



JUVENILE JUSTICE ACT, 2018

KEY POINTS FOR SOCIALWORKERS



MINISTRY OF PUBLIC SECURITY

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THE JUVENILE JUSTICE ACT, 2018

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PRINCIPLES

The Juvenile Justice system is designed to cater to the needs of persons between the ages of fourteen and up to eighteen (18) years old who are in conflict with the law.

The system seeks to help children/youth, to restructure their lives to become meaningful, productive and socially acceptable persons, by means of education, rehabilitation and reintegration into their communities.

The Juvenile Justice System concentrates not only on children in trouble but also recognizes the role of parents and other family members.

The Juvenile Justice Act is intended to ensure the involvement of all individuals and agencies to facilitate adequate protection of the rights of juveniles and fair and humane treatment throughout the period of engagement in the justice system; thus the team will include parents and guardians, Probation and Child Care Officers, the Police and Director of Public Prosecution, Ministry of Education and the wider community.

The team is responsible for ensuring the process of juvenile rehabilitation and reintegration into communities with a positive change of thought and behaviour.

The key points in the Act highlighted for further explanation are the processes of:

**DIVERSION
DETENTION
SENTENCING
CUSTODY, SUPERVISION AND REHABILITATION
and
TRANSITIONAL PROVISIONS**

These explanations will serve to clarify:

- a) the processes of the Juvenile Justice Act for young persons who encounter difficulties on the side of the Law.
- b) options available for young persons accused of violations of the Law.
- c) the functions and responsibilities of gatekeepers in the Juvenile Justice System.

The Principle of Diversion

Diversion is deemed the most appropriate, effective and timely means of addressing juvenile crime, as youth who offend appear to be at-risk and therefore will require support to address their needs.

The objective of the diversion programme is to provide alternatives to a custodial committal of young offenders, while providing support for their development and rehabilitation, through structured training programmes and intervention processes.

The Diversion principle is used as a measure to hold a juvenile accountable for his/her offending behaviour, whereby he/she accepts responsibility for the offence that is allegedly committed.

Juveniles, having received all details of their rights, responsibilities and expectations, will feel encouraged to make the informed decision to participate fully in the Diversion programme, while given an opportunity to consult with a legal advisor.

Diversion measures are designed for a win-win situation, and are therefore positive and beneficial in the following respects:

- They encourage offenders to acknowledge and repair the harm caused to a victim or the community.
- They promote reconciliation between the offender and the victim.
- They prevent stigmatizing of the youth as a person who had embraced or passed through the criminal justice system.
- They ensure continuing education and training for the juvenile.
- They also provide social and psychological support for the juvenile while engaged in the diversion programme.

The duty bearers of the diversion programme are the Ministry of Public Security, Ministry of Education, Department of Youth, Sport and Culture, the Ministry of Social Protection – Department of Probation and Social Services and the Child Care and Protection Agency (CPA), the Director of Public Prosecutions (DPP) and the Police, and Non-Governmental Organizations.

Where a juvenile is referred/engaged in the diversion programme, it is the duty of the administrator to inform the parents of the juvenile about the measure taken. On the other hand, the Director of Public Prosecutions or a police officer must inform the victim of the method of dispensation of the matter at hand.

The Diversion measures may include but are not limited to the following actions:

- An oral or written apology by the offender specific to the offence and the victim.
- Placement of the juvenile by the Court under the supervision and guidance of the Chief Probation and Social Services Officer for a specified period. The Chief Probation and Social Services Officer may assign an Officer who it is believed can facilitate a positive change of behaviour by the juvenile. It is also a condition of the Probation Supervision Order that the juvenile shall keep the peace and be of good behaviour throughout the period of the order.
- Referral of the juvenile by the Courts to counseling or therapy for a specified period.
- The Juvenile is compelled to attend as ordered by the Court, a relevant institution for a specified vocational or educational purpose for a specified period.
- The Juvenile be engaged in a project as directed by the Courts without remuneration for the benefit of a community and under the supervision of a particular organization or institution.
- Compensation ordered by the Court, to be made in an amount which the family of the juvenile can afford.

Detention of Juveniles

Juveniles, when detained, have the right not to be questioned or to give a written statement in the absence of a parent or another representing adult.

Upon the arrest or detention of a juvenile, the arresting officer has the duty to within twenty – four (24) hours notify the parents of the juvenile about the detention of the juvenile and the reason for such. Communication with the juvenile must be done in language appropriate to his or her age, knowing that the juvenile is not obligated to make any statement without a parent or counsel present.

Where a juvenile is arrested with or without a warrant, that juvenile may remain in custody if:

- there are reasonable grounds that the juvenile will repeat or commit another offence;
- to ensure the safety of a victim or witness to the offence committed by the juvenile; or
- to ensure his/her attendance in court for a matter to be dealt with.

A detained juvenile will be presented before a court within forty - eight (48) or a maximum of seventy - two hours, depending upon the availability of a court.

A juvenile may be released on compulsion of appearance when required. He or she may be released on his/her own or parents' recognizance by a Police Officer, without the deposit of money or other valuable security.

Neglect to appear by summons will result in the issuance of a warrant for the arrest of the juvenile.

Sentencing of a Juvenile

The sentencing process in the Juvenile Justice System serves to hold a juvenile accountable for an offence while at the same time promote rehabilitation, education and reintegration of the juvenile into society.

The sentence given is intended to be consistent with the juvenile's degree of responsibility and the seriousness of the offence committed.

A custodial sentence is however considered as a last resort in the juvenile justice system and is instituted when there is no reasonable alternative to custody, or if the offence committed by the juvenile is a serious or violent one.

Other considerations for a custodial sentence would be where the juvenile failed to comply with a previous non-custodial sentence or where the juvenile has a previous record of guilt.

A custodial sentence is ordered only after the preparation and presentation of a pre-sentence report by the Chief Probation and Social Services Officer on behalf of the juvenile. This pre-sentence report is presented in writing. However, if presented orally because of the urgency of the matter, such information is immediately afterwards presented in writing and filed with Court, since a pre-sentence report forms part of the case records.

All parties in the case, including the prosecutor and counsel representing the juvenile will be privy to a copy of the report presented, which contains information about the juvenile and where possible, results of interviews with the victim, as well as other details applicable to the case.

The Court is guided by the contents of the pre-sentence report which consists of information, including the juvenile's attitude to the offence, his/her responses to punishment and suggested counseling and rehabilitative programmes, and any information received from school, work or organization as required by the court.

In event of a custodial sentence, consideration is given to the safety of facilities provided and the needs and circumstances of the juvenile.

When a juvenile pleads guilty and is found guilty of an offence, sanctions instituted may be one or a combination of orders as set out in the law, including:

- probation supervision for a period not less than one (1) year and not exceeding three (3) years.
- Being sent to a residential facility for a specified period not exceeding three years.
- compliance by the juvenile with other reasonable ancillary conditions.
- Community service with agreement by the organization for which the service is performed.

All Juvenile Court cases are heard with only persons connected with the proceedings and those granted permission by the court, to be present.

Information that would identify a child or juvenile as being an offender, a victim or a witness in connection with an offence alleged to have been committed by a juvenile, should not be publicized in the media. However, any such information that would identify a juvenile, could only be publicized if it serves the best interest of the juvenile or after the juvenile would have attained the age of eighteen (18) years.

Compliance with a Probation Supervision Order requires the juvenile to, among other conditions:

- Report regularly to a designated supervisor;
- Communicate any changes of address, change of job, education or training;
- Remain in the territorial jurisdiction unless prior permission to leave is given by the Court;
- Make reasonable effort to obtain and maintain suitable employment;
- Maintain attendance at school or place of learning; and
- Reside with parents, a willing adult or at a place specified by the Chief Probation and Social Services Officer.

Custody, Supervision and Rehabilitation

The system of juvenile custody, supervision and rehabilitation serve the purpose of providing safe, fair and humane treatment of juveniles while facilitating their education, rehabilitation and reintegration into their communities as law abiding citizens.

During the period in custody, juveniles are provided effective social and life skills programmes which they may not voluntarily access otherwise.

A Juvenile given a custodial sentence is not a subject of imprisonment and his or her finding of guilt is not recorded as a conviction.

Juveniles must be afforded the right to regular contact with parents and other family members, so as to aid the reintegration process and for encouragement to access and continue their education and training.

A juvenile who has been ordered to be held in custody and escapes from custody or while being transported to the facility, has committed an offence. That juvenile, when arrested will be taken back to the facility and be disciplined according to the rules of the facility, or be charged and taken before the court. The escaped juvenile is then liable to a detention of one (1) month.

The existing custodial facility is bound by the Training School Act Cap. 11:06 and operates as an open residential facility for the care, custody, education and control of juveniles who are recommended for placement and rehabilitation, by the Chief Probation and Social Services Officer.

It is the responsibility of the Minister to establish and maintain suitable residential facilities for the purpose, with suitable and adequate staff to facilitate the mandate of the facility.

Supervision and rehabilitation of a juvenile given a custodial sentence, commences from the time he/she is detained and continues at every stage until a maximum of twelve (12) months after release from a facility, with the consent of the juvenile and on the basis that it will further assist with the reintegration of the juvenile.

Transitional Provisions

There will be a Juvenile Justice Act which will replace the Juvenile Offenders Bill, Cap. 10:03, the Training School Act, Cap. 11:06 and sections of the Education Act, Cap. 39:01, in the Laws of Guyana.

Any proceedings which commenced before the coming into force of the Juvenile Justice Act, in respect of a child or juvenile for summary conviction and indictable offences, shall be dealt with, in all respects as if the Juvenile Justice Act had come into force.

Where a juvenile is to be sentenced under the Juvenile Offenders Act Cap. 10:03, on the application of the Director of Public Prosecution or the Juvenile, the Court shall order the matter be continued under the Juvenile Justice Act and the juvenile is sentenced under provisions of this Act.

Establishment of facilities for Custody

A Juvenile who is committed to custody shall be held separate and apart from any adult who is detained or held in custody.

Under the Juvenile Justice System, the Minister of Public Security has the responsibility to establish and maintain open residential facilities suitable for the custody, education and rehabilitation of juveniles who are recommended by the Chief Probation and Social Services Officer for placement at a facility.

Temporary holding facilities and half - way houses are also established and maintained for reception, care, education and custody of juveniles who have been committed to an open or secure residential facility and are awaiting to be escorted there; or juveniles who have completed the custodial portion of their sentence and are awaiting reintegration with their families or the community.

The facilities will also accommodate juveniles who are otherwise eligible for reintegration and other categories of juvenile that the Juvenile Justice Committee may determine eligible for the services being offered.

The Role and Function of Social Workers in the Juvenile Justice System

Social Workers in the Juvenile Justice System are the primary officers responsible for rehabilitation and reintegration of juveniles who embrace the system. These social workers perform the roles of counselors, facilitators and advocates for offending juveniles and are expected to advocate for juveniles to access needed services such as education or vocational training, mental health or substance abuse counseling and increased support from families.

Social Workers in the system must advocate and ensure humane treatment and adequate nutrition, health care and rehabilitation programmes.

Further, social workers should have a therapeutic focus and are therefore expected to be able to identify and prevent potential failure by the juvenile and manage issues as they arise, in support of their charges.

Collaboration among social workers in the system, lends for continuity and successful programmes for juveniles' rehabilitation and reintegration.



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