrant for the apprehension of the child or a written notice to the child to appear before the Child Justice Committee.

(2) If a child appears before the Child Justice Committee pursuant to subsection (1), the Child Justice Committee shall inquire into the reasons for the failure of the child to comply with the diversion direction and unless the Director of Public Prosecutions decides to proceed with the prosecution of the child concerned, the Child Justice Committee may, after consideration of the views of any person who may have information relating to the initial inquiry—

- (a) apply the same option with altered conditions;
- (b) apply any other diversion option; or
- (c) issue an appropriate direction that will assist the child and his or her family to comply with the diversion option initially applied.

(3) If the Director of Public Prosecutions decides to proceed with the prosecution of the matter, then the matter shall be set down for trial in the Court and section 44 shall apply with the necessary changes required by the context.

Development of diversion options.

42. The Minister on consultation with the Child Justice Committee and the Director may develop any other suitable diversion options as contemplated in this Part.

Referral of matter to the Director.

43. (1) If it appears during proceedings at an initial inquiry that a child is in need of care and protection under the Children (Care and Adoption) Act, and that it is desirable to deal with the child under the provisions of that Act, the Child Justice Committee shall stop the proceedings and transfer the matter to the Director to be dealt with in accordance with the Children (Care and Adoption) Act.

(2) Referral of a matter to the Director shall be considered by the Child Justice Committee if a child—

- (a) has previously been assessed on more than one occasion with regard to minor offences that were committed to meet the basic need of the child for food and warmth and in the initial inquiry in question it is again alleged that the child has committed such offences;
- (b) is allegedly abusing dependence-producing substances; or
- (c) does not live at his or her family home or in an appropriate child care service and is alleged to have committed a minor offence, the purpose of which was to meet the basic need of the child for food and warmth.

Procedure upon referral of matter for trial.

44. (1) If diversion has not taken place and the matter has not been transferred to the Director pursuant to section 43 on the conclusion of the initial inquiry, the Director of Public Prosecutions shall inform the Child Justice Committee of the place, date and time when the child shall appear for trial in the Court.

(2) The Child Justice Committee shall, if the child is not represented by an attorney at law, explain to the child and the parent or an appropriate adult, as the case may be, the provisions of Part X regarding legal representation.

(3) If a child is in detention, the Child Justice Committee shall inform the child of the place, date and time of his or her appearance in Court and shall direct the parent or an appropriate adult to attend the proceedings at the specified time and place.

(4) If a child is not in detention, the Child Justice Committee may alter or extend any condition imposed under section 15(3) or section 32(3), and shall direct the child and his or her parent or appropriate adult, to appear in Court at a specified place, date and time.

PART VIII

COURT PROCEEDINGS

Conduct of proceedings relating to child in Court.

45. (1) At the commencement of the proceedings in the Court shall in the prescribed manner—

- (a) inform the child of the nature of the allegations against him or her;

- (b) inform the child of his or her rights; and
- (c) explain to the child the procedures to be followed pursuant to this Act and the Criminal Procedure Act.

(2) The proceedings in the Court shall, with due regard to the procedural rights of the child, be conducted in an informal manner in order to encourage maximum participation by the child and his or her parents or an appropriate adult.

(3) If a child refuses to have his or her parent or an appropriate adult present at the proceedings referred to in subsections (1) and (2), or where a parent of a child or an appropriate adult is not present or cannot be traced and an attorney-at-law is not available, the police officer in charge of the investigation relating to the child, shall request a person to act as an independent observer and such independent observer shall be present at the proceedings.

(4) The Judge/Magistrate shall protect a child from hostile cross examination where such cross examination is prejudicial to the well-being of the child or to the fairness of the proceedings.

Admissibility of certain evidence.

46. (1) Evidence obtained as a result of a confession, or an admission that is admissible pursuant to the Criminal Procedure Act shall only be admissible as evidence in the Court if the parent or an appropriate adult or the attorney-at-law representing the child was present when the confession or the admission was made.

(2) Subsection (1) shall also apply in cases where an identity parade has taken place.

Treatment of child at Court.

47. (1) A child shall not be subjected to the wearing of leg irons when appearing in the Court, and handcuffs may only be used where there are exceptional circumstances warranting their use.

(2) A child held in a cell at the police station or a Court shall be kept separate from adults and shall be treated in a manner and kept in conditions which take into account the age of the child.

(3) A female child shall be kept separate from a male child.

(4) Where a child is transported to and from Court he or she shall, be transported separate from adults.

(5) The Commissioner of Police shall issue directives in the treatment and conditions of children while in detention at Court.

Establishment of criminal responsibility.

48. (1) The criminal responsibility of a child over the age of twelve years but under the age of fourteen years shall be proved by the State beyond reasonable doubt.

(2) The Director of Public Prosecutions or the designated prosecutor or the attorney-at-law representing the child may request the Court to order an evaluation of the child by a suitably qualified person to be conducted at the expense of the State.

(3) If an order has been made by the Court pursuant to subsection (2), the person identified to conduct an evaluation of the child shall furnish the Court with a written report of the evaluation within thirty days of the date of the order.

(4) The evaluation shall include an assessment of the cognitive, emotional, psychological and social development of the child.

(5) The person who conducts the evaluation may be called to attend the Court proceedings and to give evidence and, if called, shall be remunerated by the State.

Separation and joinder of trials involving child and adult.

49. (1) Where a child and an adult are alleged to have committed the same offence, they are to be tried separately unless it is in the interest of justice to join the trials.

(2) An application for such joinder shall be made to the Court and the child shall appear after notice is given to him or her in the prescribed manner.

(3) If the Court grants an application for joinder of trials, the matter shall be transferred to the Criminal Court.

(4) The Criminal Court shall afford the child concerned all such benefits conferred on the child under this Act.

Time limits relating to conclusion of trials.

50. (1) The Court shall conclude the trial of an accused child as speedily as possible and shall ensure that postponements are limited in number and duration.

(2) Sections 32 and 35, shall apply, with the necessary changes required by the context to the Court where the child appearing in the Court for the first time is in detention.

(3) Where a child remains in detention and the trial of the child is not concluded within six months from the date on which the child has pleaded to the charge, the child shall be released from detention, unless he or she is charged with an offence listed under item 1, 2 or 3 of the Third Schedule.

Court may divert matter.

51. (1) If at any time before the conclusion of a case for the prosecution it comes to the attention of the Court that a child acknowledges or intends to acknowledge responsibility for an alleged offence, the Court may make an order for diversion in respect of the child if the Director of Public Prosecutions indicates that the matter may be diverted.

(2) Sections 36 to 42 shall apply with the changes required by the context if the Court makes an order for diversion.

(3) Where the Court makes an order for diversion, it shall postpone the proceedings pending the compliance of the child with the diversion order.

(4) The Court shall, on receipt of a report from a probation officer that a child has successfully complied with a diversion order, acquit the child of all charges in question.

(5) An acquittal of the child may be made in the absence of the child.

(6) If a child fails to comply with a diversion order, section 41 shall apply with the necessary changes required by the context.

Privacy and confidentiality.

52. A person shall not be present at a sitting of the Court in a matter relating to a child unless the presence of the person is necessary in connection with the proceedings of the Court or unless the judge has granted the person permission to be present.

Power to prohibit publication of certain matters.

53. (1) A person shall not publish any information which reveals or may reveal the identity of a child or of any witness under the age of eighteen appearing at any proceedings before the Court.

(2) Subject to subsection (3), a probation officer, pursuant to this section, shall not preclude—

- (a) access to information pertaining to a child if such access would be in the interests, safety or welfare of the child;
- (b) the publication, in the form of a law report, of—
 - (i) information for the purpose or reporting any question of law relating to the proceedings in question; or
 - (ii) any decision or ruling given by the Court on such a question; or
- (c) the publication, in the form of any report of a professional or technical nature, of research results and statistical data pertaining to a child if such publication would be in the interests, safety or welfare of the child or children in general.

(3) The reports referred to in subsection (2)(b) and (c) shall not mention the name of the person charged or the person against whom or in connection with whom the offence in question is alleged to have been committed or any witness at such proceedings, and shall not mention the place where the offence in question was alleged to have been committed.

(4) Subject to subsection (5), in relation to any proceedings in any court—

- (a) no newspaper report or radio broadcast of the proceedings shall reveal the name, address or school, or include any particulars calculated to lead to the identification of any child either as being the person by or against or in respect of whom the proceedings are taken, or as being a witness in the proceedings;
- (b) no picture shall be published in any manner as being, or including a picture of, any child so concerned in the proceedings.

(5) The Court may, in any case, if satisfied that it is in the interests of justice or the public to do so, by order dispense with the requirements of this subsection to such extent as may be specified in the order.

(6) A person who publishes or broadcasts by any electronic or other media any matter in contravention of this section, commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding six months.

PART IX

SENTENCING OF CHILD

Child to be sentenced in accordance with this Part.

54. The Court shall, after a finding of guilt in relation to a child, impose a sentence on the child in accordance with this Part.

Pre-sentence reports.

55. (1) The Court shall request a pre-sentence report prepared by a probation officer prior to the imposition of sentence on a child.

(2) Pursuant to subsection (1), the probation officer shall complete the report as soon as possible, but no later than one calendar month following the date upon which such report was requested.

(3) Where the Court imposes a sentence other than that recommended in the pre-sentence report it shall record the reason for the imposition of a different sentence.

(4) The Court may dispense with a pre-sentence report where a child is convicted for an offence referred to in the First Schedule, or where requiring such a report would cause undue delay in the conclusion of the case to prejudice the child, but the Court shall not impose a sentence with a residential requirement unless a pre-sentence report has been placed before the Court.

(5) For the purposes of subsection (4), “a sentence with a residential requirement” includes a sentence where the residential requirement is suspended.

(6) Where a Court imposes a sentence involving detention in a secure residential facility, the Court shall certify on the warrant of detention that a pre-sentence report has been placed before the Court prior to the imposition of the sentence.

Purposes of sentencing.

56. The purposes of sentencing pursuant to this Act are to—

- (a) encourage the child to understand the implications of and be accountable for the harm caused;
- (b) promote an individualised response which is appropriate to the circumstances of the child and proportionate to the circumstances surrounding the offence;
- (c) promote the reintegration of the child into the family and community;
and
- (d) ensure that any necessary supervision, guidance, treatment or services which form part of the sentence, assist the child in the process of reintegration.

Community based sentences.

57. (1) The Court may impose as a requirement in relation to a penalty for an offence that the child is sentenced to imprisonment for an initial period and thereafter is required to serve the remainder of the sentence providing a service in the community.

(2) A sentence which allows a child to remain in the community and which may be imposed pursuant to this Act includes—

- (a) any of the options referred to in section 39(3)(a), (b), (c), (d) or (e);
- (b) placement under a supervision and guidance order in the prescribed form for a period not exceeding three years;
- (c) in cases that warrant such specialised intervention, referral to counselling or therapy in conjunction with any of the options listed in this section for a period of time as the Court considers fit;
- (d) where the child is over the age of compulsory school attendance, and is not attending formal schooling, compulsory attendance at a specified centre or place for a specified vocational or educational purpose, for a period not exceeding one year and for no more than thirty five hours per week;
- (e) performance of some service without remuneration for the benefit of the community under the supervision or control of a specified person or institution identified by the Court for a maximum period of two hundred and fifty hours and which shall be completed in one year; and
- (f) any other sentence, subject to section 63, which is appropriate to the circumstances of the child and in keeping with the principles of this Act and which, if it includes a period of time, shall not exceed twelve months.

(3) Before a child from the age of twelve to fourteen is sentenced pursuant to subsection (2)(e), due consideration shall be given to the age, development and compulsory school attendance of the child.

Restorative justice sentences.

58. (1) Where the Court makes a determination of guilt with respect to a child, the Court may refer the matter to a family group conference for a written recommendation.

(2) Section 59 shall apply where the Court has referred a matter to a family group conference.

(3) On receipt of the written recommendation from a family group conference, the Court shall—

- (a) confirm the recommendation by making it an order of the Court; or
- (b) substitute or amend the recommendation and make it an appropriate order.

(4) If the Court does not agree to the terms of the plan made at a family group conference, and imposes a sentence that is different in a material respect from that agreed to or decided upon at the family group conference, the Court shall note the reasons for deviating from the plan on the record of the proceedings.

(5) Where a child who has been sentenced in accordance with an order arising from a family group conference fails to comply with that order, the probation officer shall notify the Court of the failure as soon as possible and the Court shall issue a warrant for the apprehension of the child, and where the child appears before the Court pursuant to such warrant, the Court shall impose an appropriate sentence on the child.

Family group conference.

59. (1) If a child has been referred to appear at a family group conference pursuant to section 58, a case manager or a probation officer shall be appointed by the Child Justice Committee to conduct the family group conference and he or she shall within fourteen days, but not later than twenty one days after such appointment, convene the family group conference by setting the time and place for such conference, and taking all necessary steps to ensure that all persons who are to attend the conference are adequately notified of the time and place of the conference.

(2) The following persons shall attend a family group conference—

- (a) the child and the parent or a appropriate adult;
- (b) any person requested by the child;
- (c) the probation officer;
- (d) a police officer;
- (e) the victim of the alleged offence which the child committed and if the victim is under the age of eighteen years, the parent or an appropriate adult;
- (f) the attorney-at-law representing the child if applicable;
- (g) a member of the community in which the child resides; and
- (h) any person authorised by the probation officer to attend the family group conference.

(3) The participants in a family group conference shall follow the procedure agreed upon by them and may agree to a plan in respect of the child pursuant to subsection (4) as they deem fit.

(4) A plan referred to in subsection (3)—

- (a) may include—
 - (i) the application of any option contained in section 39 (2) or (3); or
 - (ii) any other plan appropriate to the child, his or her family and the circumstances; except that such a plan shall be consistent with the principles contained in this Act; and
- (b) shall—
 - (i) specify the objectives for the child and the period within which they are to be achieved;
 - (ii) contain the details of the services and the assistance to be provided for the child and for a parent of a child or an appropriate adult;
 - (iii) specify the persons or organisations to provide such services;
 - (iv) state the responsibility of the child and the parents of the child or an appropriate adult; and
 - (v) include such other matters relating to the education, recreation and welfare of the child as are relevant.

(5) The probation officer shall record the details of and reasons for any plan agreed to at the family group conference and shall furnish a copy of the record to the Child Justice Committee.

(6) Where a child fails to comply with any condition of the plan agreed to in a family group conference, the probation officer shall notify the Child Justice Committee in writing of such failure, and section 37 shall apply.

(7) If the participants of a family group conference fail to agree on a plan, the probation officer shall close the family group conference and refer the matter back to the Child Justice Committee for consideration of another diversion option.

(8) The proceedings of a family group conference shall be confidential and no statement made by a participant in the family law conference may be used as evidence in any subsequent court proceedings.

Sentences involving correctional supervision.

60. (1) The Court may impose a sentence of correctional supervision for a period not exceeding three years on a child over the age of fourteen years.

(2) The whole or any part of the sentence imposed pursuant to subsection (1) may be postponed or suspended, with or without conditions referred to in section 64 (3).

Sentence with a compulsory residential requirement.

61. (1) A sentence involving a compulsory residential requirement shall not be imposed on a child unless the Court is satisfied that such a sentence is justified by:

- (a) the seriousness of the offence, the protection of the community and the severity of the impact of the offence on the victim; or
- (b) the previous failure of the child to respond to non-residential alternatives.

(2) A Court imposing any sentence involving a compulsory residential requirement on a child, shall note the reasons for the sentence on the record and explain them to the child in a language which the child can understand.

(3) A sentence involving a compulsory residential requirement shall include referral to a—

- (a) programme with a periodic residence requirement where the duration of the programme does not exceed one year, and no portion of the residence requirement exceeds twenty one consecutive nights, with a maximum of sixty nights for the duration of the programme;
- (b) secure residential facility, subject to section 62; or
- (c) correctional facility, subject to section 63.

Referral to secure residential facility.

62. (1) Subject to subsection (2) a sentence to a secure residential facility shall not exceed three years.

(2) A sentence to a secure residential facility may be imposed for a period exceeding three years if the child is under the age of fourteen and he or she would have been sentenced to imprisonment due to the seriousness of the offence were it not for section 63 (1)(a).

(3) A child referred to in subsection (2) may not be required to reside in a secure residential facility beyond the age of eighteen.

(4) On completion of a sentence referred to in subsection (1) or on attainment of the age of eighteen in the case of a child referred to in subsection (2), that child may request permission in the prescribed form from the head of the secure residential facility to continue to reside at the secure residential facility for the purposes of completing his or her education.

Referral to correctional facility.

63. (1) A sentence of imprisonment shall not be imposed unless—

- (a) the child was over the age of fourteen at the time of commission of the offence; and
- (b) substantial and compelling reasons exist for imposing a sentence of imprisonment, which may include conviction of an offence referred to in the Third Schedule or a previous failure to respond to alternative sentences, including sentences with a residential element.

(2) A sentence of imprisonment shall not be imposed on a child—

- (a) in respect of an offence referred to in the First Schedule; or
- (b) as an alternative to any other sentence specified in this Act.

(3) If a child fails to comply with a condition of a sentence imposed on him or her, the child may, in the prescribed manner be brought before the Court for reconsideration of the original sentence which may, subject to subsections (1) and (2), include a sentence of imprisonment.

(4) If the Court imposes a sentence of imprisonment, the Court shall announce the term of imprisonment in open Court and the coming into effect of the term of imprisonment shall be antedated by the number of days that the child has spent in correctional facility prior to the sentence being announced in the Court.

Postponement or suspension of passing sentence.

64. (1) The passing of any sentence may be postponed, with or without one or more of the conditions referred to in subsection (3), for a period not exceeding three years.

(2) The whole or any part of any sentence may be suspended, with or without one or more conditions referred to in subsection (3), for a period not exceeding five years.

(3) The conditions referred to in subsections (1) and (2) may be any condition appropriate to the circumstances of the child which are in keeping with the principles of this Act and which promotes the reintegration of the child into his or her community or society and may include—

- (a) restitution, compensation or symbolic compensation;
- (b) an apology;
- (c) the obligation not to commit a further offence of a similar nature;
- (d) good behaviour;
- (e) regular school attendance for a specified period;
- (f) attendance at a specified time and place of a family group conference;
- (g) placement under the supervision of a probation officer;

- (h) a requirement that the child shall appear before the Court on a date or dates to be determined by the Court for a periodic progress report; and
- (i) referral to any diversion option referred to in section 44(2)(d), (e), (f), (g), (h), (i), (j) or (k).

(4) Where the Court has postponed the passing of a sentence pursuant to subsection (1) on one or more conditions, the Court may request the probation officer concerned to submit regular reports indicating the compliance of the child with the conditions referred to in this section.

(5) The conviction of a child in respect of whom passing of a sentence has been postponed shall be expunged from any record if the child has met all the conditions imposed or at the expiration of the period in question, as the case may be.

Penalty in lieu of fine or imprisonment.

65. (1) The Court convicting a child of an offence for which a fine or imprisonment is stated by law as the penalty, may impose any one of the following penalties in place of that fine or imprisonment—

- (a) symbolic compensation to a specified person or institution;
- (b) payment of compensation not exceeding five thousand dollars to a specified person or institution if the child or his or her family is able to make that payment;
- (c) an obligation on the child to provide a service or benefit or to pay compensation to a specified organisation identified by the child or by the Court, if there is no identifiable person to whom restitution or compensation could be made; or
- (d) any other sentence as stated in this Act, except imprisonment.

(2) In this section “symbolic compensation” means the giving of an object owned, made or bought by a child to a person, or group of persons or an institution as compensation for the harm caused by the child.

Prohibition on certain forms of punishment.

66. (1) A sentence of life imprisonment shall not be imposed on a child.

(2) A child who has been sentenced to attend a secure residential facility may not be detained in a correctional facility or in police custody pending designation of the place where the sentence is to be served.

Notice to parent of child.

67. (1) If it appears to the Court that finds a child guilty of an offence relating to property or against the person of another, on evidence admitted or submissions made in the case against the child—

- (a) that wilful failure on the part of a parent or an appropriate adult to exercise proper care of, or supervision over, the child was likely to have substantially contributed to the commission of the offence; and
- (b) that compensation may be paid to any person for—
 - (i) loss caused to the person’s property whether the loss was an element of the offence charged or happened in the course of the commission of the offence; or

- (ii) injury suffered by the person, whether as the victim of the offence or otherwise, because of the commission of the offence,

the Court, on its own initiative or on application by the Director of Public Prosecutions, may decide to call on the parent or an appropriate adult to show cause, as directed by the Court, why the parent or an appropriate adult should not pay the compensation.

(2) If the parent or an appropriate adult is present in Court when the Court decides to call on the parent or an appropriate adult to show cause, the Court may call on the parent to show cause by announcing its decision in Court.

(3) The Court in all cases, instead of acting under subsection (2), may cause the Registrar of the Court to give written notice to the parent or an appropriate adult to show cause, as directed by the notice, why the parent or an appropriate adult should not pay the compensation.

(4) If the Court calls on the parent of a child or an appropriate adult under subsection (2) or the Registrar of the Court issues a notice under subsection (3)—

- (a) the Court shall reduce its reasons for so doing in writing; and
- (b) a copy of the reasons for so doing shall be given, in accordance with the direction of the Court, if any, to the parent or an appropriate adult within a reasonable time before the show cause hearing.

Proceedings to show cause.

68. (1) At the proceedings to show cause referred to in section 67—

- (a) evidence and submissions in the case against the child are to be treated as evidence and submissions in the proceedings to show cause;
- (b) further evidence may be given and submissions made;
- (c) the parent of a child or appropriate adult may require a witness whose evidence is admitted under paragraph (a) to be recalled to give evidence; and
- (d) the parent of a child or an appropriate adult may require any fact stated in submissions mentioned in paragraph (a) to be proved.

(2) Subject to subsection (1) —

- (a) the determination of the issues at the proceedings to show cause shall be by way of fresh hearing on the merits; and
- (b) the Court shall not be bound by a determination made by it under section 67.

(3) If the parent was called on to show cause on the prosecution's application, the prosecution shall be a party to the proceedings to show cause.

(4) If the parent was called on to show cause on the Court's own initiative the Director of Public Prosecutions, may at the proceedings to show cause—

- (a) appear and give the Court the assistance it may require; or
- (b) intervene as a party with the permission of the Court.

(5) If on consideration of the evidence and submissions mentioned in subsection (1)(a) and (b), a Court is satisfied beyond reasonable doubt of the matters mentioned in section 67(1) and (b), the Court may make an order requiring the parent to pay compensation.

- (6) An order made pursuant to subsection (5) shall direct that—
- (a) the amount shall be paid by a time specified in the order or by installments specified in the order; and
 - (b) the amounts shall be paid to the Registrar of the Court.

(7) In determining the amount to be paid by a parent by way of compensation, the Court shall have regard to the capacity of the parent to pay the amount, which shall include an assessment of the effect any order would have on the capacity of the parent to provide for his or her child.

(8) The Court shall proceed under this section in the absence of the parent if the Court is satisfied that the parent has been given notice of the proceedings to show cause under section 67.

PART X

LEGAL REPRESENTATION

Child to be provided with legal representation.

69. (1) A child shall be provided with legal representation by the State at the conclusion of an initial inquiry if no legal representative was appointed by the parent or an appropriate adult and if—

- (a) the child is in detention pending trial in the Court;
- (b) the proceedings are postponed for trial in the Court and it is likely that a sentence involving a residential requirement may be imposed if the child is found guilty of the offence in question.

(2) The Director of Public Prosecutions shall indicate to the Court whether he or she is of the opinion that the matter is a matter referred to in subsection (1)(b) before the child is asked to plead and if so, a plea shall not be taken until an attorney-at-law has been appointed.

Requirements to be complied with by attorney-at-law.

70. An attorney-at-law representing a child shall—

- (a) allow the child, as far as is reasonably possible, to give independent instructions concerning the case;
- (b) explain the rights and duties of the child in relation to any proceedings pursuant this Act, in a manner appropriate to the age and intellectual development of the child;
- (c) promote diversion where appropriate, but may not unduly influence the child to acknowledge responsibility; and
- (d) ensure that the trial is conducted without delay

PART XI

GENERAL PROVISIONS AS TO PROCEEDINGS IN COURT

Power to proceed with case in absence of child.

71. Where in any proceedings in relation to any offence, the Court is satisfied that the attendance before the Court of a child in respect of whom the offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.

Extension of power to take depositions.

72. (1) Subject to subsection (2), where the Court is satisfied by the evidence of a medical practitioner that the attendance before the Court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to his or her life or health, any deposition of the child taken under this Part shall be admitted in evidence either for or against the accused child without further proof if it is signed by the Judge before whom it was taken.

(2) The deposition taken pursuant to subsection (1) shall not be admissible in evidence against the accused person unless it is proved that—

- (a) reasonable notice of the intention to take the deposition has been given to him or her; or
- (b) it was taken in the presence of the accused person; and
- (c) his or her attorney-at-law had the opportunity to cross-examine the child making the deposition.

PART XII

RESPONSIBILITIES OF PARENTS OF CHILD
IN CONFLICT WITH THE LAW

Responsibilities of parent of child in conflict with the law.

73. (1) The Court may make an Order in relation to one or both of the parents of a child in conflict with the law or in relation to any other appropriate adult responsible for a child in conflict with the law.

(2) The Court Order, referred to in subsection (1), may require the parents or appropriate adult to—

- (a) attend counselling;
- (b) attend parenting classes;
- (c) comply with the care plan;
- (d) take such action as may be necessary to support the probation order or care plan.

(3) A parent who contravenes the provisions of a Court Order, made pursuant to subsection (2), is liable to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding three months.

(4) In making an Order, under this section, the Court shall take into consideration the recommendations of the Child Justice Committee.

(5) When making a recommendation to the Court, under this section, the Child Justice Committee shall take into account—

- (a) the recommendations of the relevant probation officer;
- (b) the effect on other children of the family;
- (c) the terms of employment of the parents or appropriate adult;
- (d) such other circumstances or conditions as is relevant to the particular case.

PART XII

OBSTRUCTION

Obstruction.

74. (1) A person shall not hinder or obstruct a police officer or a probation officer in the performance of his or her functions under this Act.

(2) A person who contravenes subsection (1)—

- (a) and who hinders or obstructs a police officer shall be subject to the provisions of the Police Act;
- (b) and who hinders or obstructs a probation officer commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months.

PART XIV

REGULATIONS, ETC.

Regulations.

75. The Minister may make regulations regarding procedures to be put in place to monitor and assess the proper application of and compliance with this Act.

Schedules.

76. The Minister may, by Order subject to negative resolution of the National Assembly, amend the Schedules or add Schedules to this Act.

FIRST SCHEDULE

(Section 11)

OFFENCES FOR WHICH CHILD MAY NOT BE APPREHENDED

1. Assault where grievous bodily harm has not been inflicted.
2. Malicious damage to property where damage does not exceed five thousand dollars.
3. Trespass.
4. Any offence under any law in force in Saint Christopher and Nevis relating to the possession of illicit drugs where the value of the quantity involved does not exceed five thousand dollars.
5. Theft, where the fair market value of the property does not exceed five thousand dollars.
6. Any statutory offence where the maximum penalty determined by that statute does not exceed five thousand dollars.
7. Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule.

SECOND SCHEDULE

(Section 15)

**OFFENCES FOR WHICH CHILD MAY
BE RELEASED FROM POLICE CUSTODY**

1. Assault, involving the infliction of grievous bodily harm.
 2. Arson.
 3. Robbery, other than robbery with aggravating circumstances, if the amount involved does not exceed one hundred thousand dollars.
 4. Theft, where the amount involved does not exceed one hundred thousand dollars.
 5. Any offence under any law relating to the illicit possession of dependence drugs where the quantity involved does not exceed one hundred thousand dollars.
 6. Forgery or fraud, where the amount concerned does not exceed one hundred thousand dollars.
 7. Any statutory offence where the penalty concerned does not exceed one hundred thousand dollars.
 8. Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule.
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THIRD SCHEDULE*(Section 18)***OFFENCES FOR WHICH CHILD MAY NOT BE
RELEASED FROM POLICE CUSTODY**

1. Murder.
2. Rape.
3. Robbery—
 - (a) where there are aggravating circumstances;
 - (b) involving the taking of a motor vehicle.
4. Indecent assault involving the infliction of grievous bodily harm.
5. Indecent assault on a person under the age of eighteen years.
6. Any offence pursuant to the Drugs (Prevention and Abatement of the Misuse and Abuse of Drugs) Act if—
 - (a) the value of the dependence producing substance in question is more than one hundred thousand; or
 - (b) the value of the dependence producing substance in question is more than one hundred thousand and the offence was committed by a person, group of persons, acting in the execution or furtherance of a common purpose or conspiracy.
7. Any conspiracy or incitement to commit an offence referred to in this Schedule or an attempt to commit any of the offences referred to in Item 1, 2, or 3 of this Schedule.

FOURTH SCHEDULE*(Section 39)***OFFENCES UNDER LEVEL ONE, LEVEL TWO AND
LEVEL THREE DIVERSION OPTIONS****Level 1 Offences (1st time offender)**

- (i) Truancy
- (ii) Run-Away
- (iii) Theft
- (iv) Threat of Harm
- (v) Causing Harm or Wound
- (vi) Trespass
- (vii) Stealing (Summary Offence)
- (viii) Praedial Larceny

Level 2 Offences

- (i) Making use of Threatening, Violent or Obscene Language
- (ii) Riotous, Indecent; Disorderly or Insulting Behaviour in any Public Place, Court, Police Station or Place of Entertainment
- (iii) Causing Grievous Harm
- (iv) Threatening Injury to Property
- (v) Beyond Care & Control
- (vi) Assault
- (vii) Possession
- (viii) Truancy
- (ix) Trespass
- (x) Theft
- (xi) Dishonestly Receiving
- (xii) Unlawful Possession

Level 3 Offences

- (i) Probation Violation
 - (ii) Curfew Violation
 - (iii) Behaviour
 - (iv) Possession with Intent
 - (v) Theft
 - (vi) Assault
 - (vii) Assault (Summary Offence)
 - (viii) Aggravated Assault
 - (ix) Unlawfully Carrying a Weapon
 - (x) Resisting Arrest; Obstruction, Assault on Police
 - (xi) Defilement of a Female Between 13 and 16 years of Age
 - (xii) Housebreaking
 - (xiii) Possession of Instrument for Burglary
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FIFTH SCHEDULE*(Section 75)***CHILD JUSTICE REGULATIONS****Citation.**

1. These Regulations may be cited as the Child Justice Regulations.

Interpretation.

2. In these Regulations, the expression, “Act” means the Child Justice Act.

Forms.

3. (1) A police officer shall issue a notice of apprehension of a child to a probation officer, pursuant to section 11(5) of the Act, in the form set out as Form 1 in the Schedule.

(2) A probation officer shall issue a notice of assessment of a child to a parent or guardian of the child officer pursuant to section 25(1) of the Act, in the form set out as Form 2 in the Schedule.

(3) A probation officer may make a request of a police officer to provide assistance pursuant to section 25(4) of the Act, in the form set out as Form No. 3 in the Schedule.

(4) A person may apply for permission to be absent or excluded from an assessment of a child pursuant to section 25(3) of the Act, in the form set out as Form No. 4 in the Schedule.

(5) A police officer may issue a notice of an initial inquiry in respect of an offence committed by a child, pursuant to section 13 of the Act, in the form set out as Form No. 5 in the Schedule.

(6) A police officer may issue a notice releasing a child who is in detention from police custody, pursuant to sections 15, 16 and 17 of the Act, in the form set out as Form No. 6 in the Schedule.

(7) The Director of Public Prosecutions shall issue a certificate of the intention to prosecute a child pursuant to section 5(3) of the Act, in the form set out as Form No. 7 in the Schedule.

Reports.

4. Where a report is required to be provided in respect of any of the proceedings in the Act, that report shall be produced in a written form specifying the name of the child in the question, the date of the particular proceedings, the outcome of the proceedings and any other notable facts or findings that would be relevant to the case in question.
-

SCHEDULE

FORM 1

(Section 11(5))

SAINT CHRISTOPHER AND NEVIS
CHILD JUSTICE ACT, CAP. 4.15

NOTICE OF APPREHENSION OF CHILD

IN THE MATTER OF THE COMMISSIONER OF POLICE

AND

NAME OF

CHILD D.O.B.....

RESIDING AT.....

NAME OF PARENT/ GUARDIAN RESIDING AT

TO THE DIRECTOR OF THE PROBATION AND CHILD PROTECTION
SERVICES

DEPARTMENT

THIS NOTICE is issued in accordance with Section 11(5) of the Child Justice Act and serves to inform that (.....*NAME OF CHILD*.....) was apprehended by the Royal St Christopher and Nevis Police on the day of..... 20..... (*Date of apprehension*) on allegations of having committed the following offence(s) pursuant to Section..... First Schedule/Second Schedule/Third Schedule of the Child Justice Act.

1.....

2.....

3.....

The said (.....*NAME OF CHILD*.....) is in police custody/remanded/released in the care of (name of person or facility whose care the child has been released into) and is being held at (ADDRESS where the child is being kept)

Please contact investigating officer at 869

Dated this day of.....20

NAME AND RANK OF AUTHORISED OFFICER

FORM 2

(Sections 23, 25(1))

SAINT CHRISTOPHER AND NEVIS
CHILD JUSTICE ACT, CAP. 4.15

NOTICE OF ASSESSMENT OF CHILD

IN THE MATTER OF THE COMMISSIONER OF POLICE
AND

NAME OF

CHILD D.O.B.

RESIDING AT

TO:

Name of Parent/Guardian residing at

Name of Parent/Guardian residing at

The Commissioner of Police, acting in accordance with Section 11(5) of the Child Justice Act, has informed the Probation and Child Protection Services Department of the apprehension of your child/ward (*NAME*) on allegations of having committed the offence of (*NATURE OF OFFENCE*.....) under Section (....) of the Child Justice Act.

TAKE NOTICE THAT the Probation and Child Protection Services Department requires that you accompany your child to an ASSESSMENT of the said child (.....*NAME OF CHILD*....) which will be conducted in accordance with Section 23 of the Child Justice Act on the day of.....20 commencing at 9.00 am at the ASSESSMENT CENTRE located at.....

THE ASSESSMENT will allow for the full involvement and participation of your child and will be conducted to determine

- (a)
- (b)
- (c)

You the said (.....) parent / guardian of (.....) are informed of your right to secure Legal Representation on behalf of the said child.

TAKE FURTHER NOTICE THAT you may make Application to the Probation and Child Protection Services Department for permission to be absent or excluded from attendance at the assessment within twelve hours of the commencement of proceedings

Dated this day of

.....
Director of Probation and Child Protection Services Department

FORM 3

(Section 25(4))

SAINT CHRISTOPHER AND NEVIS
CHILD JUSTICE ACT, CAP. 4.15

REQUEST TO THE COMMISSIONER OF POLICE

IN THE MATTER OF THE COMMISSIONER OF POLICE

AND

NAME OF

CHILD D.O.B.

RESIDING AT.....

The Probation and Child Protection Services Department in accordance with Section 25(4)(a)(b)(c) of the Child Justice Act requests the assistance of the Commissioner of Police in

(a) securing criminal record, history of arrests of (...*NAME OF CHILD*....)

(b) locating the parent/ guardian/appropriate adult of (.....*NAME OF CHILD*.....)

(c) providing transport in order to secure the attendance of the parent/guardian of (...*NAME OF CHILD*...) for the purpose of the Assessment of (...*NAME OF CHILD*...) to be conducted on the day of 20, at the Assessment Center located at (address of Assessment Center)

Dated this day of 20.....

.....
Director of Probation and Child Protection Services Department

FORM 4

(Section 25(3))

SAINT CHRISTOPHER AND NEVIS
CHILD JUSTICE ACT, CAP. 4.15

NOTICE OF PERMISSION TO BE ABSENT OR EXCLUDED
FROM ASSESSMENT PROCEEDINGS

IN THE MATTER OF THE COMMISSIONER OF POLICE
AND

NAME OF

CHILD D.O.B.

RESIDING AT

TO:

Name of Parent/Guardian residing at.....

Name of Parent/Guardian residing at.....

WHEREAS you the parent/guardian of..... a
child were served with a Notice on the day of

20..... to attend Assessment Proceedings of the said (...NAME OF CHILD...) to be
held on the day of..... 20....., at (...location....)

AND WHEREAS you the said (name of parent/guardian) by
Application, sought permission from the Probation Services to be absent and
excluded from the proceedings in accordance with Section 25(3) of the Child Justice
Act

TAKE NOTICE THAT the Director of Probation and Child Protection Services
Department hereby grants permission for your absence and exclusion from
Assessment Proceedings scheduled to be held on the day of
....., 20..... You are hereby informed that the conduct of the
Assessment will proceed in your absence based on your having elected not to attend
or participate on the date scheduled for the Assessment

Dated this day of..... 20.....

.....
Director of Probation and Child Protection Services Department

FORM 5

(Section 13)

SAINT CHRISTOPHER AND NEVIS
CHILD JUSTICE ACT, CAP. 4:15

NOTICE TO APPEAR AT INITIAL INQUIRY

IN THE MATTER OF THE COMMISSIONER OF POLICE
AND

NAME OF

CHILD D.O.B.

RESIDING AT

NAME OF PARENT/ GUARDIAN

RESIDING AT

TO (...NAME OF PARENT/GUARDIAN.....) OF (.....NAME OF CHILD.....)

THIS NOTICE is issued in accordance with Section 13 of the Child Justice Act and serves to direct that (.....NAME OF CHILD....) is required to appear at an Initial Inquiry at am/pm on the day of 20..... (Date of initial inquiry) at (.....name of place where the initial inquiry is to be held) on allegations of having committed the following offence(s) pursuant to Section First Schedule/Second Schedule/Third Schedule of the Child Justice Act.

1.....

2.....

3.....

You the said (NAME OF PARENT/GUARDIAN) are directed to bring/cause to be brought (.....NAME OF CHILD.....) to attend at the initial inquiry

Dated thisday of 20.....

.....
NAME AND RANK OF AUTHORISED OFFICER

FORM 6

(Sections 15, 16, 17)

SAINT CHRISTOPHER AND NEVIS
CHILD JUSTICE ACT, CAP. 4.15
RELEASE OF CHILD FROM DETENTION

IN THE MATTER OF THE COMMISSIONER OF POLICE

AND

NAME OF

CHILD D.O.B.

RESIDING AT

NAME OF PARENT/ GUARDIAN

RESIDING AT

TO (.....NAME OF PARENT/GUARDIAN....) OF (.....NAME OF CHILD.....)

THIS NOTICE is issued in accordance with section 15/16/17 of the Child Justice Act and serves to direct that (.....NAME OF CHILD....) is released from detention in police custody into the care and control of (...NAME OF PARENT/GUARDIAN...) on the condition that the child

- (a) shall appear at a specified time and place for assessment whenever required to do so.
- (b) shall appear at a specified time and place for an initial inquiry.
- (c) does not interfere with a witness, tamper with evidence or associate with a person or group of specified people.
- (d) be required to reside at a particular address.
- (e) must comply with any terms or conditions that the Court or Director of Public Prosecutions may order.

You the said (NAME OF PARENT/GUARDIAN) are directed to bring/cause to be brought (.....NAME OF CHILD.....) to attend at the initial inquiry

Dated thisday of20

.....
NAME AND RANK OF AUTHORISED OFFICER

FORM 7

(Section 5(3))

SAINT CHRISTOPHER AND NEVIS
CHILD JUSTICE ACT, CAP. 4.15

CERTIFICATE OF DIRECTOR OF PUBLIC
PROSECUTIONS OF INTENTION TO PROSECUTE

IN THE MATTER OF THE COMMISSIONER OF POLICE

AND

NAME OF

CHILD D.O.B.

RESIDING AT

TAKE NOTE THAT the Director of Public Prosecutions intends to prosecute
(...*NAME OF CHILD*...) for the charge of

(a)

(b)

(c)

Committed on the day of contrary to section

Dated the day of, 20

.....
Director of Public Prosecutions

(Inserted by S.R.O. 20/2019)
