

Template for School Child Protection Policy – 18 Feb. 2025

JJ Act, a Summary



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

Also, refer to flowchart JJA-A on the last page.

Disclaimer: The summary is not a substitute for legal advice.

JJ Act – Domain: The Juvenile Justice (Care and Protection of children) Act of 2015 is also commonly called the JJ Act. A child under the JJ Act is any person below 18 years. The Act applies to all of India. It divides children into two categories: A and B. All procedures and actions under the JJ Act are executed with the child's best interest in mind.

Categories A and B Category A is for children who have broken the law (*children in conflict with the law*), and Category B is for *children who need care and protection*, like a child who is an orphan, abandoned, surrendered, or rescued from trafficking whose parents cannot be traced or a street child who has a family but no proper home.

Remember, a child in conflict with the law may have committed a crime against another child or an adult. Such a child is booked under the respective criminal law. However, such a child is always handled under various JJ Act procedures and actions and the approach is not based on punishment but on reformation, rehabilitation, and reintegrating the child into society.

It is important to note that categories A and B may overlap in some cases. For example, an orphan child caught pickpocketing.

Category A - JJB - SJPU: Category A children are handled by district-wise constituted **juvenile justice boards (JJB)** under the JJ Act and not by a regular district court meant for adults through an **enquiry** and not a **trial**. Child-friendly **Special Juvenile Police Unit (SJPU)** has also been constituted district wise under the JJ Act to deal with such children. SJPU also handles victims of POCSO cases. **Remember, no child below seven can be held liable for any crime. Moreover,** the enquiry of a child cannot be conducted along with any adult, and no child can ever be handcuffed or put in a police lockup or jail by anyone whatsoever. SJPU or Child Welfare Police Officer at the police stations handle a child in 'conflict with law'. These special police personnel deal with children in civil dress and not in police uniform. A child, when apprehended by police, is produced before a Juvenile Justice Board (JJB) for an inquiry and not a regular criminal court.

Category A – Children's Court: However, in the age group 16 to 18 years, if a child is accused guilty of a heinous crime like murder or rape and the Juvenile Justice Board confirms that the child had the mental and physical abilities that of an adult, the child is then treated as an adult in the criminal justice system and undergoes a trial, but conditions apply. Children's Court subsequently handles such children. However, before proceeding into the matter, the children's Court first reconfirms the child's physical capacity and mental status. **The trial in children's Court of a child cannot be conducted along with any adult, and no child can ever be handcuffed or put in a police lockup or jail by anyone whatsoever. Moreover, the accused child must always be handled by SJPU.**

Category A - Children's Court verdicts: In a children's Court, 'the child is to be treated as an adult' does not mean that all treatments and procedures are to be followed as if the child is an adult; otherwise, there was no need to create a children's Court in the first place. The approach is to reform and reintegrate the child into society. A Children's Court can never award life imprisonment without the possibility of release or the death penalty to a child. For example, when a child who is 17 years old is sentenced to a seven-year jail term, the child stays at a place of safety (appointed by the Children's Court) until they attain the age of 21. For the remainder of the sentence (two years), the individual, now an adult, will serve time in a regular prison facility. However, if the Children's Court is

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of the opinion that the individual has been reformed, they are not sent to a regular prison, and their sentence is waived.

Category A – JJB Orders: For all other cases where a child is found guilty, the JJB can pass the following orders keeping in mind the child's age, gender, socio-economic background and the nature of the offence, i.e., petty, serious or heinous.

- In petty offences, the board can advise, warn or counsel the child and its parents or the guardian or direct the child for community services like participating in tree plantation, working as a helper in a library, etc., or impose a fine to be paid by the child or parents or guardian.
- A child may be directed to be released on probation of good conduct and placed under either the care of parents/guardians or fit person (as appointed JJB) or under care and supervision of a fit facility (as appointed by JJB) or may be sent to a special home for reformatory services.

Note: No child record is to be kept for future disqualification, such as a job, passport, etc. However, the same does not apply to children found guilty by the Children's Court. Remember, disclosing a child's identity in 'conflict with the law' is an offence with jail for up to 6 months or a fine of up to Rs 2 lac or both.

Any character or transfer certificate issued by the school to a child convicted by a Juvenile Justice Board (JJB) must not reveal the child's identity.

Category B - CWC: Such children are handled by district-wise constituted Child Welfare Committees (CWC) under the JJ Act and may be kept in children's homes.

Institutional remedy: Institutional remedy like placing a child of category 'A' by the Juvenile Justice Board in detention in an observation home or a child of category 'B' in a children's home by the Child Welfare Committee is considered a last resort. These homes are residential facilities that care for the child's educational, vocational, health and nutritional needs.

Adoption: Under the JJ Act, a Central Adoption Resource Authority has been formed at the centre, and State Adoption Resource Authority at state levels. They monitor, regulate and facilitate child adoption. Children up to 18 years of age who are orphaned, surrendered or abandoned are eligible for adoption once they have gone through the required legal adoption process.

Romeo & Juliet scenario: We all know how our children behave when puberty starts or when they become adolescents or teenagers. The hormonal changes take our children on a roller coaster ride, and attraction towards the opposite sex in this age group is quite a normal behaviour. Moreover, no culture can exist without its version of Romeo and Juliet, so much so that they are part of literature and school textbooks. But the attraction towards the opposite sex also makes our children prone to abuse. When our children indulge in sexual activity, their consent is immaterial under the POCSO Act and JJ Act; thus, they become both a victim and a child in conflict with the law. These Acts do not provide any space for Romeo and Juliet, so to speak, thus at times creating situations that become quite ugly under the criminal justice system. Accepting the consent of a child in the age group of 16 to 18 years for sexual activity is a debatable topic, and there seems to be no clear-cut solution.

Corporal punishment: Corporal punishment under the JJ Act refers to any form of physical punishment or abuse intended to discipline a child. It includes actions like hitting, spanking or inflicting bodily harm. The JJ Act is strict against corporal punishment, particularly in childcare institutions like schools. It emphasises accountability and imposes penalties to deter such behaviour. If any person in charge of or employed in a childcare institution subjects a child to corporal punishment, they are liable

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to penalties. Moreover, the Right to Education Act prohibits physical punishment and mental harassment of children.

Per the JJ Act:

- For the first instance of corporal punishment, a fine of ₹10,000.
- For repeated offence, jail up to 3 months or a fine of ₹50,000 or both.
- For repeated offences leading to mental or physical harassment of the child, the person may face more stringent penalties and shall also be liable for dismissal from their service/position in the institution.
- Besides, there are more severe punishments for cruelty to a child by a person responsible for care and protection of the child.

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Flowchart JJA-A

