

*Fourth Draft*

# **The Juvenile Justice (Care and Protection of Children) Act 2000**

Model Rules for effecting a more  
Child Friendly Juvenile Justice System

The Centre for Child and the Law,  
**National Law School of India University, Bangalore**

*in consultation with*

**The Department of Women and Child Development**  
and the Department of Police,  
**Government of Karnataka,**  
Individuals and NGO partners\*

&

the Department of Social Welfare and Panchayats,  
Government of Madhya Pradesh

&

Key concepts from Drafts submitted to the Governments of  
Chattisgarh and Andhra Pradesh

&

Draft submitted to the Government of Tamil Nadu

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**An Opening Note:**

The Juvenile Justice Act 2000 has come into force with effect from the 1<sup>st</sup> April 2001. We have examined this new statute in detail and have come to the conclusion that the new law does not incorporate existing international standards on child rights such as The Convention on the Rights of the Child, 1989, The Beijing Rules 1985 and the UN Rules for Juveniles Deprived of their liberty, 1990 or take into account the rich variety of experiential learning of those working on the field in the area of child rights or take on board constitutional norms or Supreme Court judgments.

The fact that international standards are invoked in the preamble but are not internalized in the legislation is a very disturbing trend. It means that International Standards that have been noticed by draftspersons are invoked in a purely mechanical way and no effort whatsoever has been made to internalize those principles, let alone apply them to shape the new law.

The law in fact does not incorporate a child-centered jurisprudence, which would involve a conceptual understanding of children and their relationship to issues of crime, poverty, and social and economic exclusion. The legislation does not take into account the deeper structural causes as to why it is mainly children from poorer socio-economic backgrounds who are stigmatized by the juvenile justice system through its various institutions and personnel including the police, the court system, the observation homes, special homes and juvenile homes. Instead of taking forward a stronger conceptual understanding in the form of a law, which is more strongly premised on an understanding of the link between poverty and crime, it prescribes wholly inadequate and typically rigid solutions to the systemic crisis which so strongly affects the marginalized children of India.

This legislation has been enacted in haste without the democratic debate or policy base that is necessary for social legislation such as this, which concerns a marginalized section of children, whose voices are rarely heard. Many activists who have been working in the field for decades also feel the same. There is a strong opinion that the new law is in fact regressive as it by and large follows the 1986 statute and completely fails to take into account the jurisprudential shifts, which have occurred in the area of child rights after the coming into force of the Convention on the Rights of the Child, 1992.

While it is clear that the Rules have to conform to the existing statutory framework, the space still exists to engage in creative Rule making which can take forward India's obligations under the relevant international standards. We undertook this exercise also quite seriously and while we were in this process, we received a copy of the Model Rules. We must happily acknowledge that the Model rule making exercise has been quite detailed. We therefore felt that the best part of this effort must be constructively utilized and hence we have proceeded to combine our own efforts with the efforts made by the draftspersons of the Model Rules, since the intention of all actors is the best interest of the child.

This document attempts to, through the process of rule making, incorporate human rights standards, experiential learnings and constitutional norms that are not in conflict with the JJA 2000. We have throughout this document replaced the word juvenile with the word child, as it is a less judgmental and stigmatizing concept. The document begins by enunciating a set of principles, which all decision makers under the Act will have to abide by. The principles themselves are divided into general principles, which apply, to all children who come in contact with the system and specific principles, which apply to specific sectors like foster care.

The other innovative features of this document are specific articulation of the rights of children within institutions (recreation, nutrition, privacy, family visits, children's participation in decision making through Makkala Sangha's) and the introduction of Rules on disciplinary proceedings in which the standards the functionaries will have to follow are outlined. There is also a separate chapter on children with special needs (mentally challenged and victims of armed conflict) Based on experiential learning's of activists working on the field, the other innovation introduced is the idea of the Observation Camp as has been evolved by Sathi - Raichur. This as a

first line of intervention for all children in need of care and protection who are found to be unwilling to share details about the reasons for their present circumstances and who need more unstructured processes to do so.

A serious attempt has also been made to bring about a shift in the nature of institutions from their primarily custodial nature by using the concept of the institution as a non-custodial option. Since our experience has shown that stern action by the Department often amounting to suspension of the functionaries whenever a child escapes conditions the behavior of the staff towards ensuring that the child does not escape even if it means that the child's right to recreation, contact with the outside community is violated. For this purpose a specific rule has been incorporated noting that if a child escapes, no action amounting to suspension will be taken, provided the functionary acted in good faith so as to ensure a less custodial approach by the functionaries. The SJPU (Special Child Police Unit) has also been conceptualized in the rules as being co managed by NGO's and civil society organizations and providing a point of first contact and preliminary assessment, which is more child friendly.

One of the key ways in which children are stigmatized and labeled is through the forms that the functionaries are expected to fill up on the details pertaining to each child. The forms have been revised so as to ensure that children's participation is built in and the kind of questions asked do not stigmatize the child in any way. That apart, suggestions have been made throughout the document, so as to ensure a more child friendly system.

Some of the new areas, which have been introduced by the Act, have occasioned quite a bit of debate such as adoption and detailed rules have been drafted for the same. Foster care, as a legal concept has not been thought through seriously in India as yet. Therefore the safeguards which have evolved in the area of adoption through activist voices as well as a sympathetic judiciary have not evolved in the area of foster care. As such we have tried to bring in more safeguards in this area.

The document went through a revision after being placed for discussion before concerned stakeholders at a Consultation organized by CCL along with the Department of Women and Child Development, Government of Karnataka and other NGO Partners on 5<sup>th</sup> of May, 2001 at the National Law School, Bangalore. The comments, critiques and suggestions put forward by the concerned partners at that consultation have been incorporated in this draft to the greatest possible extent. However, we have subsequently made numerous changes to this document, as new concepts and clarifications emerged. We do believe this process is potentially an unending one. We would also like to note that we have annexed (Annexure I) the GO issued by the Government of Andhra Pradesh on co-management of custodial/protective care institutions in Andhra Pradesh, and we hope that other State Governments also initiate a similar, if not better programme.

Karnataka has a creditable history of many innovative experiments as well as several experts in the field of Juvenile Justice, Sponsorship, Foster Care and Adoption, among others. As part of an ongoing effort to engage in Participatory Action Research, insights from the sharing of this rich experiential knowledge, and narratives of children who have experienced the system as well as functionaries from the child justice institutions have been operationalised into the Rules.

Some of the limitations of the present Rules are that we have not been able to undertake a

detailed study of how financial disbursements are made to the institution and how one can ensure a system which is accountable to the concerned stake holders. A more comprehensive systems analysis is definitely warranted which will throw light on how the administration of juvenile justice could be enhanced. This process will naturally have to look at the Departmental policies *vis a vis* the Staff and other administrative matters. Hence we would recommend a competent body to undertake research on the said question.

The Centre was recently invited by the Government of Madhya Pradesh for a consultation on the Rules, during which detailed discussions took place on every Rule. The pro-active response to our Model Rules is indeed encouraging and we have incorporated the changes suggested by the Department into this Fourth Draft.

While undertaking this process, we have also received a Draft of the Rules submitted to the State Governments of Tamil Nadu, Chattisgarh and Andhra Pradesh. It is heartening to see that Action Aid has taken the original Draft prepared in Karnataka to other States such as Andhra Pradesh And Chattisgarh in collaboration with some of its partners. We happily affirm these efforts as they are in line with our own vision to engage in Participatory Action Research and if not, to complement research with advocacy and lobbying in the interests of children. The challenge for us today is to pool our collective energies to enhance these Drafts and to subsequently implement these Rules so as to translate a vision of child rights into a more concrete reality. A few of the key concepts from these Drafts have also been incorporated here.

In order to demonstrate our recognition of the source of these ideas, we continue to use the same principle as the one used in our First Draft i.e. of using a different font to highlight various sources. In this context, all principles in Arial font have been extracted from the Model Rules published in the Gazette of India, in June 22nd, 2001. We need to mention that our first Draft has already engaged in detail with the Central Govt. Model Rules. These new additions into this Draft have been made because the Model Rules with which we engaged with in our First Draft was a Draft version, which we received in April 2001. This version, however, did not have the principles mentioned in the final Gazetted Rules, which were published in June 2001.

The new concepts culled out from other Draft Rules from other States have been incorporated as follows: *Rules whose contents are in italics have been extracted from the Tamil Nadu Draft Rules. New concepts from the Chattisgarh rules have been incorporated using a bold font and from Andhra Pradesh the Times Roman font which have been underlined.*

We would like to specifically thank Fr. George Kollashany sdb and Dr. Shekar Seshadri (Associate Prof. Dept. of Child Psychiatry, NIMHANS) who as consultants provided many useful insights, which are reflected in the rules.

We continue to look forward to feedback to these Drafts. We hope this document is of value to all stakeholders in the Juvenile Justice System.

*CCL Team: Prof. Babu Mathew, Arvind Narrain, Arlene Manoharan, Maria Kotian, Bernadine Metilda, Bindu Abraham. Secretarial assistance: Pushpa*

## **Model Rules**

## **under the Juvenile Justice (Care and Protection of Children) Act, 2000**

In exercise of the power conferred by the Section 68 of the Child Justice (Care and Protection of Children) Act, 2000 (No. 56 of 2000), the State Government/ Administrator of \_\_\_\_\_ is hereby pleased to make the following rules, namely:-

### **Short title and commencement**

(1) These rules may be called the Juvenile Justice (Care and Protection of Children) (\_\_\_\_\_) Rules 2001.

(2) These rules shall come into force within six months of the completion of the laying procedure.

### **Aim**

These Rules aim at ensuring conformity with the Convention on the Rights of the Child, 1989, The Beijing Rules 1985 and the UN Rules for Children Deprived of their liberty as mandated by the invocation of these standards in the Preamble of the Juvenile Justice (Care and Protection) Act 2000 as well as the Juvenile Justice (Care and Protection) Act 2000.

## **CHAPTER I**

### **General Principles and definitions**

The following principles shall, *inter alia*, be fundamental to the interpretation and implementation of the JJA (Care and Protection) Act 2000. This enumeration does not preclude resorting to any higher measures possible or evolved in consonance with the Constitution of India.

#### **1. GENERAL PRINCIPLES**

1) **Rights of the child:** The juvenile justice system shall uphold the rights and safety and promote the total well being of children. Children housed in facilities under the Act, or coming under specific schemes under this Act should be guaranteed the benefit of meaningful activities and programs which would serve to promote and sustain their health and self-respect to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

2) **Freedom from torture:** No child shall be subject to torture or cruel, inhuman or degrading treatment.

3) **Specific rights of children who are accused of having committed offences:** Every child alleged to have infringed the penal law, shall have the following guarantees:

i) To be presumed innocent until proven guilty by law

ii) *Right to innocence: The child's right to innocence and presumption of innocence upto the age of seven years (or up to the age of twelve years, as under) be respected throughout the process from the initial contact to after care.*

*The basic components of the right to and presumption of innocence are:*

*a. A child is presumed to be innocent of any malafide or criminal intent upto the age of seven years in all cases and upto twelve years in the cases wherein he is unable to understand the consequence of his action on account of immaturity of understanding.*

*b. Unlawful conduct which is done for survival, or is due to environmental or situational factors, or is done under control of adults or peer groups, is ought to be covered by the principle of innocence.*

*c. The idea is to allow certain benefits to a child in conflict with law vis a vis his mental development assessed by experts in the field through out the world as of eighteen years being the time of demarcation and with this end in view, the yardstick can only be the date of occurrence because the whole spirit is to impart benefit to such child on grounds of lesser development of his mental faculty.*

*d. Procedural safeguards shall be guaranteed to protect the presumption of innocence.*

iii) Right to be informed: To be informed promptly and directly of the charges against him or her, and if appropriate through his or her parents or legal guardian

iv) Right to legal aid: To have legal or other appropriate assistance in the preparation or presentation of his or her defense

v) Right to speedy procedure and trial: To have the matter determined without delay by a competent, independent and impartial authority.

vi) Right not to be compelled to give testimony or confess guilt.

vii) Right to an interpreter: To have the free assistance of an interpreter.

viii) Right to privacy: To have his or her privacy fully respected at all stages of the proceedings.

ix) Determination of age: The age of the child shall be the considered, taking into account the date of alleged commission of the offence. In case of doubt of age, the lower age shall be taken as the estimated age of the child.

x) *Non –waiver of rights: No waiver of rights of the child whether by himself or by the competent authority or anyone acting or claiming to act on behalf of the*

*child is either permissible or valid. Non-exercise of a fundamental right does not amount to waiver.*

*xi) Fresh-start: The principle of fresh start promotes new beginning for the child by ensuring erasure of his past records.*

- 4)**Right to Participation:** All parties shall assure to the child or child who is capable of forming his / her own views, the right to express those freely in all matters affecting him or her, the views of the child being given due weight in accordance with the age and maturity of the child. All procedures and inquiries shall ensure the participation of the child by ascertaining his or her views through the use of innovative techniques during all stages.
- 5)**Best interest of the child:** All parties shall ensure that the best interest of the child is respected at all stages, in all matters pertaining to the child, recognizing that the most effective way of ensuring the principle of best interest, is by taking into account the opinion of the child.
- 6)**Equality:** The Rules shall be applied impartially, without discrimination of any kind as to race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, disability or any other status.
- 7)**Deprivation of liberty:** Children should only be deprived of their liberty in accordance with the principles and procedures set forth in the Juvenile Justice Act (Care and Protection) Act 2000 and the rules there under. Deprivation of the liberty of a child should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The competent authority should determine the length of the sanction, without precluding the possibility of his or her early release.
- 8)**Affirmative action for children with special needs:** Children with special needs shall be provided with special care and affirmative action.
- 9)**Right to family:** Every child shall have the right to know, be cared for and contact his/her family. When care by the child's own parents is unavailable or inappropriate, care by relatives of the child's parents, by another substitute – foster or adoptive – family, individual or, if necessary and as a measure of last resort by an appropriate institution shall be considered. Persons responsible for the child's care shall recognize the need of a foster or an adopted child to know about his/her background unless this is contrary to the child's best interests.
- 10)**Right to identity:** All authorities shall undertake to respect the right of the child to preserve his/her identity including nationality, name and family relations as recognized by law without unlawful interference. All children coming under the purview of this Act shall have the right to enjoy their own culture, to profess and practice their own religion, or to use their own language.
- 11)**Separation from family or legal guardian:** The competent authorities shall ensure children shall not be separated from their parents against their will, except when competent authorities subject to judicial review determine in accordance with applicable law and judicial procedures, that such separation is necessary for safe guarding the best

interests of the child, taking into account the views of the child. In any such proceedings, all interested parties shall be given an opportunity to participate in the proceedings and make their views known. The competent authorities shall respect the right of the child who is separated from one or both parties to maintain personal relations and direct contact with both parents on a regular basis except if it is contrary to the child's best interests. Children shall be offered assistance to exercise their right to call any person of her/his choice over the phone or otherwise to be present during the inquiries.

- 12) **Role of parents and the State:** Parents or as the case may be, legal guardians have the primary responsibility for the upbringing and development of the child. The best interest of the child shall be their primary concern. The competent authorities shall ensure the child such protection and care as is necessary for his or her well being, taking into account the rights and duties of his or her parents, legal guardians or other individuals legally responsible for her or him. The competent authorities shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in the case of need provide material assistance and support programs.
- 13) **Care of children temporarily or permanently deprived of his or her family environment:** A child temporarily or permanently deprived of his or her family environment, or in whose best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the competent authorities, which shall ensure the development of appropriate alternate care such as adoption and foster care, institutions, facilities and services for the care of children. When considering solutions, due regard shall be paid to the desirability of placement within the community or other open facilities, as against custodial institutions, continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background. In all such placements, active steps should be taken to foster open contacts between the child and the local community.
- 14) **Basic needs:** All authorities and personnel under this Act shall aim to ensure that the basic needs of the children under their care, such as food, clothing, security, love and individualized attention are provided to them.
- 15) **Education:** Education, including general and vocational education shall be considered as a basic right and all efforts shall be made to ensure that children and learners with special needs have access to education that meets their requirements.
- 16) **Privacy:** No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence during any stage or to unlawful attacks on his or her honor and reputation. All children shall have the right to their personal belongings, which serve to contribute to their basic sense of personal identity and worth.
- 17) **Confidentiality:** All procedures and documentation concerning the child shall be treated as confidential. However, the child himself/herself, parents/legal guardians, fit persons, and legal advisors shall have the right of access to the same. Other persons such as researchers may be authorized at the discretion of the State Government. In certain cases, if it is found to be in the best interest of the child, this principle may be waived.
- 18) **Child Centred procedures and environments:** Children shall be received, interviewed and dealt with in a child friendly manner by officers who have received special training

in dealing with children. All officers, in particular those who first receive and interview such children shall as their prime responsibility take on the role of a 'friend of the child'. In this capacity, such officers shall make a genuine attempt to build a positive enabling relationship with the child even if the said child has allegedly committed a serious offence. All settings shall be child friendly spaces with an environment, services and facilities that respect children as persons, enable them to express their opinions, fulfill their basic needs, have age and sex appropriate facilities, and provide access to caring and responsible adults. All persons authorized to deal with children shall, unless considered necessary at the time, wear only civil clothes and not a uniform. However, she/he shall have on her/his person identification, which shall be produced on demand.

- 19)**Right to assistance during proceedings:** Every child shall have the right to his/her parent/guardian being present during all stages of proceedings. However, competent authorities in consultation with the primary case worker and the child may, in some cases and subject to judicial review, determine whether the presence of the parent/guardian is against the best interest of the child, and in such cases, prohibit their attendance
- 20)**Right to free legal aid and legal representative:** Every child shall have the right to free legal aid and legal representation in all proceedings before competent authorities.
- 21)**Right to counseling:** All children under the Act have the right to counseling by a qualified Social Worker. She/he shall be enabled to apply for free counseling where such aid is available and to communicate regularly with advisors. Privacy and confidentiality shall be ensured for such communications.
- 22)**Individualized assessment:** Inquiries shall take into account the heterogeneity of children and therefore provide individualized attention with due regard to the circumstances of each case.
- 23)**Protection from abuse and exploitation:** The competent authorities shall take all measures to protect the child in the juvenile justice system from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse. Such protective measures should as appropriate, include effective procedures for the establishment of social programs to provide necessary support for the child and for those who care for the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment, and follow up of instances of child maltreatment described heretofore, and as appropriate, for judicial involvement.
- 24)**Secondary victimization:** All procedures under the Act shall be conducted in a manner that prevents secondary victimization of the child. *The non-stigmatizing semantics of the said Act must be strictly adhered to, and the use of adversarial or accusatory words, such as, arrest, remand, accused, charge sheet, trial prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody, etc. is prohibited in the processes pertaining to the child under the said Act.*
- 25)**Protection from corruption:** No functionary shall demand any consideration, monetary or otherwise for the performance of his or her duties under the Act or Rules.
- 26)**Right to an interpreter:** The Rules should be made readily available to juvenile justice personnel in their regional languages. Children who are not fluent in the language spoken

by the personnel administering juvenile justice institutions and schemes should have the right to the services of an interpreter free of charge, whenever necessary, in particular during medical examinations and disciplinary proceedings. Children with disability should have access to hearing aids and other such equipment to help them in such situations.

- 27)**Repatriation:** Any child who is a foreign national, and who has lost contact with his family, shall also be eligible for protection under the Act and he shall be repatriated at the earliest to his country.
- 28)**Standards of care:** The competent authorities shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards as stated in these Rules, particularly in the areas of safety, health, in the number and suitability of their staff as well as competent supervision.
- 29)**Transparency:** All the authorities under the Act shall assure and facilitate transparency of the affairs of the administration, especially with organizations who are recognized and authorized under the Act and those who undertake to Jointly manage any of the institutions or programmes under the Act.
- 30)**Application:** The Rules apply to all types and forms of interventions including programmatic and institutional intervention including adoption, foster care, and placement in special homes, observation homes and children's homes.
- 31)**Conflict with principles:** In the event that the practical application of particular Rules contained in the following sections conflicts with the principles contained in the present section, compliance with the latter shall be regarded as the predominant requirement.

**2. DEFINITIONS:** In these rules, unless the context otherwise requires: -

- a. '**Act**' means the Juvenile Justice (Care and Protection of Children) Act 2000
- b. '**Adoption**' means taking custody and responsibility permanently of a child covered by this Act, who will have all the rights and privileges of a natural born child.
- c. '**Child with special needs**': Child with special needs is a child for whom specialized services or interventions are necessary to facilitate proper care and rehabilitation, in addition to regular services provided under the Act.
- d. '**Place of safety**' shall mean any place or institution (not being a police lock up or jail) the person in charge of which is willing to temporarily receive and take care of the child and which, in the opinion of the competent authority, may be a place of safety for the child. Such place shall ensure the physical, mental and emotional safety of the child. Even if a child escapes from these custodial areas, no proceedings of the nature of suspension shall be initiated against the person in charge of the said place of safety or institution. However, an inquiry shall be undertaken as to whether the person concerned has acted in good faith.

- e. **Foster care** means placement of a child with a nuclear family or group foster home.
- f. **Pre adoptive foster care** means placement of a child in a family temporarily till the child can be rehabilitated in a permanent home.
- g. **Foster child** means a child placed with a foster parent or foster family.
- h. A **foster parent/s** is person/s who is not the parent/s of the child, but is willing to undertake the responsibility for care and maintenance of the child as his or her parent/s without necessarily according the legal rights of property etc.
- i. **Extended family** mean relatives of the child with whom he/she can be placed in foster care.
- j. **Group Foster Care** means care of a group of children in one family or a group foster home run by an NGO.
- k. **Social Workers/Social Welfare officer** means social workers duly recognized and empanelled by the Competent Authority, who are professionals or specially trained to provide Social Work expertise in areas such as counseling, adoption, Community service, foster care, sponsorship and any other such service.
- l. **'Form'** means the form annexed to these rules.
- m. **'Institution'** for the purpose of these rules, means an observation home or a special home or a children's home or a shelter home set up U/s 8, 9, 34 and 37 of the Act.
- n. **Officer-in-Charge** (nomenclature as used by the State Government) means a person appointed for the control and management of institution certified or recognized as such under the Act.
- o. **'Secondary Victimization'**: Secondary victimization refers to behaviors and attitudes of authorities and personnel in the child justice system towards children within the system, which further traumatizes victims.
- p. **Child sexual abuse** refers to the use of a child by an adult for sexual purposes whether or not consent is alleged to have been given. It includes: acts of exposure; sexual touching; oral, anal or vaginal penetration; and the exposing of a child to, or involving a child in, pornography or prostitution. Any form of direct or indirect sexual contact between a child and an adult is abusive since it is motivated purely by adult needs and involves a child who, by virtue of her/his age and position in life, is unable to give consent.

Sexual activity between children constitutes sexual abuse when it is between siblings or when it is clear, by difference in developmental levels, coercion and/or lack of mutuality, that one child is taking advantage of another. Child sexual abuse includes taking pictures or videos of naked children, making children look at pornographic pictures or videos of people having sex, showing children a

person's "private parts", making children touch a person's "private parts" in any way, or making rude/lewd or suggestive sexual comments to a child.

**q. 'Take responsibility'** shall mean being responsible for the physical, mental, emotional and over all health and safety of the child. The responsible person/guardian may not be no penalized for acts done in good faith, which result in the child absconding from the custody of the guardian.

**r. CARA and CARA Guidelines:** CARA means the Central Adoption Resource Agency set up under the aegis of the Ministry of Welfare. CARA Guidelines means guidelines issued by CARA from time to time to regulate matters relating to adoption of Indian children.

**s. Adoption:** The placement of a child with no legal guardians (found abandoned) as determined by the competent authority or a child whose legal guardians who have voluntarily surrendered/relinquished their rights over him or her becomes legally free for placement on a permanent basis with a substitute family, approved by the competent authority and this welfare measure is deemed as adoption under this Act.

**t. Recognized Placement agency or Adoption agency:** (Refer CARA Guidelines)

**u. Scrutiny agency in the case of adoption:** (Refer CARA Guidelines)

**v. Government** means State Government of .....

**w. 'Rule'** means the rule framed under the Juvenile Justice (Care and Protection of Children)\_\_\_\_\_ Rule 2001.

**x. 'Section'** means a section of the Act.

**y. Words and expressions'** defined in the Act and used, but not defined, in these rules, shall have the same meaning as assigned to them in the Act.

## **CHAPTER II CHILD IN NEED OF CARE AND PROTECTION**

### **3. ADDITIONAL PRINCIPLES FOR CHILDREN IN NEED OF CARE AND PROTECTION**

- a. Choice based voluntary admission:** As far as possible, with due consideration to age and maturity and taking into account the best interests of the child, the child should voluntarily produce himself or herself before any person/authority with the view of accessing services/provisions laid out under this Act. Detention in any institution or home shall be viewed as a measure of the last resort and it shall be for the shortest possible period of time. Only a child, who according to the Probation Officer is assessed as being in need of care and protection, and it is found to be in the interests of the child to admit the child, even if it be against his or her will, shall be admitted into the juvenile justice system. The reasons for doing so shall be recorded in writing.

### **4. STRUCTURES AND INSTITUTIONS FOR CHILDREN IN NEED OF CARE AND PROTECTION**

#### ***1) CHILD WELFARE COMMITTEE***

##### **i) Selection of members**

- a. The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman, and another an expert on matters concerning children.
- b. The Chairperson and members of the committee will be appointed through a Selection Committee set up by the State Government, for the purpose.
- c. A person to be selected as a member of the Child Welfare Committee shall have either of the following qualifications, besides five years experience in

their respective field.

- i. Respectable, well educated citizen with the background of special knowledge of social work, child psychology, Education, Sociology or Home science.
  - ii. A teacher or a doctor or a senior retired public servant who has been involved in work concerning child welfare or
  - iii. A Social Worker of repute who has been directly engaged in work on child rights.
- d. The chairperson of the Child Welfare Committee shall be at least a graduate with either of the qualifications given above in sub-rule (4).

**ii) Tenure:** a. The Child Welfare Committee shall have tenure of three years and the appointment of members shall be co-terminus with the tenure of the Committee.

b. A member of the committee shall be eligible for appointment for a maximum of two **Terms and shall not be more than 65 years at the time of first appointment.**

c. A member may resign, at any time by giving one month's advance notice in writing.

d. Any casual vacancy on the committee may be filled by appointment of another person from the waiting list/panel and shall hold office for the remaining term of the committee.

**iii) Honorarium and Allowances:** Members of the committee shall be paid such traveling/meeting allowance or honorarium as the State Government may decide from time to time. They shall be treated as First Class Committee for the purpose of traveling and meeting allowances. *Every member shall be paid a monthly fixed traveling allowance of Rs. 1000/- per mensem. The Chairperson shall be paid an Honorarium of Rs. 4000/- per mensem and every member shall be paid an Honorarium of Rs. 3000/- per mensem.*

**iv) Procedure regarding meetings of the Child Welfare Committee:**

a. The Committee shall hold its sittings in the premises of a children's Home, in rotation, at the different Children's Homes in the District in case there are more than one such Children's Home, according to alphabetical order of the location, and shall meet on at least three days a week *from 2:00 p.m. – 5:00 p.m. However, the Chairperson may extend the sitting time in case any important business is to be transacted.*

b. A decision may be taken by an individual member, when the Committee is not sitting. However, this shall require ratification by the committee in its next sitting.

c. Final disposal shall take place from the office of the Committee, by the order of at least two members. The Committee shall take into consideration the age, physical and mental health background, opinion of the child and the recommendation of the caseworker, prior to such disposal.

*d. Time taken for producing a Child In Need of Care and Protection before the Committee:-* Children who are above two years of age, shall be produced before the Committee within the shortest appropriate time of such reception, excluding the journey time by the organization. For children under two years of age, the organization shall send a written report along with the photograph, within 48 hours of admission, excluding the

journey time.

**v) Persons through whom a child may be produced before the Committee:**

**Any child in need of care and protection shall be produced before the committee by the following:-**

- i) Any police officer or Special Juvenile Police Unit or a designated police officer
- ii) Any public servant;
- iii) Childline, a registered voluntary organization, or by such other voluntary organization or an agency as may be recognized by the state government;
- iv) Any social worker or a public spirited citizen authorized by the State Government or
- v) By the child himself.

**2) CHILDREN'S HOME** (Refer Ch 5)

## **5. 1) PROCEDURE FOR UNDERTAKING QUICK ASSESSMENT AND PRELIMINARY INQUIRY SPECIFIC TO CHILDREN IN NEED OF CARE AND PROTECTION PRIOR TO PRODUCING THE CHILD BEFORE THE COMMITTEE**

a. When any person/organization authorized under sub clause (i) above receives a child in need of care and protection, he/she/they may also produce the child before the Committee with the social investigation report of the circumstances under which the child came to their notice. They may also be encouraged to assist in efforts to trace the family.

b. Transfer of case of a child in need of care and protection from Police to any other producing agent listed in Sec 32 of the Act: If the child has been received by a Police person other than officers of the SJPU, she/he shall, as far as possible transfer the case of the child to the SJPU or any other appropriate non-police person under Sec 32.

c. *Place of safety:* In case the Committee is not sitting, the child shall not be kept in the police station or jail, but shall be taken to a place of safety such as a designated Shelter Home run by a recognized or authorized non governmental organization and if not to a Child help line or other such organization, wherever such organization is present. These authorities shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of such detention pending inquiry, which itself should be a measure of last resort.

d. *Admission:* A child's choice to be admitted into the Juvenile Justice system shall be taken seriously at the time of detailed inquiry. When the child is recognized by the Probation Officer/ primary caseworker as not being of age or maturity to express her/his opinion, the consent of her/his parent/guardian/fit person shall be taken. *Admission shall be made round the clock and the Officer in charge of the Children's Home/Reception Unit shall receive the child irrespective of the time. A child brought during the night shall be produced before the Committee at its next sitting for obtaining an order.*

e. *Medical check up and other immediate needs of the child to be met:* -the child's access to caring responsible adults and provision of other basic needs shall be ensured during this period. A medical check up shall be done if it is found that the child requires it or if the

child /specifically requests for the same. Special attention shall be given to girls and other children requiring specialized care.

f. *Information to parents or guardians:* (i) The producing agent on his own or with the assistance of any other persons shall immediately inform the parents or guardian. The producing agent shall ensure that the parents/guardian of the child is present at the time of interview. An exception may be made when it is considered by the primary case worker/P.O. in consultation with the child who has specifically expressed his/her right not to inform the same, that it is against the best interest of the child to do so. Reasons for these exceptions shall be noted in writing.

(ii) Where a child's parents or guardian cannot be contacted earlier, or as mentioned in Rule above, if the child specifically wishes that they not be contacted, any other fit person accepted by the child and considered appropriate by the primary case worker/ probation officer, shall be informed of the child's desire to seek assistance under the Act so that he or she can attend the preliminary inquiry.

g. *Social Investigation Report:* A preliminary inquiry shall be completed as soon as possible. Care shall be taken not to cause any stress to the child for purposes of extracting information for this assessment/initial reports, keeping in mind that many children are not ready to share information at this initial stage. Every possible effort shall be made to engage the child through building up a positive relationship of trust. The person handling the child's case shall make every attempt to trace and associate the family in the inquiry, unless such procedure is believed to cause undue stress to the child or such an interaction is not in his/her best interests. Assistance of the police recognized voluntary organizations/child line might also be taken. In such cases, the child may be sent to an Observation camp. (See sub section 1 under Rule 22) The Social Worker/P.O. in the institution/organization housing the child during this initial stage shall as far as possible make a visit to the home of the child and prepare a social investigation report to be recorded in Form VIII

h. *Missing/Lost Child:* In case, the child is found to be a lost or missing child, detailed inquiries shall be made as prescribed and the relevant information sent to the Computerized Missing Children's Bureau set up under these Rules.

### **3) PROCEDURE FOR DETAILED INQUIRY AFTER PRODUCING THE CHILD BEFORE THE COMMITTEE:-**

a. When a child is brought before the committee, the committee shall assign the case to a social worker/case worker/child welfare officer/ officer in charge, as the case may be, of the home or any appropriate recognized agencies for conducting a detailed inquiry. The producing agent shall be encouraged to participate in the detailed inquiry, so as to avoid multiple inquiries.

b. The Committee shall direct the concerned person/organization the details/particulars to be enquired into for suitable rehabilitation. The direction for the inquiry under section 33 of the act must be in a prescribed form (refer Form I). *The Committee shall also maintain a list of experts in the field of psychology, counseling, etc. in consultation with the Department of Women and Child Welfare, who are willing to provide such services. The Committee may direct such professionals to furnish a special report about the child in need of care and protection.*

c. In compliance with the said Act as well as the child's fundamental right to a speedy trial, the detailed inquiry must be completed within 4 months unless special circumstances do not permit to do so in the interest of the child. Under such circumstances written extension must be taken by the inquiring officer/agency under section 33 (2) of the Act. A maximum time of three months from the date of filing of the complaint or lodging of the First Information Report shall be given for a child accused of an offence punishable with imprisonment of not more than seven years. Further, a maximum period of six months from the filing of the charge sheet shall be given within which the trial of the child must be completed. If these Rules are not complied with, the prosecution against the child would be liable to be quashed.

d. Medical check up: Medical Check up/assistance may be done/given if the personnel concerned think fit or if the child specifically requests for the same. Care shall be taken to ensure that such medical examination is conducted in a sensitive manner.

e. Information to parents or guardians: The producing agent on his own or with the assistance of any other persons shall, if not already done so, immediately inform the parents or guardian and shall ensure that the parents/guardian of the child is present at the time of interview. An exception may be made when it is considered by the primary case worker/P.O. in consultation with the child who has specifically expressed his/her right not to inform the same, that it is against the best interest of the child to do so. Reasons for these exceptions shall be noted in writing.

f. Fit Person: Where a child's parents or guardian cannot be contacted earlier, or as mentioned in Rule above, if the child specifically wishes that they not be contacted, The probation officer shall make a concerted effort to identify any other fit person accepted by the child and considered appropriate, and shall inform him or her of the child's desire to seek assistance under the Act so that he or she can attend the inquiry.

g. The committee shall make arrangement to send the child to the designated place of safety, or the Children's Home with age and sex appropriate facilities, pending detailed inquiry. Children should as far as possible be lodged in a home closest to where they belong, unless it is not in their interest such as in situations of disaster /conflict.

*h. The Committee may refuse temporary custody of the child to parents/guardians if the release is found likely to be against the best interests of the child. Such reasons shall be recorded in writing and further detailed inquires made for suitable placement.*

i. The child may be escorted by a representative of a voluntary organization or a police officer, or by any other arrangement deemed appropriate by the Committee. Escort by Police shall be a measure of last resort with preference given to designated Police officers and those attached to an SJPU.

j. After completion of the inquiry at the end of the 4 months, if the child is ordered to continue in the children's home, the Committee shall carry out an annual review of the progress of the child in the home.

## CHAPTER - III

### CHILD IN CONFLICT WITH LAW

#### 6. STRUCTURES AND INSTITUTIONS FOR CHILDREN IN CONFLICT WITH LAW

##### *1) Juvenile Justice Board*

a. The Juvenile Justice Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, and two social workers of whom at least one shall be a woman, forming a bench.

b. Every such bench shall have the powers conferred by the code of criminal procedures 1973 (2 of 1974). However the exercise of the above powers shall be subject to the principles mentioned in Chapter 1

c. (i) A Magistrate with special knowledge/training in child psychology or child welfare shall be appointed as a Principal Magistrate of the Juvenile Justice Board.

(ii) In case the Principal Magistrate with such special knowledge and training is not available, then the State Governments shall provide for such short-term training.

d. The two social workers, of whom at least one shall be a woman, shall be appointed by a Selection Committee set up by the State Government.

e. The Selection Committee set up under **Rule 65**, shall lay down minimum qualifications and invite nominations of qualified candidates from the public out of which the final choice of two social workers shall be made. The Selection Committee shall constitute a list of social workers so that in the event of one member not being present another person from the list can be called to be present as a member of the Board. The Selection Committee shall set up a panel to allot responsibility on a rotational basis as may be considered appropriate.

f. The social worker to be appointed as a member of the Board shall be a person who has been actively engaged in planning, implementing and administering health, education or other welfare activities pertaining to child rights issues for at least seven years.

g. The Board shall have a tenure of three years and the appointment of members shall be co-terminus with the tenure of the Board.

h. A social worker member of the Board shall be eligible for appointment for a maximum of two terms and shall not be more than 65 years at the time of the first appointment.

i. The Board shall hold its sittings in all the observation homes, in a district or group of districts in rotation according to the location of these homes and shall meet on all the working days of a week from 10: 00 a.m. to 5: 00 p.m.

j. A Member may resign at any time, by giving one month's advance notice in writing or may be removed

from office as provided u/s 4(5) of the Act.

k. The social worker members of the Juvenile Justice Board shall be paid a salary commensurate with the Magistrate for the duty discharged.

## ***2) Observation Home***

**The State Government may establish and maintain Observation Home either by itself or under an agreement with voluntary organization in every district or a group of districts as may be required or the temporary reception of any child alleged to be in conflict with law during the pendency of any inquiry regarding them under the Act.**

**1. All principles, services and facilities offered in Rules 20-43 (Refer Chapter V on Institutional management) shall be provided in the Observation Homes. The Observation Camps mentioned in Rule number 22 may be a special service offered in the Observation Home, with assistance from professionals from various disciplines such as criminology and child psychology, etc. These professionals shall be specially trained to perform these roles.**

2. Opportunities to pursue Education shall be offered through the provision of creative non-formal classes that enable the child to sustain his/her interest in formal education especially if the child has attended such school.

3. Special counseling sessions may be conducted by trained persons to enable children alleged to be in conflict with law to deal with their feelings and fears about their situation and to offer them legal aid.

4. In any case, children shall be offered opportunities to make constructive use of their time even during this short period of observation.

## ***3) Special Homes***

All principles, services and facilities offered in Rules 20-43 shall be provided in the Special Homes. (Refer Chapter on Institutional Management)

1. In addition, the Superintendent shall make every effort to identify and involve experts to provide special therapeutic inputs to enable children to deal with their situation and move towards becoming adjusted members of the community. Such children shall, as far as possible have access to specialized counseling on a regular basis.

2. Special Programmes:

Key components of such programmes may be to

i) Assist the child to accept rather than to avoid responsibility for his/her actions

ii) Help the child to focus on helping to resolve problems identified as contributing to their offending behaviour

iii) Assist the child to develop practical alternative ways of coping with stressors

iv) Involve, wherever possible, families of offenders to work on family issues likely to reduce offending

v) Remediating educational deficits in basic skills to raise social competence

vi) Help to develop market place work skills, which can lead to further training opportunities, qualifications and real jobs.

vii) Assist the child in establishing and strengthening relationships with significant others

- who can then become mentors and role models
- viii) Involve the child in empowering experiences of assessing their own needs and planning and monitoring their own case plans.
- ix) Help the child to develop skills and confidence to assert positive leadership and self-discipline.

- a) Efforts may be made to develop a Victim Offender Reconciliation Programme (**Concept taken from Victim Offender Reconciliation Programme, [www.vorp.com](http://www.vorp.com)**) with such experts involving interested and competent NGOs. The objective of such programmes may be to offer avenues for communication, responsibility, reconciliation and restitution.
- b) A programme for Group Counselling and other such services shall be evolved with the help of experts in the field.
- c) A programme to offer and monitor meaningful and effective community service to children in conflict with law, who are ordered to undergo the same, may be evolved with the help of competent and sensitive NGOs/experts. The objective of such community service shall be to enable the child to move towards becoming an adjusted member of the community and it shall in no way further stigmatize the child or violate his rights.

## **7. PROCEDURE FOR CHILDREN IN CONFLICT WITH LAW (CICWL) THROUGH WHICH A CHILD MAY BE PRODUCED BEFORE THE BOARD.**

- 1) Persons through whom a child alleged to be in conflict with law may be produced before the Board
- a. The officers of the Special Juvenile Police Unit
  - b. Any Police officer
  - c. The child herself/himself
  - d. Any recognized voluntary organization willing to take responsibility
- 2) *Clothing to be worn by persons designated to deal with children alleged to be in conflict with law:* Wherever possible, all such persons shall, except at the time of arrest, only wear civil clothes and not a uniform unless specific circumstances require the said officer to wear a Police uniform in the interest of the child. However, they shall at all times have on their person, an identification that shall be produced on demand.
- 3) *Role of the police:* The concerned Police officer shall take on the role of friend of the child. He/she shall perform all the specific roles and responsibilities required of Police with regard to children alleged to be in conflict with law. He/she shall work in close co-ordination with the Social Workers in the Special Juvenile Police Unit (SJPU) and perform only specialized roles expected by the police. All Police Officers are ultimately responsible for the care and protection of children.
- 4) *Role of the social workers:* The social workers at the SJPU shall be the primary caseworker in relation to the children alleged to be in conflict with law and shall also take on the role of friend of the child. He/she shall receive the child in a sensitive child friendly manner and enable him or her to feel at ease during the entire process of First Contact and preliminary inquiry.

5) *Transfer of case to the SJPU:* As soon as a child in conflict with the law is apprehended by the Police, the police shall place the child under the charge of the special juvenile police unit or the designated police officer.

In case a recognized voluntary organization takes a child to the Juvenile Justice Board, the voluntary organization shall also inform the concerned Police Station

6) *Time taken to produce the child before the Board:* The special juvenile police unit or any other producing agent shall produce the child before the Magistrate or a Member of the Board within 24 hours of his apprehension (excluding the time taken to bring the child from the Police Station/place of safety to the Board). In case of delay in production before the Magistrate/Board, the details of not doing so are recorded in the Police Daily/General Diary. Preliminary inquiries should be completed as soon as possible and care shall be taken not to cause any stress to the child for purposes of extracting information for this assessment or the *initial reports*.

7) *Child to be informed of the charge and his rights:* The child shall be informed promptly and directly of the charges against her/him in a language and manner that she/he understands so as to ensure full comprehension of the same.

8) *Right to call any person:* On arrest, the child shall be given all possible assistance to enable her/him to fulfill her/his right to call any person of her/his choice over the phone or otherwise.

9) *Right to remain silent:* The accused shall not be compelled to confess or give testimony. No form of torture or harassment shall be used in order to extract information from the child.

10) *Place of First Contact where a child may be kept prior to a decision about his placement by the Board:* On arrest, the child shall not be kept in the lock up of the police station or jail in order to conduct the preliminary inquiries. Instead, in the shortest possible time not exceeding eight hours, she/he shall be taken to a place of safety such as the Special Juvenile Police Unit or other such organization wherever such organization is present.

a. When a child is kept in a place other than the SJPU, the officer in charge of the said place shall immediately inform the SJPU of that jurisdiction and shall as far as possible work in co-ordination. All such places shall be child friendly places with an environment, services and facilities which respect children as persons and enable them to relax, play, express their opinions, participate in decisions concerning them and have access to caring and responsible adults.

b. The Police/recognized voluntary organization shall be responsible to ensure the safety of the children apprehended or kept under their charge.

11) *Medical check up and other basic needs:* The child alleged to be in conflict with law shall be provided with nurturing care as well as other services deemed necessary at the time, such as immediate medical attention, basic needs, counseling, etc.

12) *Information to the Probation Officer:* The special juvenile police unit to which the child is brought, shall inform the probation officer concerned of such apprehension to obtain information regarding the antecedents and family background of the child and other material circumstances likely to be of assistance to the Board for making the inquiry.

13) *Information to parents or guardians:* The Designated Child Welfare Officer or officers from the SJPU shall in the shortest possible time, inform the parents or legal guardian of the arrest.

During any further questioning of the child, they shall ensure the presence of the parent or legal guardian. The concerned officer may also make a concerted attempt to identify someone as a 'fit person'—preferably a social worker who knows and is willing to take responsibility for the child. The Officer along with the fit person shall consult the child and together determine if it is in her/his interest to inform the parent/legal guardian, taking into account cases where the parents/legal guardians allegedly exploit or abuse children.

*14) The social investigation report:* The social worker of the SJPU or the Senior Social Worker in case of the recognized voluntary organization, shall as far as possible make a visit to the home of the child as well as to the scene of the alleged crime and prepare a social investigation report narrating the circumstances of apprehension and offence committed, with the primary focus on the possible reasons why the child has allegedly committed the crime.

*15) Producing agent to make recommendations to the Board:* The producing agent may make a report with recommendations to the Board. Such recommendations may include immediate release after admonition or reconciliation to be facilitated by the Child Welfare Officer at the SJPU itself. Whenever appropriate and possible, children alleged to have committed petty offences may be released from the SJPU itself, when one member or the bench of the Board accepts such recommendations within the maximum 24 hour period for preliminary inquiry. If the Board ratifies such a recommendation, the said child shall be released from the place of safety itself. If the Board decides not to take this recommendation into account, the said child may then be transferred to the Observation Home and physically produced before the Board.

## **8. PROCEDURE TO BE FOLLOWED BY A JUVENILE JUSTICE BOARD IN HOLDING INQUIRIES:**

### *1) Additional Specific principles*

*a. Child friendly procedure:* Children should be received, assessed and interviewed in a child friendly manner and environment by officers who have received special training in dealing with children. Children shall receive and retain materials for their leisure and recreation so as to help build such an atmosphere, unless it is not in the interest of treatment or the child at the time.

*b. Purpose of the inquiry:* The purpose of the inquiry shall be to understand and address the motivation of the child in committing the crime. Thus the purpose of the inquiry shall shift from determining whether the child committed the crime to why the child committed the crime and to identify the redressal mechanism for the child.

*2) Venue:* The Board shall sit in the premises of an Observation Home on all working days, from Monday to Friday from 10.00 am to 5 pm.

*3) Determination of age:* In every case concerning a child the Board shall obtain a birth certificate or medical opinion regarding his age and his physical and mental conditions.

*4) The Board should satisfy itself either from the declaration of Police in writing or otherwise that the child was not kept in Police lock up or jail prior to the production of the child before the Board and that he/she was produced within 24 hours of taking charge. The Board shall also satisfy that the child has not been subjected to ill treatment or harassment either by the Police or by any other person from the time of taking charge. The Board shall also ensure that no girl was taken charge by police between sunset and sunrise, provided if the circumstances warrant, that*

*she was kept under the care of a woman in a place of safety or in an Observation Home.*

5) *Bail*: When the child is first presented before the Board, the Board shall immediately determine if the child can be released on bail. If the child can be released on bail, then the court shall release the child either to a parent, guardian, and fit person/institution or on personal bond by the child. Any member of the Board is competent to release the child on bail.

6) When the child is presented before the Board, the Board shall communicate to the child in a child friendly manner in a home like environment, and in a manner that the child can understand the substance of the charge against him/her. The child shall be asked if he/she did commit the offence he or she has been accused of.

7) If the child accepts that he/she did commit the offence he or she has been accused of, then the Board records the acceptance and issues the appropriate order in the case. In the case of non-serious offences the Board shall whenever possible issue a reprimand and release the child.

8) When witnesses are produced for examination, the Board shall make free use of the power conferred on it by Section 165 of the Indian Evidence Act, 1872, to so question them as to bring out any point that may go in favor of the child.

9) If the child does not accept the substance of the charge, then the Board shall proceed to hear the prosecution and take all evidence produced by the prosecution and also hear the accused and take all evidence as he/she produces in his/her defense.

10) The Board may if it thinks fit on the application of the prosecution or the child, issue a summons to any witness directing him to attend or to produce any document or thing.

11) The Board shall address its inquiry to the question of why the child committed the offence and how best to redress the causative factors. In accordance with sub section (2) of Section 10, the Board in form I shall also order a Probation Officer, or otherwise to conduct a social investigation, reporting on the character and antecedents of the child with a view to assessing the best possible mode for placement, such as, with the family, an institution or otherwise permissible under the Act.

12) The order issued by the Board shall take into account

a.the views of the child

b.the best interest of the child

c.the fact that detention should be a measure of the last resort and for the shortest possible period of time. Only in the case of serious offences or chronic repeaters shall the Board recommend detention.

13) The State Government shall recognize registered voluntary organizations to supervise and submit periodical reports as directed by the Board regarding the orders passed under Section 15 (b) and (c) of the Act.

14) When a child is placed under the care of a parent or a guardian and the Juvenile Justice Board deems it expedient to place the child under the supervision of a probation officer, it shall issue a supervision order in form II.

- 15) Whenever the Juvenile Justice Board orders a child to be kept in an institution, it shall, forward to the Officer-in-Charge of such institution a copy of its order in Form III with any particulars of the home and parents or guardian and previous record.
- 16) All children shall be lodged in a home closest to where he/she belongs, unless it is not in his/her interest to do so, such as in situations of conflict/disaster.
- 17) The Officer-in-Charge of an institution certified as special home under sub-section (1) of section 9 shall be informed in advance by the Board before any child is committed to it.
- 18) The Officer-in-Charge of the said institution may on receipt of the information, intimate in writing objections, if any, to the committal of the child and the objections shall be fully taken into consideration by the Board before the child is committed to the said institution.
- 19) In case the board orders the parent of the child or the child to pay a fine, the amount realized will be deposited in the government treasury.
- 20) When a child is produced before an individual member of the Board, the order given by the member shall be ratified in the next meeting of the Board.
- 21) *The Board shall initiate action against any media for publishing any matters relating to children in need of care and protection, if such material leads to the identification of the child.*

## **CHAPTER IV**

### **STRUCTURES FOR BOTH CHILDREN IN NEED OF CARE AND PROTECTION AND CHILDREN IN CONFLICT WITH LAW**

#### **9. SHELTER HOMES**

- 1) For the children in urgent need of care and protection, such as destitutes, street children, run-away children etc. the Govt. shall support creation of the requisite number and not less than one Shelter homes through voluntary organizations. Children with special needs from Children's Homes may also be referred to these Shelter Homes for special care, if such special care is available.
- 2) The Shelter homes may be run in a manner, which facilitates two stages of intervention during the period of initial contact with children.
  - a. **First contact:** The first stage of intervention shall be made through initiating first contact intervention similar to street contact centers located on Railway Stations or other areas of high density of children at risk.
  - b. **Transit care:** The second stage shall be to facilitate a more settled setting for children in crisis who require transit care prior to long-term placement.
- 3) Infrastructure: The first contact centers of the shelter home should have a fairly large physical space for reception of children along with attached bathing and toilet facilities. The shelter homes for transit care should have the minimum facilities of boarding and lodging besides the provision for fulfillment of basic needs in terms of clothing, food, health care and nutrition etc. as well as additional facilities for education, vocational training and recreation. Both these centers of the shelter home shall be managed

in such a way as to provide child centered community based reception centers for children.

4) The Child Welfare Committees, Special Juvenile Police Units, Public Servants, Child lines, Voluntary Organizations, Social Workers and the children themselves may refer a child to such facilities.

5) The legal requirements of investigation and disposal shall not apply in cases of children residing in the shelter home, except giving information to the committee and the police about the missing or homeless children besides initiating legal action in the interest of the child in terms of Act or other child related laws.

6) Duration of stay in the shelter homes: The staff of the shelter homes shall make a case plan for each child ( See Rule 21) and work with the child to try and find a suitable placement as soon as possible. No child shall ordinarily stay in the transit care shelter home for more than a year, in case of Govt. funding. All children who have not been placed shall be referred to other NGOs for further follow up. A list of such NGOs shall be maintained and effective liason and networking initiated to facilitate such referrals.

7) Management: The Shelter Home shall be run by recognized or authorized voluntary organizations having a minimum of one year in dealing with children in especially difficult circumstances. The Shelter Home shall to the extent possible, be managed by taking into account the principles and standards outlined in the Rules listed in the Chapter on Institutional management, in accordance with the needs of the child.

8) **1. The Objectives of the Shelter Home:**

a) To identify and receive children who are at risk and in need of urgent care and protection as well as those who specifically seek help in that jurisdiction.

b) To build up a friendly relationship with the child so as to enable him/her to understand and share the reasons for his/her present situation as well as to participate in a decision regarding his/her placement.

c) To offer quick assessment services and referrals to detailed assessment and other services.

d) To offer services of counseling, recreation, medical attention, non-formal education and temporary, open and freely accessible 24 hour shelter.

e) To directly link up with competent authorities and institutions under the Act coming under that jurisdiction as well as network with the Child Help line of the area and all other recognized fit persons, voluntary organizations and fit persons willing to assist in the work of the Shelter Home.

2) Location: The Shelter home shall preferably be located in areas of high density of children in difficult circumstances such as Railway stations, market places and other commercial areas.

3) Jurisdiction: State Governments shall encourage the setting up of at least one Shelter Home in every Ward having a high density of children at risk. Other areas may be divided into zones, which shall be covered by a Shelter Home for that zone. Every District shall have a minimum of one Shelter Home.

4) Affiliation to the Jurisdictional Police Station: Every Shelter Home shall be affiliated to the jurisdictional Police station and to the Child Help Line for any specific assistance.

5) Staffing pattern: The staffing pattern of the Shelter Home shall preferably be as under:

- a. One Senior Social Worker who is qualified or has special training or experience in working with children in especially difficult circumstances
- b. One Junior Para professional with special training or experience in working with children in especially difficult circumstances
- c. One helper.
- d. Two youth peer counselors performing the role of friends of children.

**10. HOMES OR SHELTER HOMES FOR CHILDREN WITH SPECIAL NEEDS: Homes for Mentally Challenged Children:**

a. The state government may run Children's Homes for destitute mentally challenged children and children with multiple disabilities as per need. All Rules under the Chapter Institutional Management shall be applicable to these Homes.

**Assistance under the Central Government Scheme to promote Voluntary Action for persons with Disabilities may also be availed to run Shelter Homes for challenged children. The home for these children shall be a comprehensive care and rehabilitation center involving the local community, civil society organizations and experts/academic bodies. Parents of children shall be encouraged to participate in the activities of the home.**

*i) Specific Principles in the case of mentally challenged children:*

Competent authorities and personnel shall recognize:

- a. Only those children who are in need of specialized care should be referred to these institutions. Those children with mild MR, who can be housed in the Children's home should be given special privileges/services within that institution itself.*
- b. That a mentally or physically challenged child should enjoy a full and decent life, in conditions, which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.*
- c. The right of the challenged child to special care, and shall encourage and ensure extension of stay, subject to available resources, to the eligible child and those responsible for his / her care.
- d. The special needs of the challenged child and extend such assistance free of charge, whenever possible. Assistance shall be designed to ensure that the challenged child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development including his or her cultural and spiritual development.
- e. Competent authorities shall promote the exchange of information in the field of preventive health care and of medical, psychological and functional treatment of challenged children, including dissemination of and access to information concerning the methods of rehabilitation, education and vocational services, with the aim of enabling the caretakers

to improve their capabilities and skills and to widen their experience in these areas.

f. The right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. They shall strive to ensure that no child is deprived of his / her right of access to such health care services.

3) *Each Home for mentally challenged children shall aim to have the following facilities:*

a. *Physical Infrastructure:* There shall be separate age and sex appropriate facilities for children in the age group of 0-5, 6 –12 and 12 and above. Facilities for segregation of mentally ill children and children with different degrees of retardation needs.

b. *The standard of accommodation:* as prescribed in (Rule 28) the Chapter on Institutional Management shall apply. As far as possible, the building and furniture shall be designed in a way that ensures the safety of the children and is disabled friendly with ramps, wheel chairs, appropriate toilet modifications and other fitments and equipment as needed.

c. *Clothing and bedding:* As prescribed in (Rule 27)

d. *Nutrition:* In addition to dietary allowances prescribed in Rule 26, children diagnosed as needing nutritional supplements or special diet shall be provided with the same.

e. *Medical:* The home shall have arrangement for a medical facility with doctor and nurse on call 24 hours so that the residents are under constant medical supervision. All children brought into the home shall be medically examined initially within 24 hours of arrival. The routine medical checkup of the children shall be done on a weekly basis.

i) In the event of break out of contagious / infectious diseases, or in case of violent behavior that is likely to adversely harm the other children / staff, segregation of the child may be considered. This segregation shall be in a safe place, which does not amount to or is equated with punishment in a solitary isolated cell.

ii) The medical services shall include immunization facility as prescribed by the National Immunization Schedule. The home shall network with local doctors/ hospitals for referral of cases.

iii) The medical record of each child shall be maintained in the case file of the child. The record shall also include weight and height records, details of illness and treatment, therapies administered, and other basic details of physical and mental condition. See Rule 30 & 31 section2)

f. *Education:* The home shall provide special education to all children assessed as being able to take advantage of such education, according to their need and ability. Preference may be given to sending the children to special education facilities outside the home, if the child is able to go, so as to build up contacts with the outside community.

The home shall appoint trained special educators and have adequate classrooms and education equipment for the children according to their need and abilities.

*g. Occupational Therapy and Sheltered Workshops:* Each home shall provide for useful vocational training under the guidance of specially trained instructors. The home shall develop networking with, Government and recognized Voluntary Organizations / Enterprises, Agencies / NGO's with expertise in training of mentally challenged children.

*h. Counseling:* Each home shall have the services of a trained counselor. Services of Child Guidance Centers, Psychology and Psychiatric Departments or similar Agency may also be availed.

*i. Recreation facilities:* the home shall have adequate equipment for the recreation of the children such as indoor and outdoor games, music, dance, television, picnics and outings, cultural programs etc.

*j. Play therapy:* Sensory stimulation and play therapy shall be facilitated and wherever possible **concerted efforts shall be made to invite special volunteers to assist in offering these services.**

*k. Care Plan:* The counselor in charge, along with other experts such as the doctor, nurse, special educator, physiotherapist, occupational therapist, case worker or social worker and house parent, shall prepare a Care plan for every child in the home. The care plan shall be reviewed from time to time for assessment of development and rehabilitation including options for restoration to family / foster care (individual or group)/ Placement with Govt. or NGO run specialized institutions. The care plan review shall not be delayed beyond a year. The focus should be on providing family and community based re-integration programs. Children should be consulted while determining their care plan wherever possible. (See Rule 21 section 2)

*l. Family tracing:* In addition to the regular budgetary allotment for publicizing information for the purpose of family tracing, a suitable additional amount may be made to ensure that photographs and TV/Radio announcements are made through the involvement of the Missing Children's Bureau, taking into account that such children are unable to give verbal details of their background information.

*m. Reception of the child* – see Rule 21 section 2.

*n. Record keeping* – see rule 21 section and Rule 69 section 1

#### 4) Staffing:

The staffing pattern for special institutions shall as far as possible be as follows:

1.	Superintendent	1
2.	Case Workers	1 for 25 children
3.	Counselors	1 for 50 children
4.	Special educators	1 for 15 children
5.	House Parent	1 for 15 children
6.	Doctor	2 (Day & Night)
7.	Nurse	3 (2 day, 1 Night)
8.	Physiotherapist	1

9.	Occupational therapist / Trained vocational Instructor	1
10.	Storekeeper	1
11.	Administrative assistants	2
12.	Peon	1
13.	Helpers	1 for 20 children (day & night)
14.	Cook	1
15.	Kitchen Helper	1
16.	Sweeper	2
17.	Art/craft/music/dance teacher	1 part time (and volunteers)
18.	Gardener	1

In addition the institution shall link up with the local community, specialized services, rehabilitation and training centers for provision of additional services and inputs.

*5) Special Provisions/Facilities:*

a. The superintendent shall be empowered to make decisions in case of emergency in the best interests of the child. The decision made and the circumstances in which the decision was made shall be recorded in a register maintained for the purpose.

b. A minimum advance imprest amount of Rs. 1000 / month shall be available with the superintendent, for meeting emergency expenses such as hospitalization, medication and other emergency supplies. A Government order to this effect shall be issued.

c. As far as possible, a vehicle with driver shall be available at the institution to escort children to school, hospital and in case of emergencies. If such facility is not possible, the Superintendent shall be empowered to hire a vehicle in emergencies.

d. Staff holidays and benefits shall be as per the Essential Services Act.

e. The staff shall have regular training in collaboration with local NGOs, and specialized service institutions. Stress management and Staff Development programmes shall be given sufficient attention in order to sustain functionaries in this work.

**11. CHILDREN AFFECTED BY DISPLACEMENT, DISASTER AND CONFLICT**

Children affected by displacement, disaster and conflict shall be dealt with as children in need of care and protection under these Rules. However, certain additional principles and Rules to provide for special care shall be observed. These are:

**1) Additional Principles for children affected by displacement, disaster and conflict:**

a. Children must be informed of their own situation as well as the details of their family if known, the progress in re- resettlement and any other issue that may be relevant to the child.

b. There should be no discrimination based on caste, language, ethnic origin, gender, or any

other status by either staff or other children. Due consideration shall be given to the dynamics associated with conflict or other such situation.

**c. Respect for cultural needs: Keeping in mind that the child may be from a diverse cultural background every effort must be made to be sensitive to the child's cultural and social needs. Such efforts may be to cook food familiar to the child, identify persons who speak the language of the child to interact with the child and make the child comfortable and secure so as to reduce the stress of being in an alien environment. The child shall be allowed to practice his or her own religion, rituals and festivals.**

d. Family and community-based re-integration shall be given priority. However, with due regard to the root cause and special circumstances of the case, exceptions may be made with reasons recorded in writing.

e. The competent authorities shall respect and ensure respect for relevant rules of international humanitarian law applicable in situations of armed conflict.

2) *Reporting:* Only a trained social worker, child psychologist or child psychiatrist shall assess the **situation of the child and prepare the report. Personnel shall make every effort to understand, report and respond to the deep psychological impact on such children and shall strive to receive and deal with the child sensitively. In preparation of the report and during all other procedures, every effort shall be made to avoid secondary victimization.**

3) *Procedure:* Need Assessment of child shall be done by a child psychologist or trained social **worker within four days of arrival. All other procedures may be such as outlined in Rules for children in need of care and protection.**

4) *Non-institutional care:* As far as possible, the child shall not be institutionalized in a State **Institution but kept in a foster home under the foster care scheme, by foster parents who are specially oriented and trained to care for such children. The foster home shall serve as a home for interim care. During the child's stay in the interim home a basic standard of care that will meet with the child's physical, emotional, developmental and other needs shall be ensured.**

5) *Counseling and trauma care:* Children who have been sexually abused, mentally disturbed or traumatized due to such disaster, conflict or displacement etc., or who have particular needs such as those arising from having a HIV positive status shall, wherever possible be attended to by a child psychologist, a trained social worker or a psychiatrist and given immediate medical attention and counseling. Regular counseling sessions with children (not less frequently than once a week) with trained personnel shall be facilitated.

**6) Education:** As far as possible, education that facilitates the continuation of the child's previous education must be imparted to the child during stay in foster home or any other further long-term placement during the interim period. Such education may also be facilitated through non – formal methods.

**7) Legal protection and assistance:** Special care shall be taken to ensure that the legal rights of such children are respected and action taken under the relevant laws.

**8) Family Tracing:** For a child who has been found and who has not been admitted through voluntary procedures, the immediate task shall be to trace the family or the nearest known relative.

This task shall be completed within the shortest appropriate period of time as under these Rules.

a. Every effort must be made to trace the family/extended family and understand the history of the child, before placing the child in any long-term care. Community based initiatives that are found to be sustainable and in the interest of children may be identified and availed of after due consideration. If children are orphaned and have no extended family then keeping in mind the principle of best interest of the child, alternative foster or adoptive families may be identified preferably from within the child's community.

*b. When it has come to the notice of the competent authorities that there is cause for concern that children, especially girls are being abused, exploited or trafficked during such situations, such children shall be identified and referred to recognized NGOs, civil society organizations, fit persons or other State run Institutions for long term care, and the adult offenders dealt with under the relevant laws. Special care shall be taken to prevent such children from being arbitrarily transferred, or placed with persons who do not have the best interest of the child at heart such as those who arrange the marriage of such children for their supposed protection during such time of disturbance.*

**9) Escort:** See Rule 39 section 2

**10) Follow up:** A voluntary Probation Officer or any other recognized voluntary organization or civil society organization that will follow up on the child must be identified. This organization must communicate within a month of resettlement about the well being of the child.

*a. The following issues shall be addressed at time of resettlement.*

- i) Condition in home state and a report on the desirability of the child continuing to stay in the home state considering the present condition of disaster, conflict or other such reasons for displacement.
- ii) Situation of family or other persons who have been caring for the child prior to displacement.

iii) Care plan for re-integration and rehabilitation taking into account the feelings and opinion of the child about placement

11) *Sponsorship*: If the family is unable to take care of the child for financial reasons, sponsorship

**support for the family shall be considered.**

12) If the child is not placed back to his/her home state, or placed in foster care or adoption, he or she may be referred to a Shelter Home for special care.

## **12. REFERRAL SERVICES FOR CHILDREN WITH SPECIAL NEEDS**

1) The Competent authority shall identify and recognize institutions providing specialized services to children with special needs and refer the children to these institutions so that their particular needs are met.

2) These services include those for physically challenged children, street children, sexually abused children, children with HIV / AIDS, children of prisoners, child prostitutes, children addicted to substances, terminally/chronically ill children, and any others.

3) Children with special needs referred to other specialized services or institutions run by recognized voluntary organizations shall be covered under the sponsorship scheme under this Act so that the child is covered with costs on referral.

## **13. SPECIAL JUVENILE POLICE UNIT AND CHILD WELFARE OFFICER:**

1) *The State Government shall appoint* a minimum of one Special Juvenile Police Unit at the district which shall operate as a Center for Comprehensive First Contact Care for children under the Act.

2) *Objective of the SJPU:*

a. To identify and receive children at the point of First contact, undertake outreach work in the jurisdiction to identify children at risk and conduct home visits of children.

b. To offer the services of 1098 in close co-ordination with the Childline/Makkala Sahaya Vani itself.

c. To build up a friendly relationship with the child so as to enable her/him to understand and share reasons for her/his present situation as well as to participate in a decision regarding proceedings concerning her/him.

d. To conduct an individualized quick assessment and inquiry, and offer counseling, medical attention, recreation services as well as referral to detailed assessment and other services.

e. To provide child help line and emergency outreach services through 1098.

f. To network with the Child Help line of the area and all other recognized fit persons/institutions and voluntary organizations willing to assist in the work of the SJPU as well as directly link up with competent authorities and institutions under the Act coming under that jurisdiction.

g..To takes on the role of the Child Friendly First Intervention Centres and perform the function of a Community Based Reception Unit of the Observation Home / Children's Home to receive, undertake preliminary inquiries, provide timely counseling and early intervention by operationalising the principle of diversion.

h. To co-ordinate and upgrade the police treatment of children.

i. To operate a mobile SJPU which will be called open by the concerned police station whenever a child is either apprehended or received under the Act.

j. To function as a place of safety for children.

k. Any other tasks which the unit will have to perform in the course of their ordinary duties in a child centered manner.

### 3) *Structure*

a. **SJPU MODEL 1:** The Special Juvenile Police Unit shall not be located within the precincts of a Police Station, but instead within the premises of a space being utilized by a recognized voluntary organization or a public educational institution or any such place.

b. **SJPU MODEL II:** The Special Juvenile Police Unit shall be located within the precincts of a Police Station and may be co-managed by an NGO located in the jurisdiction who is willing to take up such responsibility. If no such NGO is located in the said jurisdiction, then a leading NGO having expertise and willing to take up such responsibility maybe identified in consultation with all other interested NGOs and the local NGO Forums, if any.

4) In addition a *mobile unit* of the SJPU may be set up, which will liason with the respective jurisdictional SJPU.

5) *a. Jurisdiction :* The SJPU shall cover a jurisdiction of a number of Police Stations in a particular zone as identified as necessary, taking into account the density of children at risk in the area. Every District shall have a minimum of one SJPU. Wherever possible, every Police Station shall set up an SJPU within the Police Station itself so as to increase the number of SJPUs and to finally make such bodies synonymous with the Police duties.

*b. Affiliation to the Jurisdictional Police Station:* Every SJPU that is not located within a Police Station shall be affiliated to the nearest police station for documentation and for any specific assistance

### 6) *Staff of the Special Juvenile Police Unit:*

a. A child welfare officer shall be designated in term of section 63 of the Act at the level of police station.

b. The juvenile police unit at the district level shall function under a child police officer (of the rank of Inspector of Police) and two paid social workers of whom one shall be a woman and another preferably child expert or having relevant experience.

c. The juvenile police unit at other places would be aided by two or more honorary social workers.

d. In the case of Karnataka, one lay person, specially qualified or experienced in dealing directly

with children in especially difficult circumstances for a minimum period of three years who is designated as the Child Welfare Officer (CWO) shall be given the powers of a Special Police Officer under Sec 19.1 of the Karnataka Police Act 1963.

e. One Junior Social Worker who is qualified or experienced as a para professional with a minimum of one year experience in dealing directly with children in especially difficult circumstances. (One of these two Social Workers shall be a woman)

f. A minimum of one Police Constable who shall be a woman

g. One helper

h. Two youth counselors taking on the role of 'friends of children' who come to the SJPU

i. One Police Officer

*j. The SJPU may be assisted by recognized voluntary organizations that will help out in performing the functions of the SJPU in response to the children who come under their care. One nodal NGO could be designated to co-manage each SJPU. Such recognition and allocation of responsibility may be undertaken in consultation with all local Forums and interested NGOs through a participative consultative process. The State Govt. shall recognize only such voluntary organizations, which can provide the services of probation, counseling, case work, a place of safety and also associate with the Special Juvenile Police Unit. Only those registered voluntary organizations, which are willing and have the capacity, facilities and expertise to do so shall be recognized for the purpose.*

7) *Management:*

a. Every SJPU may be co-managed by a recognized voluntary organization having experience and or training in directly working with children in especially difficult circumstances.

b. All SJPU's will report directly to the Commissioner of Police.

8) *Procedure:*

a. The staff of the SJPU shall receive the child who has been identified as needing the services provided under the Act according to the principles outlined in these Rules and proceed to conduct preliminary inquiries and offer services that the child may need at this point of initial contact.

*b. Special investigations and reports that are required to be undertaken by the Police shall be made in addition to which social investigation reports may also be made by the social workers of the SJPU. The social investigation report of the social worker attached to the SJPU may be considered the report of the P.O. to avoid duplication, (See Rule 50 below) since the limited number of Probation Officers already have to deal with detailed inquiries of the residents within the Observation Home/Children Home.*

**14. MISSING CHILDREN'S BUREAU: a. The State Government shall set up a Missing Children's Bureau to document and publicize information relating to Missing Children. Computerized software shall be put in place to facilitate such a service. Attempts shall be made to network with all other similar facilities set up around the country so as to facilitate speedy scanning of and transmission of information about such children around**

**the country. This shall also serve as a database of missing children.**

b. The Missing Children's Bureau shall be linked up to the Child Help line wherever available as well as to all major Police Stations in each District.

c. All citizens found to be directly related to or otherwise authorized to access this information shall be allowed free access to this data base. Persons found to be abusing this database against the interests of children shall be investigated into and the necessary action taken.

**15. RECOGNITION OF FIT PERSON OR FIT INSTITUTION. -**

a. Any suitable individual or place or institution, the occupier or manager of which is willing temporarily to receive a child in need of care, protection or treatment for so long a period as may be necessary, may be recognized by the Competent Authority as fit person or fit institution.

b. Any association or body of individuals, whether incorporated or not, established for or having for its object the reception or protection of children which undertakes to bring or to give facilities for bringing up any child entrusted to its care in conformity with the religion of his birth, may be included within the meaning of fit institution.

c. A list of names and the addresses of fit persons and fit institutions approved by the Competent Authority shall be kept in the office of the Board/Committee and shall be used when necessary. Efforts shall be made to identify and recognize institutions, which meet the needs of children requiring specialized intervention and services.

d. After committal of a child by the competent authority to an institution recognized as a fit institution with collateral branches, the manager of such institution may send the child to any of the branches of such institution after giving an intimation to the competent authority under whose orders the child was committed.

e. Before declaring any person/institution as fit person/fit institution, the competent authority shall hold due enquiry and only on satisfaction shall give recognition as such.

f. Children shall be referred to these institutions/individuals based on the child's need and the stated objectives, competence or ability of the recognized fit institution/person to meet the needs of the child. Prior to such placement, the competent authority shall consult with the head of the institution and after receiving his/her consent transfer the child to the said facility.

**16. CERTIFICATION/RECOGNITION AND TRANSFER OF INSTITUTIONS.-**

a. If the management of any organization desires that its organization may be certified or recognized under the Act, the same shall make a written application together with a copy each of the rules, bye-laws, articles of association, list of members of the society/association running the organization, office bearers and a statement showing the status and past record of social or public service of the organization and the society running the organization to the State Government.

b. The State Government shall, after verifying the provisions made in the organization for the boarding and lodging, general health, education, vocational training and treatment services may grant certification/ recognition under section 8, 9, 34, 37 and 44 of the Act, as the case may be. This shall be on the condition that the organization comply with the standards and offer services as laid down under the act and rule framed there under from time to time and agrees to ensure an all round growth and development of children placed under its charge;

c. The State Government may transfer the management of any State run institution under this Act to a voluntary organization of repute that has the capacity to run such an institution and certify that said voluntary organization as a fit institution to own the requisite responsibilities.

#### **17. JOINT MANAGEMENT:**

a. State run institutions may also be Co managed by NGOs. Roles and responsibilities as well as other details of co-management shall be finalized after specific and individualized consultation with the said organization and these shall be agreed on through a Memorandum of Understanding for a specified period of time.

The Memorandum of Understanding shall be signed by the parties detailing: I) the roles and responsibilities of each party, ii) the areas in which financial / programmatic inputs will be made by the collaborating agency iii) Mechanisms for the review of the joint management, iv) space for the participation of the children, v) the roles and responsibilities of the staff / volunteers who come into these institutions as part of the joint management efforts, vi) Any other matter relevant to the particular situation at the time.

b. The State Government, if dissatisfied with the conditions, rules, or management of the organization certified or recognized under the Act, may at any time, giving two months notice served on the manager of the organization, declare that the certificate or recognition of the organization as the case may be, shall stand withdrawn as from a date specified in the notice. From the said date the organization shall cease to be an organization certified or recognized under Section 8, 9,34,37 or 44 of the Act, as the case may be.

c. The decision to withdraw or to restore the certificate, or recognition of the organization may be taken on the basis of a thorough investigation by a specially constituted advisory board under section 62 of the Act. On the report of the advisory board, the officer in charge of the home shall be asked to show cause to give an explanation within 30 days.

d. When an organization ceases to be an organization certified or recognized under Section 8,9,34,37 or 44 of the Act, the children kept therein shall under orders of the designated officer empowered in this behalf by the State Government be either: -

- i) Discharged absolutely or on such conditions as the officer may impose; or
- ii) Transferred to some other institution established, certified or recognized under Section 8,9,34,37 or 44 of the Act, in accordance with the provisions of the Act and rules relating to discharge and transfer. Intimation of such discharge or transfer shall be given to the Board or the Committee as the case may be.

#### **18. GRANT IN AID TO CERTIFIED OR RECOGNIZED ORGANIZATION. -**

a. An organization certified or recognized under section 8,9,34,37 or 44 of the Act may, while the period of certification or recognition is in force, apply for grant-in-aid by the State Government for maintenance of children received by them and or the provisions of the

Act and for expenses incurred on their education, treatment, vocational training, development and rehabilitation. The grant-in-aid may be admissible at such rates, which shall be able to meet the prescribed norms in such manner and subject to such conditions as may be mutually agreed by both parties.

b. In case of transfer of management of government run homes under section 8, 9, 34 and 37 of the act to voluntary organization, the same budget which the government was spending on that home, shall be given to the voluntary organizations as grant-in-aid under the memorandum of understanding signed between both parties describing other role and obligations

## **CHAPTER V**

### **INSTITUTIONAL MANAGEMENT**

#### ***19. PROTECTION OF THE RIGHTS OF THE MORE VULNERABLE CHILDREN WITHIN INSTITUTIONS***

a. All authorities, officers and personnel shall, at all times be sensitive to the needs of children who are vulnerable because of age, sex, gender, sexual orientation, HIV status, serious illness or any other reason. Affirmative action shall be encouraged wherever possible to ensure that their specialized needs are catered to.

b. The State Government/voluntary organization shall set up separate institutions for boys and girls above the age of 5 years. Separate institutions or facilities shall be set up for girls who are above the age of 10 years and below the age of 10 years. With respect to institutions for boys, separate facilities for the age groups of below 12, 12-15 and 16-18 years shall be set up. Separate facilities shall be set up for children in the age group of 0-5 years with appropriate facilities for the infants.

#### **20. RECEPTION OF CHILDREN**

a. The placement of children in institutions shall only take place under conditions that take full account of their particular needs and special requirements according to their age, personality, sex and type of offence if applicable, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations.

b. Reception Unit: Each Institution shall have a Reception Unit under the charge of a well-trained case-worker for the admission of new arrivals. The child shall be received in a caring manner by personnel who have been trained and sensitized to the special needs and feelings of children being institutionalized.

c. The officer-in-charge shall verify the orders of the competent authority before receiving the child. *In principle, keeping a child in any institution without the orders of the Competent authority is prohibited. However, any child in need shall be granted admission at any time, after persons who are authorized to produce children before that competent authority make a formal requisition. Such a child shall be produced before the concerned competent authority within 24 hours or in exceptional circumstances on the next working day.*

d. *Classification: The principal criterion for the separation of different categories of children, shall be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.*

e. All children shall be searched through a procedure that respects their dignity and their rights. *No girl shall be searched by any male. Any prohibited material such as weapons, alcohol and drugs of any description (except with the permission of a medical officer) and other material that is not in the interest of safety of children shall be confiscated. However, the child shall be allotted a locker to store his or her personal belongings and other valuables that he/she does not wish to hand over to the concerned authorities. The details of those articles, which have been handed over for safe custody shall be entered in a register and these entries shall be read out to the child in the presence of two witnesses. The signature of these two witnesses shall be taken alongside these entries and the Superintendent shall countersign these. The register shall also include what articles, if any have been destroyed, sold or stored; the amount realized for sold articles and the return of money, valuables or articles at the time of release of otherwise.*

f. *Every child shall undergo a medical examination within 24 hours of arrival by medical officers who are specially trained and sensitized to the special needs of children. The child may also be advised on the necessity of having a hair cut if found to be necessary and the same administered in a manner that protects and affirms the dignity of the child. Lice lotion shall be used whenever possible as an alternative to shaving. The child shall be requested and assisted if necessary to have a bath on arrival. However, relevant details of his or her condition on arrival shall be noted down, if such information is found necessary for the inquiry report.*

g. The immediate needs and apprehensions of the child such as the need for urgent medical care and the need to contact parents shall be attended to in a prompt, efficient and nurturing manner.

h. A photograph of the child shall be taken on arrival prior to any haircut and this shall be placed on record.

i. A copy of the rules governing the observation / special home/children home and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints such as Makkala or Bal Sangha, Child line or Makkala Sahaya Vani in the case of Karnataka, Child Welfare Committee and the

Juvenile Justice Board as well as the address of public or private agencies and organizations which provide legal assistance shall be provided to the child at the time of reception. The child shall have access to these at any time on request.

For those children who are illiterate or who cannot understand the language in the written form or in any other way need assistance, the information should be conveyed in a manner enabling full comprehension.

j. The child shall be oriented to understand the regulations governing the internal organization of the institution, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorized methods of seeking information and of making complaints, and all such other matters as are necessary to enable him/her to understand fully their rights and obligations during the period of institutionalization.

k. *In case of a report either from the Medical Officer or from the Probation Officer or Psychologist or any other such expert, which warrants further attention, the concerned Case Worker shall submit a report to the concerned competent authority, which shall take cognizance of the report and arrange for further enquiry and relevant treatment.*

**21. MAINTENANCE OF REGISTERS** The officer in charge shall maintain in the office such registers and forms as may be prescribed by the Act and Rules.

*1) Case file:*

a. All reports, including social investigation reports, legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, shall be placed in a confidential individual file. These files shall be kept up to date, accessible only to authorized persons including the child himself or herself and classified in such a way as to be easily understood.

b. Where possible, every child shall have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there shall be procedures that allow any person authorized by the Juvenile Justice Board or the Child Welfare Committee to have access to and to consult the file on request. Upon release, the records of children shall be sealed, and, at an appropriate time, expunged.

c. The case file of each child shall be maintained in the institution containing the following information as applicable:-

i) Central index number

ii) Photograph on arrival and Annual photograph

iii) Report of the person/agency who produced the child before the Competent Authority; (same as the format of the Social investigation report)

iv) Probation officer's report (also in the format of the social investigation report)

v) Information from previous institution (Form XIII)

iv) Observation reports from staff members relating to the child's progress in education, health, report of menstruation (in case of girls), emotional status, Social history; Form XIV

- vii) Summary Report by officer in charge
- viii) Reports from Medical Officer, I.Q. testing, aptitude testing, educational/vocational tests;
- ix) Initial classification sheet and Care plan of the child.
- x) Special precautions to be taken, including those relating to diet, allergies, allergic reactions to any medicine, details of persons who may not be provided access to the child, etc.
- xi) Leave and other privileges granted;
- xii) Quarterly progress report from various sections;
- xiii) Review sheet including violation of rules, regulations, (Form XV)
- xiv) Pre-release programme (Form XVI)
- xv) Final progress report; (records of education/vocational training, health and other progress reports may be included here with a conclusion summarizing all of the above)
- xvi) Leave of absence/release on license
- xvii) Final discharge (shall include the pre-release report and final decision that has been made on the recommendations of that report)
- xviii) Remarks

## 2) *Care and Rehabilitation Plan*

a. The in charge, counselor wherever available, along with the probation officer, caseworker, or social worker shall after consultation, prepare a Care plan for every child in the home. The care plan shall be based on a case history of the child admitted to an institution, which shall be maintained on a quarterly basis. This information may be collected through all possible and available sources, including home, parents or guardians, employer, school, friends and community and interview with the child himself or herself. The report shall also identify psychological and social factors relevant to the specific type and level of care and program required by the child.

b. The educational level and vocational aptitude shall be assessed on the basis of test and interview conducted by the teacher, the workshop supervisor/vocational trainer and other technical staff wherever possible.

c. The care plan shall be reviewed from time to time for appropriate development and rehabilitation including options for restoration to family/foster care/adoption and review shall not be delayed beyond a year. The focus should be on providing family and community based re-integration programmes. Children shall be consulted while determining their care plan. When special rehabilitative treatment is required, and the length of stay in the institution permits, trained functionaries of the institution shall prepare a written, individualized treatment plan specifying treatment objectives and time-frame and the means, stages and delays with which the objectives shall be approached.

d. Based on the above care plan the appropriate linkages may be established with outside specialists and community-based welfare agencies, psychologists, psychiatrists, child guidance clinic, hospital and local doctors, open school, etc. so as to access the best appropriate care for each child.

e. This report, together with the report prepared by a medical officer who has examined the child upon admission, shall be forwarded to the 'Monitoring and Evaluation Committee' of each Home. (See Rule 43, pg. 52) for purposes of determining the most appropriate placement for the child within the institution and the specific type and level of care and program required to be pursued.

## **22. OBSERVATION CAMP:**

1) The appropriate authority shall wherever possible, refer children (mainly street children) to an Observation camp as this would create an atmosphere where the child will be more comfortable in sharing his or her concerns with others. The camp shall preferably be conducted by an NGO authorized by the concerned authority for the purpose or by individuals trained and certified as camp facilitators who will work in collaboration with the functionaries of the observation home / children's home / shelter home. The modules for the camp shall be prepared and circulated by an NGO having expertise in the same such as SAATHI (Raichur). The duration of the camp shall not exceed one month and recommendations arrived at shall be submitted to the concerned authority for ratification.

2) *The objectives of the camp shall be:*

a. To establish a rapport and a counseling relationship with the children by using innovative techniques like games, fun activities, adventure sports, individual and group counseling.

b. To find out the reasons why the child has come to be in his/her present circumstances.

c. To work closely with the child and arrive at a plan of action / placement decision best suited to his / her needs.

d. Specifically for street children who have chosen to run away from home, to provide counseling support so as to enable the child to make a choice to go back home. The child may then be provided the assistance and escort to go home and follow up services may be put in place such as sponsorship, etc.

e. Placement of the child in a foster home or shelter home.

f. Referral to Adoption services.

g. Referral to an institution under the Act or any other specialized institution willing to take responsibility for the child.

h. In all cases, providing on going counseling support to overcome personal distress arising from issues such as sexual abuse, affected by armed conflict etc.

i. Placement of the child in a vocational training or continuing education institution.

3) The Probation Officer/Superintendent of the Observation home / children's home / shelter home shall forward the recommendations of the facilitator to the concerned authority and after ratification make arrangements for the child's immediate placement.

4) If the child cannot be sent to an Observation Camp the detailed inquiries may be completed as

prescribed.

### **23. RIGHT TO PARTICIPATION OF CHILDREN**

- 1) All institutions shall set up a Makkala or Bal Sangha consisting of children of various age groups and education backgrounds. The children shall nominate the members of the Sangha themselves. The number of representatives shall be at an average rate of 1 representative for 10 children. The tenure of the Bal /Makkala Sanghas shall be approximately three months. Smaller Sanghas with specific objectives such as the Food Sangha, or Cultural Sangha etc may also be formed whose tenure may be one month.
- 2) The Makkala Sangha shall be involved in planning of programs, reception of children, management of the homes and grievance redressal. Wherever possible the Makkala Sangha shall be facilitated experts or functionaries trained in mobilizing participatory processes with children. The Makkala Sangha shall work in close coordination with the Monitoring and Evaluation Committee.
- 3) Children who are unable to play their role effectively in the interests of all the children in the institution may be asked by the children to step down from the Sangha through a suitable process. Whenever possible involvement of parents in the running of the institution shall be facilitated.

### **24. RIGHT TO IDENTITY**

- 1) No child who is received into the institution shall have his or her name changed by the personnel. The authorities shall respect each child's religious, cultural and social identity.

### **25. DAILY ACTIVITIES TO ENSURE ALL ROUND DEVELOPMENT**

- 1) Each institution shall have a well-planned daily schedule, which endeavors to fulfill the basic needs and rights of the child.
- 2) The schedule shall be arrived at in consultation with the Makkala Sanghas. Non Government Organizations working in the area of child rights, **neighbourhood committees as in the case of Madhya Pradesh**, especially those partnering with the institution (if any) shall to the greatest extent possible facilitate this planning of the schedule.
- 3) The institution shall involve the outside community including students, NGO's, clubs and societies in planning and conducting various activities including games, music, education, excursions etc
- 4) Special programs may be organized for Sundays and holidays.

### **26. RIGHT TO ADEQUATE AND APPROPRIATE NUTRITION**

- 1) Every officer in charge shall ensure that every child has the right to adequate and appropriate nutrition. Residents shall receive food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every child at any time.

2) The State Government shall prepare a Diet Scale for children in consultation with nutrition experts so that the diet becomes balanced, nutritious and varied. Special diet may be provided on national holidays and festivals and to the sick children as required. These shall include Republic Day, Independence day, Dasara, Diwali, Ramzan, Bakrid, Christmas, Easter, Sankranti and Ugadi as well as any other such holidays as found suitable. On these days, an extra quantity of firewood not exceeding 50 kgs per occasion may be issued.

3) A nutrition expert shall inspect the diet plans, the hygiene and other such aspects and submit a report to the Monitoring and Evaluation Committee. This inspection shall be done during surprise visits to the institution.

The suggested dietary scale could be as follows:

<b>Article</b>	<b>Recommended Dietary Allowance</b>	<b>(ICMR–1999 and National Institute of Nutrition-1999)</b>
Rice/Flour	500 gms per head per day	
Vegetables	75 gms leaf, 100 gms others per head/day	
	80 gms root per head per day	
Pulses	100 gms. Per head per day	75 gms (if non veg is provided)
Sugar	40 gms. Per head per day	
Vegetables oil/ fats	40 gms per head per day	
Milk/curd	300 gms per head per day without adding water	
Ground nuts	30 gms. per head per day.	
Tea leaves	3 gms. per head per day.	
Fruits	45 gms per head per day.	(Three times a week)
Spices	5 gms per head per day.	Mixed as per regional requirements.
Salt	10 gms per head per day.	
Fuel/Fire wood	600 gms. per head per day	
Eggs	3 times a week	
		<i>Meat 40-50gms once a week / 100 gms once a fortnight.</i>

**Note:-** The suggested dietary scale could be modified according to the local needs. Where no

LPG gas available, firewood/fuel scale will apply during the period of non-availability of gas also.

## **27. RIGHT TO CLOTHING, BEDDING AND OTHER ARTICLES**

1) To the extent possible children shall have the right to use their own clothing. Institutions shall ensure that each child has personal clothing suitable for the climate and adequate to ensure good health, and which in no manner is degrading or humiliating. Children removed from or leaving an institution for any purpose shall be allowed to wear their own clothing. They shall not wear uniforms, taking into account that such procedure tends to label and stigmatize children.

2) Each child shall be provided with clothing and bedding including customary under-garments, towels, jersey for winter, school uniform for children attending outside schools, durry, bed-sheets, blanket, pillow, chappal or shoes, utensils as required; and tooth powder, soap, oil, comb, etc. as per the scale laid down by the State Government from time to time. The minimum suggested scale for clothing and bedding could be as follows:

<b>Article</b>	<b><u>Norms (per resident)</u></b>	
	<b>Non school going Children</b>	<b>Mentally Challenged children</b>
Shirts	3 terricot/cotton shirts per year	5 terricot/cotton shirts year
Nickers/Pyjama/ Skirt	3 terricot/cotton half pant per year upto 12 years 3 Terricot/cotton trousers per year above 12 years 2 cotton pyjama per year	5 terricot/cotton per year
Kachha	4 per year	6 per year
Banian	4 per year	4 per year
Brassieres for girls above 13 years	4 per year	4 per year
Towels	2 per year	2 per year
Scarf/Chunni	2 per year for girls only Above 12 years of age	2 per year for girls only
Leather Shoes	1 per year	1 canvas shoes per year
Chappal to girls	1 per year	1 per year
Handkerchiefs	----	----
Canvas PT shoes	1 per year	----
Half sleeves sweater	1 in 2 years	1 per year
Woolen Jersey	1 in 2 years	1 in per year
Sanitary pads for girls above 13years	as needed	as needed
Socks Nylon	2 per year	2 per year
Durries cotton	1 in 3 years	1 in 2 years
Bed sheets	2 per year	4 per year
Khes	1 in 3 years	1 in 1 year
Blankets	3 in 3 years	4 in 2 years
Rajais	---	----

Pillows	1 per head	
Pillow covers	2 per head	
Gadda	---	-----

**Note:-** Additional one set of all these articles shall be kept as reserved stock @ of 20% of the strength of the children. School going children shall be provided all sets of school uniforms on time. The suggested clothing and bedding scale could be modified according to the local needs.

## **28. RIGHT TO SERVICES, WHICH CONFORM TO REQUIREMENTS OF THE HEALTH AND DIGNITY OF THE CHILD**

- 1) Children deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.
- 2) The design of the institutions, and the physical environment shall, to the extent possible, be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the child for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. Though existing infra structure available with the State Government may be utilized, a concerted effort shall be made to re-organize the décor of all State institutions so that they project the image of child centred Homes and not that of a jail or government office. Colored paint for walls and furniture, posters and exhibition boards shall be made available to children themselves who may use the same to decorate their home.
- 3) The design and structure of the homes shall be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There shall be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the children. Facilities shall not be located in areas where there are known health or other hazards or risks.
- 4) Sleeping accommodation shall normally consist of small group dormitories, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas and group dormitories, in order to ensure the protection of each child. Every child shall be provided with separate and sufficient bedding, which shall be clean when issued, kept in good order and changed often enough to ensure cleanliness.
- 5) Sanitary installations should be so located and of a sufficient standard to enable every child to comply, as required, with their physical needs in privacy and in a clean and decent manner. Children shall not be made to clean the toilets.
- 6) Each institution shall have the following facilities:-
  - a. Sufficient and treated drinking water;
  - b. Sufficient water for bathing and washing clothes, maintenance and cleanliness of the premises;
  - c. Proper drainage system;
  - d. Arrangements for disposal of garbage;
  - e. Protection from mosquitoes;
  - f. Sufficient number of latrines in the proportion of at least one latrine for seven children;
  - g. Sufficient number of bathrooms in the proportion of at least one bathroom for ten children;
  - h. Sufficient space for washing;
  - i. Cleanliness in the kitchen;

- j. Fly-proof kitchen;
- k. Sunning of bedding and clothing;
- o. A hygienic medical facility.

- 7) The minimum standard of accommodation shall be as follows to the extent possible: -  
Dormitory: 40 square feet per juvenile.  
Classroom: Sufficient accommodation.  
Workshop: Sufficient workspace.  
Play ground: Sufficient playground area should be provided in each institution according to the total number of children in the institution and all children / children allowed to play for at least two hours in a day in the playground
- 8) The dormitories, classrooms and workshops shall have sufficient cross ventilation and light.

## **29. RIGHT TO EDUCATION AND VOCATIONAL TRAINING**

- 1) Education shall be provided outside the institution wherever possible, in formal schools run by the State/State Aided Institutions/ Institutions recognized by the State. In any case such education shall be provided by qualified teachers through programs integrated with the education system of the country so that, after release, children may continue their education without difficulty.
- 2) Every child of compulsory school age in any facility including the observation home has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Special methodologies based on Minimum Levels of Learning as prescribed by the NCERT as well as those developed and in use in Jeevan Nirvah Niketan -Mumbai, Sneha Bhavan Cochin, or those recommended by Promise Foundation - Bangalore shall, as far as possible be incorporated into the educational system within correctional institutions to meet the special learning needs of children such as street children, etc. Special attention shall be given by the administration of the facilities to the education of children of foreign origin or with particular cultural or ethnic needs or any other special needs. Children who are illiterate or have cognitive or learning difficulties shall have the right to special education.
- 3) Children above compulsory school age who wish to continue their education shall be permitted and encouraged to do so, and every effort shall be made to provide them with access to appropriate educational programs.
- 4) Diplomas or educational certificates awarded to children while under the Act shall not indicate in any way that the child has been institutionalized in such institution. Therefore, even if the child has studied in the state juvenile justice institutions, the certificate or diploma shall be issued by the Competent Authority with respect to Education such as Karnataka State Secondary Examination Board, Pre-University Board, and Technical Board etc.
- 5) Every institution should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the children, who should be encouraged and enabled to make full use of it
- 6) Every child, except those in temporary care in the Observation Home, above the age of compulsory school education shall have the right to receive vocational training in occupations

likely to prepare him or her for future employment.

7) Each home, except the Observation Home, shall facilitate suitable vocational training under the guidance of trained instructors. The home shall develop networking with Institute of Technical Instruction (ITI), Government and Private Organization/Enterprises, Agencies/NGO's with expertise, and placement agencies.

8) With due regard to proper vocational selection and to the requirements of institutional administration, children should be encouraged to choose the type of work they wish to perform.

9) Children shall be provided, where possible and in accordance with the Child Labor Act, with opportunities to pursue work, with remuneration, and continue education or training, but shall not be required to do so. Work, education or training shall not cause the continuation of the child's stay within the institution;

10) Wherever possible, children shall be provided with the opportunity to perform remunerated labor, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work shall be such as to provide appropriate training that will be of benefit to the children following release. The organization and methods of work offered in facilities shall resemble as closely as possible those of similar work in the community, so as to prepare children for the conditions of normal occupational life.

11) Every child who performs work shall have the right to an equitable remuneration, if such work is remunerative. The interests of the children and of their vocational training shall not be subordinated to the purpose of making a profit for the juvenile justice institution or a third party. Part of the earnings of a child shall be set aside to constitute a savings fund to be handed over to the child on release. The child shall have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offence or to send it to his or her family or other persons outside the institution.

12) Rewards to the children at such rates as may be fixed by the management of the home from time to time may be granted by the Officer-in-Charge as an encouragement to steady work and good behavior. These rewards shall be presented to the child within a period of two months of his earning it after obtaining a proper receipt from the child.

*13) The religious beliefs of children shall be duly respected and no classes shall be conducted which attempt to proselytize in the name of education.*

*14) Inspection of academic and vocational training: The monitoring and Evaluation Committees shall report to the Inspection Committee or to any other relevant specialized Inspection Committee set up in the State having special jurisdiction on the issue of education, such as the District Educational Officer, Director of Technical Education, any recognized Educational Consultants.*

### **30. RIGHT TO MEDICAL CARE**

1) Every child shall receive adequate medical care, preventive and remedial, including dental, ophthalmologic and mental health care, etc., as well as pharmaceutical products and special diets as medically indicated. All such medical care shall, where possible, be provided to children through the appropriate health facilities and services of the community in which the institution is located, in order to prevent stigmatization of the child and promote self-respect and integration

into the community.

2) Each institution shall provide for the necessary medical facilities to ensure that: -

- a.Regular facilities are available for the medical treatment.
- b.Arrangements are made for the immunization coverage.
- c.A system is evolved for referral of serious cases to the nearest civil hospital or treatment centers.
- d.That sick children shall be constantly under medical supervision.
- e.In the event of break out of contagious / infectious diseases, segregation must be ensured.

3) Each child admitted in any home shall be medically examined by the Medical Officer within 24 hours, in special cases within 48 hours, and also at the time of transfer/release/leave of the child to a special home or in case of children in need of care and protection before any family/community placement, within a similar period before transfer and further at any other time that may be considered necessary by the Medical Officer or the Officer-in-Charge. The child shall be oriented to the need for such an examination. Such medical examination shall be conducted by trained and sensitized medical professionals in a manner that protects the dignity and rights of the child.

4) No surgical treatment shall be carried out on any child without the previous consent of his parent or guardian, unless either the parent or guardian cannot be found and the condition of the child is such that any delay would, in the opinion of the medical officer, involve unnecessary suffering or injury to the health of the juvenile. Proper direction to this effect must be obtained from the Juvenile Justice Board or the Child Welfare Committee at the earliest.

5) A health record of each child in the institution shall be maintained on the basis of quarterly medical check-up. The medical record of each child shall be meticulously maintained in the file of the child. The record shall also include weight and height record, any sickness and treatment, and other physical/mental problem if any.

6) Any medical officer who has reason to believe that the physical or mental health of a child, has been or will be injuriously affected by continued institutionalization, a hunger strike or any other condition, should report this fact immediately to the superintendent in question and to the concerned authority for safeguarding the well-being of the child.

7) A child, who is suffering from mental illness, should be treated in a specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

8) Observation/Special homes/Children's homes should refer such children who require specialized drug abuse prevention and rehabilitation programs to an approved place administered by qualified functionaries. These programs should be adapted to the age, sex and other requirements of the children concerned.

9) Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the child concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Children shall never be tested in the experimental use of drugs and treatment. The administration of any drug should always be authorized and carried out by

qualified medical functionaries.

10) Each home shall as far as possible, have the services of a trained counselor, according to the counselor -child ratio prescribed. Services of Child Guidance Centers, Psychology and Psychiatric Departments or similar Agencies may also be availed.

11) The family or guardian of a child and any other person designated by the child have the right to be informed of the state of health of the child on request and in the event of any serious changes in the health of the child.

12) The superintendent of the juvenile justice institution should immediately notify the family or guardian of the child concerned, or other designated person, in case of death, illness requiring transfer of the child to an outside medical institution, or a condition requiring clinical care within the home for more than 48 hours. Notification shall also be given to the consular authorities of the State of which a foreign child is a citizen.

### **31. MODE OF DEALING WITH CHILD SUFFERING FROM CONTAGIOUS DISEASES OR MENTAL COMPLAINT**

1) When a child kept in a home under the provisions of the Act or placed under the care of a fit person or a fit institution is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment or is found addicted to a narcotic drug or psychotropic substance, the child may be removed by an order of the authority empowered on this behalf to an approved place set up for such purpose for the remainder of the term for which he has to be kept in custody under the order of the competent authority or for such period as may be certified by medical officer to be necessary for the proper treatment of the child. If there is no organization either within the jurisdiction of the competent authority or nearby State for sending the child suffering from contagious diseases as required under Sec 58 of the Act, necessary organization shall be set up by the State Government at such places as may be deemed fit by it.

2) Where it appears to the authority ordering the removal of the child under sub-rule (1) above that the child is cured of the disease or physical or mental complaint he may, if the child is still liable to be kept in custody, order the person having charge, send child to the home or fit person from which or from whom he was removed or if the child is no longer liable to be kept in home, order him to be discharged.

3) Where it is found that the child has been institutionalized because his or her partner in marriage or parent or guardian is suffering from a contagious disease, support through the sponsorship scheme shall be given to the said person to enable the child to be restored to the family as soon as possible. The best interest of the child of the child shall be the paramount consideration. As far as possible, all new cases coming for voluntary admission to the Child Welfare Committee shall be screened and appropriate non-institutional options explored.

4) If there is no organization either within the jurisdiction of the competent authority or nearby state for sending the child suffering from contagious diseases as required in section 58 of the Act, necessary organization shall be set up by the state government at such places as may be deemed fit by it.

5) Institutional authorities shall also provide children and institutional staff with access to HIV

related prevention information and education. Facilities for voluntary testing and counseling, means of prevention, treatment and care shall be provided in a phased manner. Confidentiality should be assured and mandatory testing, segregation and denial of access to facilities and privileges prohibited. (See Government of India Policy on HIV testing, Annexure-3) Compassionate early release or referral of residents living with AIDS shall be considered.

### **32. RIGHT TO RECREATION**

1) Every child shall have the right to at least two hours for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training shall normally be provided. Adequate space, installations and equipment shall be provided for these activities.

2) Every child shall have additional time for daily leisure activities, part of which should be devoted, if the child so wishes, to arts and crafts skill development.

3) The institution shall ensure that each child is physically able to participate in the available programs of physical education. Remedial physical education and therapy shall be offered, under medical supervision, to children needing it.

### **33. RIGHT TO RELIGION**

1) Every child shall be allowed to satisfy the needs of his or her religious and spiritual life, by performing / attending the services or prayers provided in the institution or by conducting his or her own prayers, and having possession of the necessary books or items of religious observance and instruction of his or her religion.

2) If an institution contains a sufficient number of children of a given religion, one or more qualified representatives of that religion shall be appointed or approved and allowed to hold regular classes / services and to pay visits in private to children at their request.

3) Every child shall have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counseling or indoctrination.

### **34. RIGHT OF CHILDREN TO HAVE VISITS AND OUTSIDE COMMUNICATIONS**

1) Every child shall have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the child for privacy, contact and unrestricted communication with the family and wherever applicable the defense counsel.

2) Every means shall be provided to ensure that children, have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of children for their return to society.

3) Children, shall be allowed to communicate with their families, friends and other persons or representatives of reputable outside organizations, to leave the home for a visit to their home and family and to receive special permission to leave the home for educational, vocational or other important reasons. Should the child be serving a sentence, the time spent outside the institution shall be counted as part of the period of sentence.

4) The receipt of letters by the children of the institution shall not be restricted and they shall

have freedom to write as many letters as they like at all reasonable times. Wherever the probation officers are of the opinion that it would be in the child's best interest to communicate with his or her parents, the children should be encouraged to keep their links to the family alive by writing at least one letter a month for which the postage shall be provided.

5) Every child shall have the right to make telephone calls at least twice a week with the person of his or her choice, and shall be assisted as necessary in order effectively to enjoy this right. The cost of the call may be borne by the child herself or himself. For children who do not have savings or any other such financial support, the institution may support the child to contact his or her parents or guardian over the phone for immediate communication. The institution may offer such assistance if possible. Every child shall have the right to receive telephone calls. Every child shall have the right to contact the Child Helpline or Makkala Sahaya Vani in the case of Karnataka, at least once a week and anytime during an emergency.

*6) Children should have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programs and motion pictures, and through the visits of the representatives of any association, youth society, club or organization in which the child is interested.*

### **35. RIGHT TO PRIVACY**

1) The possession of personal effects is a basic element of the right to privacy and essential to the psychological well being of the child. The right of every child to possess personal effects and to have adequate storage facilities for them shall be fully recognized and respected.

2) Every institution shall have a locker for each child where he or she can store his or her personal belongings

3) In every institution, a register of money, valuables and other articles, which the child wishes to entrust for safekeeping, shall be maintained which may be called the "Personal Belonging Register". The entries relating to each child shall be read over to child in the presence of a witness whose signature shall be obtained in token of the correctness of such entries. All such entries shall be countersigned by the Officer-in-Charge.

**4) The money, valuables and other articles shall be kept with the Officer-in-Charge in safe custody.**

5) When such child is transferred from one institution to another, all his property, valuables, shall be sent along with the child to the Officer-in-Charge of the institution to which he has been transferred together with a full and correct statement of the description and estimated value thereof.

6) At the time of the release of such child, the property or valuables kept in safe custody and the money deposited in the name of child shall be handed over to the child and an entry made in that behalf in the register. Such entry shall be signed by the Officer-in-Charge.

7) When a child of an institution dies, therein the property left by the deceased and the money deposited in the name of the child shall be handed over by the Officer-in-Charge to any person who establishes his claim thereto and executes an indemnity bond. A receipt shall be obtained from such person for having received such property and the amount. If no claimant appears within a period of six months from the date of death/escape of such juvenile, the property and

amount shall be disposed of as per the decision taken by the monitoring and evaluation committee.

- 8) No person shall bring into the institution the following prohibited articles
- a. Fire-arms or other weapons, whether requiring license or not (like lathi, spears, swords etc.)
  - b. Alcohol and spirit of every description
  - c. Bhang, ganja, opium and other narcotic/psychotropic substances
  - d. Tobacco, or
  - e. Any other article specified in this behalf by the State Government by general or special order.

### **36. RIGHT TO LEAVE OF THE CHILD**

1) A child shall be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and shall be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative.

2) The child from any institution may be allowed to go on leave of absence/or released on license and stay with his family during examination, emergencies or special occasions like marriage in the family etc.

3) The parents or guardian of the child shall submit an application to the Superintendent requesting for release of the child on leave, stating clearly the purpose for the leave and the period of leave

4) If the Superintendent considers that granting of such leave is for the reasons mentioned above or otherwise in the interest of the child, he or she shall grant such leave.

5) The parent or guardian shall arrange to escort the child from and to the institution and bear the traveling expenses. In exceptional cases or during an emergency, the Officer-in-Charge may arrange to escort the child to the place of the family and back.

4) If the child runs away from family during the leave period, the parent or guardian are required to inform the Officer-in-Charge of the institution immediately and try to trace the child and if found, send the child to the institution.

5) The period of such leave shall be deemed to be part of the period of stay in the institution. Only in the case of children in conflict with the law, the time which elapses after the failure of a child to return to the institution within the stipulated period shall be excluded in computing the period of his detention in the institution.

6) A well-rounded programme of pre-release planning and follow up of cases discharged from special homes shall be organized in all institutions in close collaboration with existing governmental and voluntary welfare organizations.

### **37. PROCEDURE FOR SENDING A CHILD OUTSIDE THE JURISDICTION OF THE COMPETENT AUTHORITY**

1) In the case of child whose ordinary place of residence lies outside the jurisdiction of the competent authority and if the competent authority deems it necessary to take action under section 50 it shall direct a probation officer to make enquiries as to the fitness and willingness of the relative or other person to receive the child at the ordinary place of residence and whether such relative or other fit person can exercise proper care and control over the child.

2) Any child who is a foreign national and who has lost contact with the family shall also be entitled for protection. The child shall be repatriated, at the earliest, to the country in co-ordination with the Ministry of External Affairs and respective Embassy or High Commission.

3) On being satisfied on the report of the probation officer/case worker/child welfare officer as the case may be, the competent authority may send the child, if necessary on execution of a bond by the child as nearly as in form V to the said relative or fit person or giving an undertaking by the said relative of fit person in Form VI.

4) A copy of the order passed by the competent authority under section 50 shall be sent to:-

- a) The probation officer who was directed to submit a report under sub rule (1)
- b) The probation officer, if any, having jurisdiction over the place where the child is to be sent.
- c) The competent authority having jurisdiction over the place where the child is to be sent, and
- d) The relative or the persons who is to receive the child.

5) Any breach of a bond or undertaking or of both given under sub rule (3) above shall render the child liable to be brought before the competent authority who may make an order directing the child to be sent to home.

6) During the pendency of the orders under sub rule (3), the child shall be sent by the competent authority to an observation home/children home.

7) In the case of a child where the competent authority deems it expedient to send the child back to his ordinary place of residence under section 50, the competent authority shall inform the relative or the fit person who is to receive the child accordingly and shall invite the said relative or fit person to come to the home to take charge of the child on such date as may be specified by the competent authority.

8) The competent authority inviting the said relative or fit person under sub-rule (6) may also direct, if necessary, the payment to be made by the officer in charge of the home of the actual expenses of the relative or fit person's journey both ways by the appropriate class and the child's journey from the home to his ordinary place of residence, at the time of sending the child.

9) If the relative of the fit person fails to come to take charge of the child on the specified date the child shall be taken to his ordinary place of residence by the escort of the *home under the Act*. In the case of a girl at least one escort shall be a female.

### **38. TRANSFER**

- 1) The transport of children shall be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that in no way subjects them to hardship or indignity. Children shall not be transferred from one institution to another arbitrarily.
- 2) During the enquiry, if it is found that the child hails from the place outside the jurisdiction of the competent authority, the competent authority shall order the transfer of the child to the competent authority having jurisdiction over the place of residence of the child. **In the case of Madhya Pradesh, the Commissioner** or the Director of the Department shall order the transfer of the child to the competent authority having jurisdiction over the place of residence of the child, with prior intimation to the concerned competent authority.
- 3) No transfer shall or ordinarily be proposed on the ground that the child has created problems or is difficult to be managed in the existing institution.
- 4) No child shall be transferred out of the district/city for the purposes of adoption without the concurrence of the Child Welfare Committee or the Juvenile Justice Board.
- 5) On receipt of transfer order, the Superintendent shall arrange to escort the child at the govt. cost to the place/person as specified in the order. The child case file and records shall be sent along with the child.

### **39. RELEASE**

- 1) The Officer-in-Charge shall maintain a roster of the cases to be released on the expiry of the period of stay as ordered by the Board. Each case shall be placed before the Monitoring and Evaluation Committee to ensure that there is a smooth transition back to society. With regard to those extreme cases in which the child is kept for the maximum period, action may be initiated six months before they attain the age of 18 years.
- 2) Timely information of the release of a child and of the probable date of release shall be given to the parent or guardian and the parent or the guardian shall be invited to come to the institution to take charge of the child on the date. Parents shall be informed six months prior to release and the child is prepared for release through a formal counseling session with the counselor. The child, family and counselor in coordination with each other shall make the rehabilitation plan. If necessary, the actual expenses of the parent or guardian's journey both ways and of the juvenile's journey from the institution shall be paid to the parent or guardian by the Officer-in-Charge at the time of the release of the juvenile. If the parent or guardian as the case may be, fails to come to take charge of the child on the appointed date, the escort of the institution shall take the child. A female escort shall escort girls.
- 3) At the time of release or discharge a child may be provided with a set of summer/winter clothing as the case may be and the Officer-in-Charge shall give the child pocket money of Rs. 50/- along with any other savings.
- 4) If the child has no parent or guardian and all placement options with Non Government Organizations has failed then he may be sent to an aftercare organization.
- 5) The officer in charge of a girl's institution shall in consultation with the girls generate suitable life options for the girls and if the girls are so inclined consider getting them married in accordance with the procedure laid down by the competent authority

6) The Officer-in-Charge shall order the discharge of any juvenile, the period of whose detention has expired and inform the competent authority within 7 days of the action taken. If the date of release falls on a Sunday or another public holiday, the child may be released on the preceding day, entry to that effect being made in the register of discharge. The Officer-in-Charge shall in all cases, order the payment of an allowance, which shall take care of living and travel expense.

7) In appropriate cases, the Officer-in-Charge may provide the child with such necessary financial aid through the sponsorship programme under this act or through a sponsor identified, provide small tools, as may be necessary, to start a business subject to such maximum cost as may be fixed and also identify organizations where the children who cannot start businesses can work as apprentices.

8) The Officer-in-Charge may, subject to the approval of the competent authority, allow at their own request such girls or boys as have no place to go, to stay in the institution / or foster homes identified after the period of their detention has expired, till some other suitable arrangements are made.

#### **40. DISCIPLINARY PROCEDURES**

1) Disciplinary measures and procedures in all institutions under the Juvenile Justice (Care and Protection of Children) Act 2000, shall maintain the interest of safety and an ordered community life. It shall be consistent with the upholding of the inherent dignity of the child and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

2) All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited. These shall include corporal punishment such as beating the child, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health or access to education of the child concerned. The reduction of diet and the restriction or denial of contact with family members shall be prohibited for any purpose. Labor shall always be viewed as an educational tool and a means of promoting the self-respect of the child in preparing him or her for return to the community and shall not be imposed as a punishment. No child shall be punished more than once for the same offence. Collective or mass punishments shall be prohibited.

3) Recourse to instruments of restraint or force for any purpose shall be prohibited. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and shall be used restrictively and only for the shortest possible period of time. By order of the Superintendent of the administration, such instruments might be resorted to in order to prevent the child from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the Superintendent should at once consult medical and other relevant functionaries and report to the Secretary, Department of Women and Child Welfare.

4) The general unauthorized carrying and use of weapons or any other instruments of violence such as canes, sticks, chains, belts, ropes and whips by functionaries shall be prohibited in all institutions under the Act.

5) The concerned Probation Officer/Case Worker or the Superintendent shall be the only persons competent to impose punishments. All other functionaries as well as children shall not be competent to impose punishments.

6) A report of misconduct should be presented promptly to the competent authority, which should decide on it without undue delay. The concerned competent authority should conduct a thorough examination of the case.

7) No child shall be punished except in strict accordance with the terms with these Rules. No child shall be punished unless he or she has been informed of the alleged offence in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defense, including the right of appeal to the concerned competent authority or the Inspection Committee. Complete records should be kept of all disciplinary proceedings.

*8) No children shall be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programs – such as the activities of the Bal/Makkala Sangha*

#### **41. EMERGENCIES:**

##### **A) Procedure on the death of a child**

On the occurrence of any case of death or suicide the procedure to be adopted is as under: -

1) If a child dies within 24 hours of his admission to the institution an inquest and post-mortem examination shall be held.

2) Whenever a sudden or violent death or death from suicide or accident takes place, immediate information shall be given to the Officer-in-Charge and the Medical Officer. The Officer-in-Charge and the Medical Officer should examine and inspect the dead body. In case a child dies due to causes other than natural causes or if the cause of death is not known or if the death has occurred due to suicide or violence or accident or whenever there is any doubt or complaint or question concerning the cause of death of any child, the Officer-in-Charge shall inform the officer-in-charge of the Police Station having jurisdiction. The Officer-in-Charge shall also immediately give intimation to nearest Magistrate empowered to hold inquests.

3) Upon the death of a child during the period of stay in the institution, the nearest relative shall have the right to inspect the death certificate, see the body and determine the method of disposal of the body. In such circumstance, there shall be an independent inquiry by a sub committee appointed by the Inspection Committee to inquire into the causes of death, the report of which shall be made accessible to the nearest relative. This inquiry should also be made when the death of a child occurs within six months from the date of his or her release from the institution and there is reason to believe that the death is related to the period of detention.

4) The Medical Officer shall report to the Officer-in-Charge about the happening of the natural death of a child and see that the body is decently removed to the mortuary.

5) In case of natural death or due to illness of child of an observation home or special home the Officer-in-Charge shall obtain a report of the Medical Officer stating the cause of death. A written intimation about the death shall be given immediately to the nearest Police Station, Juvenile Justice Board, National Human Rights Commission and the authority concerned.

6) The parents or guardians of the deceased child shall be contacted and the Officer-in-Charge shall wait for 24 hours for the arrival of relatives. After the inquest is held, the body should be disposed of in accordance with the known religion of the juvenile.

**b) Other emergencies:** The Superintendent shall take the following measures to prevent and control emergency situations: These measures shall be inspected by the Inspection and Monitoring Committee.

i) Adequate security and accident prevention measures and periodic inspection of the same

ii) Proper maintenance of building

iii) Proper maintenance and custody of equipment

iv) Facilities for quarantine when necessary

v) Proper facilities for storage and inspection of food stuff

vi) Proper standby arrangements for water storage, emergency lighting, etc.

vii) Any other measures to prevent and deal with emergencies of any kind.

#### **42. PROCEDURE IN THE CASE OF CUSTODIAL RAPE OR SEXUAL ABUSE**

In the event of custodial rape and/or sexual abuse, the action to be taken as follows:

1) In case any resident or any other person has observed, knows or has reason to suspect that sexual abuse has occurred and makes a complaint to the Superintendent or through the grievance box or through Childline/Makala Sahaya Vani or through any other means, or it comes to the notice of the medical officer or other staff) that one or more of the following general behavior changes has been observed in a child, a report shall be made to the Juvenile Justice Board or the Child Welfare Committee for a special investigation into the possibility of sexual abuse. It shall be the responsibility of all functionaries to report such suspicions immediately. The report shall be based on observations of sudden onset of behavior changes such as

i) Copying adult sexual behavior

ii) Persistent sexual play with other children, themselves, toys or pets

iii) A sudden increase in sexual knowledge, through language or behavior, that is beyond what is normal for their age and circumstances

iv) Unexplained pain, swelling, bleeding or irritation of the mouth, genital or anal area; urinary infections; sexually transmitted diseases

v) Hints, indirect comments or statements about the abuse

2) The Juvenile Justice Board shall direct the SJPU in the local police station, wherever present to register case against the accused person under the relevant section of the IPC. The Special Juvenile Police Unit will conduct necessary investigations under the supervision of specialized agencies wherever possible. If a functionary of the institution is suspected to be involved, the functionaries concerned shall be immediately suspended pending further inquiry.

3) *If the person suspected of sexually abusing a child is himself or herself a child then the child*

*shall be referred to a specialized institution such as NIMHANS (National Institute of Mental and Neuro Sciences, Bangalore) or any other such agency, for consultation/counseling who shall prescribe the appropriate course of action.*

4) If the child reports sexual abuse/rape after leaving the institution to any person, the person shall bring the same to the notice of the Juvenile Justice Board or Child Welfare Committee who will then institute an inquiry.

5) In the event of any other crime committed in respect of residents, the Juvenile Justice Board will take cognizance and arrange for necessary investigation to be carried out by Special Juvenile Police Unit under the supervision of specialized agencies wherever possible

6) Care shall be taken to ensure that the victimized child receives proper care and physical and psychological treatment and that due care is taken to avoid secondary victimization during the investigation.

#### **43. MECHANISM TO GUARANTEE RIGHTS LAID DOWN ABOVE: MONITORING AND EVALUATION COMMITTEE**

1) There shall be a Monitoring and Evaluation Committee constituted in each institution and programme under the Act, which shall meet periodically to ensure that the procedures laid down above are complied with so as to ensure that the rights of children are guaranteed. They shall meet at least once a month to review and make recommendations on all cases within the institution. A list of children residing in the institution, along with details concerning their period of stay, the reason for admission, the status of the inquiry and their adjustment in the home shall be scrutinized and appropriate action taken. They shall also fulfill responsibilities associated with decision making on placement and assessment of the care provided to the child during stay in the institutions as under Rule number 21.e)

2) The Monitoring and Evaluation Committee shall be constituted in each institution consisting of the following functionaries:-

Officer-in-Charge /Superintendent	-	Chairperson
Probation Officer/Psychologist	-	Member-Secretary
Medical Officer	-	Member
House Mother/Father	-	Member
Instructor in Vocation	-	Member
Teacher	-	Member
Counselor if any	-	Member
Representative of the children residing in the institution	-	Member
Representative of Neighborhood Committee if any	-	Member

3) Grievance Addressal mechanism: The grievances received through the grievance addressal system as outlined in Rule number 43 shall be recorded and the action taken reported to the Monitoring and Evaluation Committee and the Inspection Committee. A grievance box shall be made available to all children at all times. It shall be maintained by each institution or scheme under the Act and shall be freely accessible to children to deposit anonymous complaints. Children shall not be subjected to any punishment for having accessed these grievance redressal systems. Appropriate guidance may be given by the counselor/probation officer of each institution as to the responsible use of the same.

## **CHAPTER VI**

### **FUNCTIONARIES UNDER THE ACT**

The State Government shall aim to ensure that the qualifications, knowledge, attitudes and skills expected from each functionary are in line with basic standards. The administration section along with the persons responsible for social audit, inspection, monitoring and evaluation shall specifically listen to, monitor and address the issues emerging out of monthly staff meetings and Makkala Sangha meetings in each institution under the Act.

#### **44. GENERAL DUTIES OF FUNCTIONARIES**

**a. All functionaries under the Act shall be deemed to be public servants, and hence be legally accountable for the performance of the duties assigned to them. Further all voluntary organizations, social workers and others volunteering under this Act shall be accountable to the competent authorities and the Inspection Committees/Social Audit.**

b. In the performance of their duties, functionaries of residential facilities shall respect and protect the human dignity and fundamental human rights of all children, in particular, as follows:

i) No member of the institution or institutional functionaries shall inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever;

ii) All functionaries shall rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;

iii) All functionaries shall respect the present Rules. Functionaries who have reason to believe that a serious violation of the present Rules has occurred or is about to occur should report the matter to their superior authorities or organs vested with reviewing or remedial power;

iv) All functionaries should ensure the full protection of the physical and mental health of children, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required;

v) All functionaries should respect the right of the child to privacy, and, in particular, should safeguard all confidential matters concerning children or their families learned as a result of their professional capacity;

**vi) All functionaries should seek to minimize any differences between life inside and outside the institution which tend to lessen due respect for the dignity of children as human beings.**

#### **45. DUTIES OF THE OFFICER – IN – CHARGE OF HOMES**

- 1) The general duties, functions and responsibilities of the officer in charge will be as follows:-
- a. Ensuring that the rights of the child are protected and all procedures laid down in the Rules are complied with
  - b. Providing homely atmosphere of love, affection, care development and Welfare of Children
  - c. Planning implementation and co-coordinating all institutional activities; programmes and operations
  - d. Handling discipline problems keeping in mind the rights of the child as well as the procedures laid down
  - e. Maintaining minimum standards in the Home
  - f. Monitoring of children, training and treatment programmes and correctional activities
  - g. Allocation of duties to functionaries
  - h. Attending to functionaries welfare and staff discipline
  - i. Preparation of budget and control over financial matters
  - j. Proper storage and inspection of food stuff.
  - k. Stand by arrangement for water storage, emergency lighting etc.

- l. Careful handling of plant and equipment
- m. Accident and fire prevention measures
- n. Supervision over office administration
- o. Monthly office inspection *and maintaining of order book. This book shall record and display orders of the Superintendent as well as any follow up details.*
- p. Daily inspections and round of institution
- q. Inspecting and tasting food prepared for child from the main vessel in the kitchen itself and managing the menu to ensure that the basic principles of good nutrition such as colour, texture, taste, smell and variety are complied with.
- r. Taking prompt action to meet emergencies.
- s. Taking appropriate rehabilitation measures.
- t. *Conducting staff meetings every month during which he/she shall elicit and respond to problems relating to staff, children and other matters relating to the institution. A minute book shall be maintained for this purpose and every resolution or discussion shall be given due consideration and process.*

2) In the event of an escape, the action to be taken is as follows:-

- a. The Officer-in-Charge shall immediately send the guards in search of the child at places like railway stations, bus stands and other places where the child is likely to go;
- b. The parents or guardians shall be informed immediately about such escape if known;
- c. A report shall be sent to the area Police Station along with the details/description of the juvenile, with identification marks and a photograph, with a copy to Juvenile Justice Board and the authorities concerned;
- d. The Superintendent shall hold an inquiry about each escape and send his report to the concerned competent authority.
- e. No escape of any child shall be the personal liability of any staff of the institution provided that the said member of the staff has acted in good faith.
- f. In the event of a child leaving the home without permission, the information shall be sent to the police and the family, if known. The detailed report along with the efforts to trace the child shall be sent to the committee for information in the subsequent sitting of the committee.

3) The Superintendent shall ensure the maintenance of reports and case files of children.

The case file of each child shall be maintained in the institution containing the following information as applicable:-

- a. Report of the person/agency who produced the child before the Board – Form XIII
- b. Probation officer's report
- c. Information from previous institution – Form XIV
- d. Initial interview material, information from family members, relatives,

- community, friends and miscellaneous information.
- e. Source of further information
- f. Observation reports from staff members
- g. Reports from Medical Officer, I.Q. testing, aptitude testing, educational/vocational tests
- h. Social history – Form XV
- i. Summary and analysis by officer-in-charge
- j. Initial classification sheet
- k. Instruction regarding training and treatment programme and about special precautions to be taken
- l. Leave and other privileges granted
- m. Violation of rules, regulations, special achievements (to be recorded in review report and not in this report)
- n. Quarterly progress report from various sections
- o. Review sheet; (Form XVI)
- p. Menstruation report (in case of girls)
- q. Pre-release programme (Form XVII)
- r. Final progress report; (records of education/vocational training, health and other progress reports may be included here with a conclusion summarizing all of the above)
- s. Leave of absence/release on license
- t. Final discharge (shall include the pre-release report and final decision that has been made on the recommendations of that report)
- u. Follow up reports
- v. Central index number
- w. Annual photograph
- x. Remarks

**All the case files maintained by the Institutions and the Juvenile Justice Board shall be computerized and networked so that the data is centrally available.**

**All data relating to missing children shall be disseminated as widely as possible. Data relating to missing or lost children shall be specially computerized and networked locally and centrally through the setting up of Missing Children's Bureaus which shall facilitate the scanning of children's photographs along with their basic identifying information.**

#### **46. KEY DUTIES OF THE PROBATION OFFICER/CASE WORKER**

These shall be decided in consultation with the superintendent.

1) On receipt of information from the officer in charge, the special juvenile police unit under sub section (b) of 13, the probation officer shall inquire into the antecedents and family history of the child and such other material circumstances, as may be necessary and submit a social

investigation report as early as possible in Form VIII to the Board.

2) Every probation officer shall carry out all directions given by a Board/Committee or concerned authority and shall perform the following duties: -

- a. To make inquiries regarding the home and school conditions, conduct, character and health of juvenile/child under their supervision
- b. To attend regularly the proceeding of Juvenile Justice Board or the Child Welfare Committee and submit reports
- c. To maintain diary case file and such register as may be prescribed from time to time
- d. To visit regularly the residence of the juvenile/child under their supervision and also places of employment or school attended by such children and to submit regularly fortnightly reports as prescribed in Form IX
- e. To accompany children where ever possible, from the office of the board to observation home, special home, children's home or fit person, as the case may be
- f. To bring before the board/committee, immediately children who have not been of good behavior during the period of supervision
- g. Follow-up of children after their release from the organizations and extending help and guidance to them
- h. Establishing linkages with voluntary workers and organizations to facilitate rehabilitation and social reintegration of children and to ensure the necessary follow up
- i. Enquiring from each child under his/her care as to whether his/her need of food and clothing are met as per standard
- j. Enquiring from each child under his/her care as to whether the cleanliness of the premises and maintenance of physical infrastructure including provisions of water and electricity etc. have been complied with.
- k. Doing a social investigation of the child through personal interview and from the family, social agencies and other sources.
- l. Ensuring that the rights of the child are protected and all procedures laid down in the rules are complied with.
- m. Facilitating the orientation, monitoring, education, vocational and rehabilitation programmes.
- n. Facilitating the pre release programme and helping the child to establish contacts, which can provide emotional and social support to the child after their release.

1) The probation officers shall not employ children under their supervision for their own purposes or take any private service from them.

2) To augment the existing probation service, probation officers may be appointed from the voluntary organization and social workers found fit for the purpose by the competent authority. Similarly honorary and voluntary probation services may also be co-opted into the implementation machinery by the orders of the competent authority.

#### **47. KEY DUTIES OF HOUSE MASTER/MATRON/HOUSE FATHER/HOUSE MOTHER.-**

1) The general duties, functions and responsibilities of the above functionaries shall be as follows:

- a.Ensuring that the rights of the child are protected and all procedures laid down in the Rules are complied with.
- b.The house father/house mother shall perform the role of parent, friend, mentor, and guide to the children under his/her care. In this capacity he/she shall play with the children, nurture them as persons, listen to and within their means, respond to their individual needs.
- c.Handling discipline problems keeping in mind the rights of the child as well as the procedures laid down
- d.Maintenance, sanitation and hygiene
- e.Implementing daily routine in an effective manner and ensuring children's participation through the Makkala Sangha.
- f.Escorting children whenever they go out of the home.

#### **48. RESPONSIBILITIES OF THE LOCAL AUTHORITIES:**

**The State Governments may and not necessarily delegate powers to local authority under section 68 of the Act to carry out the following responsibilities:-**

- a.To visit the institution and make suggestions for the improvement and development of institutions under sub sec.(2) of section 35 of this Act.**
- b.To give orders for the inter-state transfer of child with prior intimation to Board/Committee under section 57 of the Act.**
- c.To raise funds for the maintenance, education, training and rehabilitation of child under sub section (1) and (3) of Section 62 of the Act.**

**49. RECOGNITION OF HONORARY PROBATION OFFICERS:** The state government shall recognize the services of a panel of trained voluntary personnel who may be also attached to a recognized voluntary organization to serve as honorary Probation Officers, in addition to the list of honorary Probation Officers. This procedure may be undertaken to reduce the number of inquiries for each case.

**50. CLOTHING TO BE WORN BY PERSONS DESIGNATED TO DEAL WITH CHILDREN UNDER THE ACT:** Wherever possible, all such persons shall, except at the time of arrest, only wear civil clothes and not a uniform unless specific circumstances require the said officer to wear a Police uniform in the interest of the child. However, they shall at all times have on their person, an identification that shall be produced on demand.

#### **51. TRAINING OF FUNCTIONARIES**

The State Government shall provide for training of functionaries of each of category of staff in keeping with their statutory responsibilities and specific jobs requirements. The training programme shall include: -

- a. Orientation and Training of the newly -recruited staff
- b.Refresher training courses for every staff member **at** least once in three years
- c.Staff conferences, seminars, workshops, along with the various components/functionaries of JJ system, government etc., at various levels of the functionaries organization.

#### **52. ORGANIZATION OF FUNCTIONARIES**

1) The strength of functionaries per home shall be determined according to the duty, posts, hours of duty per day as the base for each category of staff. The institutional organizational set up shall

be fixed in accordance with the size of the home, the capacity, workload, distribution of functions and requirements of programmes.

2) The whole time staff in a home may consist of Superintendent/Project Manager, Probation Officer (in case of Observation Home/Special Home), Case Workers (in case of children's home/shelter home/after care organization), Child Welfare Officers, Counselor, Educator, Vocational Training Instructor, Medical Staff, Administrative staff, Care Takers, house father/house mother, store keeper, cook, helper, washerman, cleaners, gardeners as required.

3) The part-time staff, may include Psychiatrist, Psychologist, occupational therapist, and other professionals as may be required by time to time.

4) The staff of the home shall be subject to the overall supervision of the Superintendent/Project Manager, who by order shall determine their specific responsibilities and shall keep the concerned authority informed of such orders made by him from time to time. The duties and responsibilities of the staff under him shall be fixed in keeping with the statutory requirements of the Act. The Superintendent or the Project Manager and such other staff who may be required, shall live in the quarters provided for them within the premises of the home.

5) The number of posts in each category of staff shall be fixed on the basis of capacity of the institution. The staff shall be appointed in accordance with the educational qualifications, training, experience, etc. required for each category. The suggested staffing pattern for an institution with a capacity of 100 children could be as mentioned below:-

Sl. No.	Designation	No. of post
1	Superintendent/ Project Manger	1
2	Counselor	2
3	Case Worker/Probation Officer	3
4	House Mother/House Father	4
5	Educator	2 (voluntary/part-time)
6	Vocational Instructor	1
7	Doctor	1 (part-time)
8	Paramedical staff	1
9	Store Keeper cum Accountant	1
10	Driver	1
11	Cook	2
12	Helper	2
13	Sweeper	2
14	Art & Craft cum Music Teacher	1 (part-time)
15	Gardner	1 (part-time)
16	As many volunteers as possible	
	<b>Total</b>	<b>25</b>

The number of posts in the category of counselor, case worker/probation officer, house

father/house mother, educator, and vocational instructor shall proportionally increase with the increase in the capacity of the institution.

## CHAPTER VII

### REHABILITATION AND SOCIAL REINTEGRATION

#### 53. Principles

1) Children who are resident in Children's Homes or Special Homes under this Act as well as all children who fall within the definition of child in need of care and protection shall be rehabilitated under this Chapter.

2) The first priority for a child is to be cared for by his or her own parents.

3) When care by the child's own parents is unavailable or inappropriate, the following shall be the priority for placement

a) Kinship care (care by relatives of the child's parents).

However, strict scrutiny shall be undertaken to rule out possibilities of abuse and exploitation for monetary gain or otherwise.

b) Substitute family care – with an adoptive family

c) Substitute family care - with a foster family

d) Placement in a group foster home

e) Placement in an appropriate institution as a measure of the last resort and for the shortest period of time, till other non-institutional arrangements are worked out. An exception shall be made for those children in whose interest, institutional care is deemed to be the most appropriate care. The child's informed consent shall be taken in all such cases if s/he is capable of giving it. A case study report detailing the reasons for the same shall be given in writing, as part of the documentation to the competent authority prior to a final decision being taken in the matter.

4) In all matters relating to the placement of a child outside the care of the child's own parents, the best interests of the child, particularly his or her need for affection and right to security and continuing care, shall be the paramount consideration.

5) Probation Officers responsible for placement of children shall have professional or other appropriate training in work related to adoption.

6) The child shall at all times have a name, and a nationality. The child shall not, as a result of foster placement, adoption or any alternative régime, be deprived of his or her name or nationality unless the child thereby acquires a new name or nationality.

7) All persons responsible for the child's care shall recognize the need of a child placed in adoption or foster care, to know about his or her background unless this is contrary to the child's best interests. The child has a right to all non-identifying information whereas the biological mother, especially single mothers have the right to maintain confidentiality about the child's parentage.

8) The primary aim of adoption is to provide the child who cannot be cared for by his or her own parents with a permanent family.

9) Twins and siblings being placed in adoption shall not be separated but placed in one family or other setting.

10) A one-month period shall be the time frame by which all efforts shall be made to secure an in-country adoption. All such efforts shall be documented and submitted to CARA. However, this time frame may be reduced for children with special needs.

Children placed in adoption under this law, shall be recognized as members of the adoptive family, and enjoy all the rights pertinent thereto.

#### **54. Adoption:**

**The primary aim of adoption is to provide the child who cannot be cared for by his or her own parents with a permanent family. (See definition of adoption).**

Adoptions under this Act shall be irrevocable and the child shall be entitled to all rights and benefits as if the child were born in the adoptive family.

A child becomes eligible for adoption when:

- o The Child Welfare Committee has completed its inquiry and declares the child legally free for adoption
- o The legal guardian/s of the child have voluntarily surrendered/relinquished their rights over the child after following the procedures laid down by law.

##### *1) Criterion for adoption*

a. In considering possible adoption placements, agencies recognized by CARA shall select the most appropriate environment for the child.

b. Adequate counseling and a time period of two months shall be given to the child's own parents as reconsideration time.

c. Counseling shall be given to the prospective adoptive parents and, as appropriate, the child in order to reach a decision on the child's future.

d. Opportunity shall be provided by the child welfare agency to allow the prospective adoptive parents and the child to get to know each other prior to the actual placement. The relationship between the child to be adopted and the prospective adoptive parents shall be observed by child welfare agencies prior to the adoption. In case of inter-country adoption, photos shall be exchanged if face-to-face interaction is not possible.

## 2) Procedure

- a. The guidelines on adoption issued by the Central Adoption Resource Agency (CARA) and Supreme Court Judgments issued from time to time shall apply. The criteria for selection of the family and priorities for placement shall be as per the CARA guidelines.
- b. State Government shall recognize Children's homes or state run Government homes as adoption agencies for in-country adoption.
- c. The criteria for recognition of children's homes for adoption will be as per the CARA (Central Adoption Resource Agency) guidelines.
- d. Every Recognized Children's Home shall also be registered with the local VCA (Voluntary Coordinating Agency).
- e. All such recognized agencies shall submit a monthly child status report to the VCA as well as to the Competent authority.
- f. The basis for continuing of recognition will be based on an annual inspection.

## 3) Role of Juvenile Justice Board:

- a. All applications filed for adoption with the Board shall be scrutinized by an independent agency recognized for the purpose by the High Court. The scrutinizing agency will examine all available information and verify the background of the child before making a recommendation to the Board for adoption of the child within a period of 2 weeks.
- b. The scrutiny Agency shall be a child welfare/development agency accredited by CARA and appointed by the High Court.
- c. The Board shall undertake a process of enquiry, which will include interviewing the prospective parents, verifying the documents, and scrutiny reports. In case the prospective parents reside abroad, additional documents or clarification in writing may be sought. If the Board is satisfied that the placement is in the best interest of the child, it will pass a final order giving permanent custody to the adoptive parent/parents. An order of adoption shall be signed by the Principal Magistrate beside one of the two members of the Board.
- d. In cases where the date of birth of the child is not known, the Board shall fix the date of birth, in the best interest of the child and shall pass order to the appropriate authority to issue a regular birth certificate for the child giving the name(s) of the adoptive parent (s) as if in the case of natural born children.
- e. As far as possible in accordance with the CARA guidelines, the time taken for passing an adoption order shall not exceed three months from the date of filing. The order shall also include provision for a periodic follow up report either by the probation officer/case worker or adoption agency to ensure the well being of the child. The period of such follow up shall be three years, six monthly in the first year and annually for the subsequent two years.

In the case of placement of older children, i.e. children above 7 years, the follow up report

as recommended in the CARA guidelines shall be more frequent depending on the needs of the child and the family which shall be decided by the Board in consultation with the concerned probation / child welfare officer / social worker.

*4) Abandoned and surrendered children*

a. An abandoned child can be given in adoption only when the Child Welfare Committee declares such a child to be legally free for adoption. An abandoned child shall be legally free for adoption when such an order is signed by at least two members of the Child Welfare Committee. This order shall in any case be made after the lapse of two months during which time all efforts to trace the child's own family shall be made.

b. Before declaring the child as abandoned and certifying him/her as legally free for adoption, the Child Welfare Committee shall institute a due process of enquiry, which shall include:

i) Making notification in at least one leading newspaper and one in the vernacular language of the child within one week of the child being brought to the institution. The information shall also be aired over the local radio and television stations.

ii) Declaration by the placement agency stating that in case of a relinquished child, the biological parents have not claimed the child within the waiting period of 2 months as stated in the Supreme Court judgement.

iii) A thorough enquiry and report by the probation officer/case worker, as the case may be, will be submitted within a maximum period of two months, which shall coincide with the period mentioned in the previous Rule.

c. No child who can understand and express her/his opinion shall be placed in adoption without his/her consent.

d. In the case of an abandoned child, the recognized agency shall within 48 hours report to the Child Welfare Committee along with the copy of the report filed with the police station in whose jurisdiction the child was found abandoned.

e. The adoption agency may initiate the process of clearance at the earliest, in the case of abandonment of children, for the purpose of adoption within a period of two months for placing application before the Committee for declaring the child legally free for adoption.

f. In case of a child surrendered by her/his biological parent/parents by executing a document of surrender as prescribed, the adoption agency shall make an application directly to the Juvenile Justice Board for giving the child in adoption. However, the adoption agencies shall wait for completion of two months reconsideration time given to the biological parent/parents, from the time of handing over the child. However, serious efforts will be made for counseling the parents so as to persuade them to retain the child. If parents are still unwilling to retain the child then such children should be kept initially in foster care or a sponsorship arrangement.

g. In the case of a surrendered/abandoned child who is legally free for adoption, the licensed agency shall have discretion to place the child in pre-adoptive foster care under

intimation to the Juvenile Justice Board within one week of its placement till such time as the final order is passed. VCA clearance is only required for inter-country adoptions.

*5) Inter country adoption*

a. If no adoptive parents are found for a child within one month, then the child can be committed for inter country adoption.

b. In inter country adoption the procedure laid down by CARA shall apply. Placements should, as a rule, be made through competent authorities or agencies recognized by CARA. In no case should the placement result in improper financial gain for those involved in it.

c. In inter country adoption, persons/agencies who are recognized and enlisted with CARA may act as agents for prospective adoptive parents. Special precautions shall be taken in order to protect the child's legal and social interests.

d. No inter country adoption should be considered before it has been established that the child cannot be placed in Indian adoption. A clearance certificate shall be obtained from the VCA and the child processed for inter country adoption through a CARA recognized agency. It must also be established that the child will be able to migrate and join the prospective adoptive parents and may obtain their nationality.

e. Where the nationality of the child differs from that of the prospective adoptive parents, all due weight shall be given to both the law of the State of which the child is a national and the law of the State of which the prospective adoptive parents are nationals. In this connection due regard shall be given to the child's cultural and religious background and interests.

f. In inter country adoption, as a rule; the legal validity of the adoption should be assured in each of the countries involved.

*16) Disruption proceedings*

*a. Adopted children or Adoptive Parents or probation Officers or Social Workers of accredited Children's Homes shall have the right to make complaints (See Rule 29 & 31) or initiate disruption processes by writing to the Child Welfare Committee.*

*b. In in-country adoption, on disruption, the child may be returned to the children's home from where he or she was taken. A report of the circumstances under which this decision was taken and the efforts made to sort out any problems shall be recorded and submitted to the child welfare committee, the Department of Women & Child Development and the Voluntary Co-ordinating Agency. If it is an inter-country adoption, the child may be placed by the foreign processing agency in an alternate family in that country itself. This placement shall be done with the consent of the Indian Court as stated in the CARA guidelines.*

*c. The child may be removed and placed in an alternate home / transit home whenever there is serious mal adjustment, after obtaining the consent of the child welfare committee.*

d. Upon disruption of a placement the committee shall recommend alternate placement of the child with adequate provisions for counseling and care.

**55. FOSTER CARE:**

*1) Principles:*

a. As far as possible younger children who have been relinquished or destituted shall

be referred to adoption rather than foster care in the interest of continued care.

- b. Younger children who are not placed in adoption shall preferably be placed with a couple in individual foster care/group foster care till the child is able to return home whenever family circumstances are considered conducive.
- c. Pre-adolescents may be referred to group foster homes.
- d. Older children may be encouraged to live in peer group homes under the foster care of persons willing to supervise such arrangements.
- e. Foster family care, though temporary in nature, may continue, if necessary until adulthood, but should not preclude either prior return to the child's own parents or adoption.
- f. **In all matters of foster family care, the prospective foster parents and as appropriate the child and his or her own parents should be adequately involved. The Child Welfare Committee shall be responsible for supervision to ensure the welfare of the child.**
- g. Twins and siblings shall not be separated by a foster placement except under extraordinary circumstances. If for some reason they have been separated, arrangement shall be made for them to remain in contact.
- h. The wishes of the child concerning the proposed fostering shall be taken into account before placement.

## 2) *Short term/temporary foster care*

a. The temporary foster care refers to physical custody/care of the child till he/she is able to return to the biological family as soon as the family circumstances improve. Temporary short-term foster care shall not exceed 4 months and temporary long term foster care shall not exceed 5 years. After five years if the child cannot return to the biological family, the foster care period may be extended or the child placed in a group foster home. The procedure for placements shall be as prescribed by the CARA guidelines.

b. The temporary foster care shall be carried out by the probation officer/case worker/social worker, as the case may be under the supervision of the competent authority. The total period of temporary foster care shall not exceed five years.

## 3) *Persons competent to be foster parents*

The following persons may apply to be foster parents

- a. A Single Parent
- b. Couple
- c. Members of the extended family of the child
- d. NGOs or other recognized person/s or agency willing to take responsibility of a child/children in individual or group foster care.

#### **4) Procedure for foster care**

##### ***Procedure for selection of parents:***

a. An application to foster a child shall be given to the competent authority through a probation officer, PO/case worker or to the person in charge of the approved residential home who shall forward the application to the Department of Women & Child Development / the Child Welfare committee. (Form X)

b. If the application is prima facie satisfactory then the Child Welfare Committee shall authorize the probation officer to undertake the following steps:

i) Probation/case worker to interview the prospective foster parent/s and assess that he/she is suitable to foster a child. In particular the probation officer shall investigate the motivations of the prospective foster parents so as to ensure that the intention is not to employ the child as domestic help.

ii) To visit the home of the prospective foster parent/s and confirm that it is likely to meet the requirements of the particular child and that the conditions in it are satisfactory. The family home should provide adequate rooms based on the number of children with bath and kitchen and provide a safe environment with adequate sanitary and living conditions to promote health and well being of the child.

iii) To ensure that at least two persons who have known the foster parent/s well can vouch for his/her good character and suitability to care for the child.

iv) To establish from the local authorities or the person in charge of any government medical unit in the area that no person in the household of the prospective foster parent/s is suffering from any physical or mental illness likely to affect the child adversely.;

v) To establish from the local authorities or from the officer in charge of the police station in the area that no person in the home has a police record or has been convicted of a serious criminal offence rendering it undesirable for the child to associate with that person.

vi) To ensure that the foster parent (s) have a stable emotional environment within the family;

vii) To ensure that the foster parent (s) have an income to meet their needs and not be dependent on the foster care maintenance payment.

viii) To ensure that the foster care family is willing to follow rules laid down including regular visits to pediatrician, maintenance of child health, record etc. ;

ix) To ensure that the family shall be willing to sign an agreement to return the child to the agency under specified circumstances like disruption, abuse and neglect of the child and where the child has been unable to adjust to the foster family.

x). To ensure that the foster parent is willing to attend training/orientation programs

prior to placement and thereafter when found necessary.

xi) To ensure that in case of employed parents, adequate childcare arrangements are made after school hours.

xii) To ensure that members of the immediate family living in the same house give their consent to the placement of the foster child.

*Procedure for placement of the child:*

c. Ensure that the child is examined by a qualified medical practitioner him who shall report in writing on the child's physical and mental condition prior to placement. However in the case of an emergency the medical report shall be made within four weeks after the placement.

d. Ensure that efforts have been made to trace the family before the child is placed.

*e. Ensure that the child has been through a preliminary assessment including:*

*i)Mental / Developmental Assessment – suggested reference the Denver Development Scale or any other suitable instrument.*

*ii)Educational Assessment: As per the Minimum Levels of Learning schedule.*

*iii)Temperament Assessment: An assessment of the Child's temperament needs to be made based on emotionality, level of activity, attention and concentration ability, sociability levels, aggression, rhythm of food and sleep, child's motivations, dependability, adaptability.*

*f. Ensure that the child has been introduced to the couple and has had a minimum of three interactions and two home visits as well as the requisite number of counseling sessions with the concerned social welfare officer/probation officer*

*5) On completion of the above process the probation officer shall prepare a Home study Report. (Form XI)*

*6) If the Home Study Report is approved by the Child Welfare Committee, then the foster parents shall enter into a foster care agreement, which includes the rights and responsibilities of the foster parents. (Form XII) Each foster parent shall be given a copy of the agreement. A copy of the undertaking shall also be sent to the concerned probation /caseworker and to the Commissioner.*

*7) The child shall then be placed with the couple / single parent / Group home.*

*8) Post placement follow up:*

a. There should be regular visits carried out by the Probation Officer/Child Welfare Officer / Social Case Worker, as the case may be so as to protect the best interest of the child.

*b. Review of the placement report to be made every six months by the Monitoring and Evaluation Committee. These Reports shall be submitted to the Child Welfare Committee and the Department for Women and Child Development.*

c. In case of victimization of the child in the foster home, appropriate action shall be taken against the parents.

d. When the foster placement begins the person placing the child shall submit to  
the foster parent a list of immunizations carried out in respect of the child and indicate to the foster parent  
the list of other immunizations required to be effected in respect of the child and the foster parent shall  
ensure that those immunizations are carried out. The foster parents and the district probation and social  
welfare officer shall at all times keep a record of the immunizations in respect of the child.

e. Where the child placed with a foster parent is under five years of age, the child shall be  
medically examined by a competent medical officer

- i) Within one month after the date of placement and
- ii) Thereafter once every six months.

f. Where a child placed with a foster parent is above the age of five years, the child shall be medically  
examined by medical functionaries once in a year.

g. The probation/case worker concerned shall, so far as possible assist the foster parent in ensuring the  
carrying out the requirements.

#### 9) Disruption

a. If the probation officer/case worker feels that it is in the best interest of the child, he/she may make a  
report regarding the necessity for disruption and submit it to the Child Welfare Committee..

b. The probation officer/case worker shall also produce before the Child Welfare Committee the record of  
efforts put in to remedy the maladjustment.

c. The child may be removed and placed in an alternate home / transit home wherever mal adjustment  
occurs, after obtaining the consent of the Child Welfare Committee and giving the foster parents an  
opportunity to be heard.

d. In the case of an emergency the child may be removed based on the discretion of the probation  
officer/case worker in consultation with the superintendent and other staff of the children's home,  
according to indicators such as physical, or sexual abuse, or exploitation.

e. Upon disruption of a placement the Child Welfare Committee shall recommend alternate placement of  
the child with adequate provisions for counseling and care.

#### 10) In case of sickness/death of the child or death of the foster parent:

a. If a child is seriously ill the foster parent shall as soon as possible, give notice to the concerned  
probation officer/case worker who shall in turn notify the parents/guardians and the Child Welfare  
Committee.

b. If the foster child dies, the foster make every effort to obtain a medical certificate of death and a post  
mortem report within 24 hours.

c. He or she shall also immediately notify the probation officer/case worker concerned, who shall in turn  
notify the parents/guardians, Department of Women and Child Development and the Child Welfare  
Committee.

d. In the case where the child has been placed with a single foster parent who has died, the child shall be  
returned to the approved home from where the child was received.

#### 11) Responsibilities of Child Welfare Committee /Placement Agencies/Children's Home:

a. Foster care placements shall be made only through recognized/accredited bodies and Probation Officers  
/Case Workers appointed by the Child Welfare Committee.

b. The Child Welfare Committee shall develop, maintain, update and employ a written policy and  
procedures manual.

c. The placement agencies/children's home shall satisfy itself that all alternatives to keep the child in  
his/her family have been explored and that foster care is the optimal choice of care for the child.

d. The placement agency/children's home shall recruit, screen, orient and train foster families.

e. The placement agencies/children's home along with the Child Welfare Committee shall devise a system  
to:

- i) Assess the needs of the child and the foster family.
- ii) Match the needs of the child with the abilities and resources of the foster

- family.*
- iii) Prepare both the child and the foster family for the placement.*
- f. The Child Welfare Committee/Placement Agencies/Children's Home competent authority or agency shall support the child's contact with the biological family whenever possible and when conducive to the child's best interest.*
- g. The Placement Agencies/Children's Home along with the Child Welfare Committee shall begin permanency planning for the child soon after the placement*
- h. The Child Welfare Committee along with the Placement agencies/children's Home shall develop a procedure for participation with the foster family in a periodic mutual review. This review will evaluate the strengths and needs of the foster family for caring for the child and the relationship between the competent authority or agency and the foster family.*
- i. The Child Welfare Committee along with placement agencies/children's home shall develop a policy to recognize the positive contributions made by foster families to the field of child welfare.*
- j. The Child Welfare Committee shall develop written policies and procedures for the closure of foster homes under a variety of circumstances. This will include voluntary withdrawal of service by foster families as well. The procedure shall provide the foster parent(s) an opportunity to be heard before the decision to withdraw the service is arrived at.*
- k. The placement agency/children's home shall develop individual case records which shall include periodic narrative reports relating to the child's and the biological family's involvement with foster care.*

## **56. SPONSORSHIP**

### *1) Principles and objectives*

- a. Sponsorship services should be considered to supplement the resources of the child and his or her parent or guardian so as to support efforts to re-integrate the child into the community and finance his or her education, vocational training, health care, etc. or to supplement the family income to encourage parent or guardian to fulfill their responsibility to the child.
- b. The Department of Women and Child Development shall promote a sponsorship programs as laid down in section 43 of the Act.
- c. The State shall provide for the sponsorship of children based on need and availability of resources when they are discharged from the reception unit / shelter home / children's home / special home / after care institution.

### *2) Management of the scheme*

- a. The state shall establish a Sponsorship Fund with appropriate budgetary reallocation and mobilize additional funds.
- b. The sponsorship fund shall be administered by the Child Welfare Committee.
- c. The payment shall be made through the institution from where the child was discharged.
- d. The agency/institution receiving sponsorship shall maintain proper and separate accounts of all the receipts and payments for the programme.

### *3) Criteria for Selection of children for sponsorship:*

- a. Children reinstated with single Parent/biological families with income not exceeding Rs.800.00 per month.
- b. Disabled and other special needs children requiring specialized intervention/treatment and referred from any institution or program under this act.
- c. Children reinstated into the family, where the parent is disabled or chronically ill but is willing and able to take care of the child.

- d. Where the child requires sponsorship to complete his / her ongoing education / vocational training after discharge from the institution, up to a maximum period of two years.
- e. Any other cases after due consideration.

***4) Duration of the Sponsorship:***

The duration of the sponsorship support shall be decided on a case by case basis, based on the recommendations of the case worker which has been endorsed by the monitoring and evaluation committee. However the support shall be renewed every year and shall not exceed three years unless under exceptional circumstances.

***5) Procedure for sponsorship support:***

**a. The social worker of the respective reception unit / shelter home / children's home / after care institution shall visit the home of the child and verify that the child fulfills the criteria mentioned above.**

**b. Each institution availing of the sponsorship scheme under this Act, shall accord one qualified social worker the responsibility of undertaking all assessments, home visits, documentation, review and follow up of sponsored children**

c. Appropriate proof or record of death / divorce / separation / disability / illness / income of parent or child, shall be verified and attached to the case file and a report prepared and submitted to the Child Welfare Committee, and the sponsorship agency.

d. Follow up of the child once in six months to get an update on the family situation shall be made and a report submitted to the Child Welfare Committee and the Sponsorship Agency. Care shall be taken to ensure that the child is getting adequate education, nutrition and health care and that the child is free from abuse and exploitation.

e. All sponsored children shall regularly attend formal schooling / skill training / vocational training unless under special instances of disability or illness of the child, which shall be verified by the caseworker.

f. If at any point in time the child has to be institutionalized the sponsorship shall be discontinued.

g. The child shall not receive sponsorship support from any other source.

h. Wherever possible, the child shall be referred to other existing education schemes and services.

i. Appropriate action shall be taken against persons found to be deliberately misusing the sponsorship amount.

j. There shall be a yearly evaluation of the rehabilitation outcomes for children as far as possible and independent consultants shall be employed.

k. The Department of Women & Child Development shall work out the additional modalities of the sponsorship program through a suitable scheme.

## **57. AFTER CARE ORGANIZATION**

**After Care Homes:** (1) After Care Homes may be set up to take care of children after they leave special homes and children's homes. These after care services shall be offered to all children/youth between the ages of 18-20 years in order to empower them and facilitate their smooth transition from institutional life into the community.

(2) Objective of these homes would be to enable such children to learn life skills, which will enable them to adapt to society. During their stay in these transitional homes these children should be encouraged to move away from an institution-based life to a normal one.

(3) Target groups would include who have either left special homes or children's homes.

(4) The Key components of the model include setting up of temporary homes for a group of youths, who can be encouraged to learn a trade and contribute towards the rent as well as the running of the home. There should also be provision for a peer counselor. This counselor will be in regular contact with these youths to discuss their rehabilitation plans and provide creative outlets for their energy, to tide over crisis periods in their life.

(5) The programmes under the scheme would include:

1)Facilitating employment generation for these youth. After a youth has saved a sufficient amount, she/he can be encouraged to stay in a place of his/her own and move out of the group home. Additionally the youth could continue staying in the home and return the deposit. The youth learning a vocational trade could be given a stipend. This would be stopped once the youth gets a job.

2)Loans to these youth to set up entrepreneurial activities would also be arranged.

3)Micro-credit and entrepreneurship training as well as income generation programmes should be offered.

4)Girls especially shall be encouraged to take up further education and take admission in other Government Hostels. Though they may be financially and otherwise supported in case they opt to married, such an option shall not be the only one offered to them as a reintegration strategy. When on discharge from the After Care Home, a youth who has absolutely no parent or guardian or mentor, youth shall be referred to appropriate recognized agencies or NGOs for further training or apprenticeship or other such rehabilitative measure.

5)A peer counselor would also be available for youth at these homes. Since at this stage of life they can be lured into crime or drug dependence and such other habits or deviant behaviour, hence the need for a counselor.

(6) **Structure:** As far as possible, these after care homes shall be located within the community in areas that enable the youth to come in contact with a healthy social and community life. Each home would house 6-8 youths who could opt to stay together. One peer counselor can be in-charge of a cluster of 5 homes.

(7) Wherever possible, the State Government may make efforts to dovetail the After Care Home Programme with other State and Central Government Schemes that will enable the youth to take advantage of opportunities to secure a better future on his or

her own.

## CHAPTER VIII Monitoring of Juvenile Justice System

### **58. 1) ADVISORY BOARDS.-**

a. The state governments shall constitute Advisory Board at various levels for a period of 3 years. The state government shall constitute State Advisory Board, District Advisory Board and the City Advisory Board. All the Boards shall hold at least two meetings in a year.

b. The State Government, through the Selection Committee, if any, constituted under sub section (2) of section 29, shall set up State, District and City levels Advisory Boards and shall consist of members of the competent authority, academic institutions, locally respectable and spirited citizens, representatives of NGOs and representative of local authority. The secretary shall be nominated from among the members in a rotation basis. The inspection committee constituted under section 35 of the Act shall function as district or city Advisory Board in terms of sub section (3) of 62 of the Act.

c. Termination, resignation or vacancy caused and appointment of new member therein shall be done in the same manner as done in case of child welfare committee.

d. *The Advisory Board shall be a First Class Committee for the purpose of T.A. and D. A.*

e. Responsibilities of the Advisory Board:

i) The Advisory Board shall review the reports of the Inspection Committees with regard to the various institutional or non-institutional services in their respective jurisdictions.

ii) *The Advisory Boards shall inspect the functioning of the Child Welfare Committee and the Juvenile Justice Board. The Central Government and the Local Authorities shall act upon recommendations made.*

iii) *To analyse the basic requirements to effectively administer the Juvenile Justice Act in the State and suggest and approve suitable policies and programmes.*

iv) *To review the co-ordination between the relevant Departments of the State Government, and programs and schemes under the Act.*

v) *To review the administration of the Juvenile Justice Fund*

f. District and City/Town level Advisory Boards may also be set up on similar lines. These shall be set up under guidance of the State level Advisory Board.

### **2) Openness & Transparency:-**

a. All the Homes shall be open to visitors with the permission of the Superintendent, particularly the representatives of local self government, voluntary organizations, social workers, researchers, medicos, academicians, prominent personalities, media and any other person, as the Superintendent considers appropriate keeping in view the security welfare and the interest of the child. The Superintendent of the Home shall encourage active involvement of local community, especially neighbourhood committee if any, as in the case of Madhya Pradesh, in improving the conditions in the Homes, if the members of the community want to serve the institutions or want to contribute through their expertise.

- b. The Superintendent/Project Manager shall maintain a visitors book. The remarks of the visitors shall be considered by the Advisory Inspecting Authority.
- c. While visiting an institution, the visitors will not say or do anything that undermines the authority of the superintendent/project manager or is in contravention of law or rules or impinges on the human dignity of the child.
- d. The visitors may be allowed to visit observation homes and special homes also with the permission of the competent authority
- d. A Visitor's Book shall be maintained in which the persons visiting the home shall record the dates of their visits with remarks or suggestions, which they may think proper. The officer in charge shall forward a copy of every such entry to the designated authority with such remarks as he may desire to offer in explanation or otherwise and thereon the designated authority shall issue such orders as may be deemed necessary

## **59. INSPECTION**

1) The State government shall constitute state/district/city level inspection teams. This shall be done through the Selection Committee if any, constituted under rule 65, for a period of 3 years.

2) Every child under this Act shall have the right to request assistance from the Inspection Committee, family members, legal counselors, Childline/MakkalaSahaya Vani(1098), the Makkala Sangha, humanitarian groups or others where possible, in order to make a request, suggestion or complaint. Illiterate or differently abled children shall be provided with special assistance.

*3) The duties of the Inspection Committee: The inspection shall not be a faultfinding mechanism but rather aim to develop an atmosphere of constructive criticism of the functioning of the Juvenile Justice System*

The team shall fulfill the following objectives:

- a. To visit and oversee the day-to-day function of the Homes at least once in six months and give suitable directions to be followed.
- b. To monitor the implementation of the Rehabilitation and Social Integration Program of Foster Care, Sponsorship and After Care as provided for under this Act and their conformity with the Rules.
- c. To elicit and receive complaints and grievances from parents/guardians as well as children of these institutions/services, and especially focus on identifying the violations of children's rights.
- d. To evaluate compliance with the rules concerning the physical environment, safety, readiness to meet emergencies, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of children.
- e. To request for and ensure inspection of all jails in the jurisdiction and identify persons in conflict with the law who may be below the age of 18 years who have been illegally detained. The appropriate authority shall be made responsible to ensure that such persons be made to

undergo a medical test to ascertain the age. All such children found to be below the age of eighteen, shall be transferred to the concerned Observation Home or any place of safety.

f. To make suggestions for the improvement and development for the institution. *A report of the Inspection Committee shall be sent to the Director of the concerned Department* within a period of one month. Follow up action taken by the Department and other concerned persons shall be submitted to the Inspection Committee in the shortest possible time not exceeding three months. In any case, a status report of the action taken on the previous report shall be submitted to the Inspection Committee one month before the next Inspection.

**4) Members of the Inspection Committee:** The team shall consist of a minimum of five members from representatives of State Government, Local Authority, Child Welfare Committee, medical and other experts, Voluntary Organizations and reputed social workers. The team shall also include a few children with appropriate maturity. The inspection visit will be carried out by not less than three members of whom at least one shall be a child. Qualified medical officers attached to the inspecting authority or the public health service shall participate in the inspections.

**5) Procedure:**

**a. Regularity of inspections:** Inspection on all institutions and rehabilitation services shall be conducted at least once in six months.

**b. Accessibility:** Inspectors shall have unrestricted access to all persons employed by or working in any institution under the Act and to all children and to all records of such facilities. Every child shall have the right to talk in confidence to any inspecting officer, or to make a direct or anonymous request, suggestion or complaint, without censorship as to substance and to be informed of the response without delay.

c. These may also be made to the Child Welfare Committee or the Juvenile Justice Board or to Child line/ Makkala Sahaya Vani, or recognized humanitarian groups or others wherever possible.

**6) Reports of Monitoring and Evaluation Committee:** The reports of the Monitoring and Evaluation Committees for each institution (See Rule number 43) shall be scrutinized and appropriate action taken.

**60. GRIEVANCE ADDRESSAL SYSTEM:** Every institution and scheme under the Act shall maintain a grievance box (See Rule number 43 under Institutional Management) that is freely accessible to children to deposit anonymous complaints.

**61 INSPECTION VISITS TO INSTITUTIONS/PROGRAMMES UNDER THE ACT:** The Inspection Committees, Monitoring and Evaluation Committees and Advisory Board members at every level may visit the homes either by prior intimation or by surprise.

**62. REPORTING BY INSPECTION COMMITTEE:** 1) After completing the inspection, the inspector shall be required to submit a report on the findings within the shortest possible time not exceeding fifteen days. The report should include the suggestion, request or complaint as made by the concerned person, an objective evaluation of the compliance of the facilities with the relevant provisions of the Juvenile Justice (Care and protection) Act 2000 and rules under the Act.

2) Opinion of other relevant persons including those directly responsible for or named in the complaints shall also be noted and their reasons and explanations noted verbatim.

3) The inspection committee shall finally make any recommendations regarding any steps considered necessary to ensure compliance.

4) Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of children or the operation of a juvenile justice institution has occurred shall be communicated to the competent authorities for investigation and prosecution.

**63. FOLLOW UP ACTION:** on the findings and suggestion of the children shall be taken by all concerned authorities.

**64. SOCIAL AUDITING:** The State Government shall commission professional research based social audit to monitor and evaluate the functioning of the Homes and all programmes/schemes under the Act on an annual basis. This shall be done with the help of leading organizations working with the children, besides Autonomous bodies like National Institute of Public Cooperation and Child Development, Indian Council for Child Welfare, Indian Council for Social Welfare, Indian Social Institute, Childline India Foundation, National Institute of Social Defence, Central and State level Social Welfare Boards, School of Social Work etc.

## CHAPTER IX MISCELLANEOUS

**65. JUVENILE JUSTICE FUND:**

The state government shall create a fund at state level under section 61 of the act to be called the 'Juvenile Justice Fund' (here in after in this rule referred to as fund) for the welfare and rehabilitation of the child dealt with under the provisions of the Act. Besides voluntary donation, the central govt. shall also make contribution to state level Juvenile Justice Fund.

The fund shall be applied:

- a. To secure the rights and implement programmes for the welfare and rehabilitation of children
- b. To pay grant-in-aid to non official organizations;
- c. To meet the expenses of State Advisory Board and its purpose

d. To do all other things that are incidental and conducive to the above purposes.

The management and administration of the fund, will be under the control of the State Advisory Board under section (3) of section 61 of the Act.

The assets of the fund shall include all such grants and contributions, recurring or non-recurring, from the central and state governments or any other statutory or non-statutory bodies set up by the central or state government as well as the voluntary donations from any individual or organization.

Withdrawals shall be made by cheques or requisitions, as the case may be, signed by the Secretary-Treasurer in the case of amounts not exceeding Rs.1, 000/- (Rupees one thousand) and signed duly by the secretary -treasurer and other member of the board of management to be nominated by the State Advisory Board.

Regular accounts shall be kept of all money and properties and all incomes and expenditure of the Fund and shall be audited by notified firm of Chartered Accountants or any other recognized authorities as may be appointed by the Board. The auditors shall also certify that the expenditure from the funds shall be kept by the Secretary-Treasurer. All contracts and other assurances shall be in the name of the board of management and signed on their behalf by the Secretary-Treasurer and one member of the board of the management authorized by it for the purpose.

The Juvenile Justice Board shall invest the proceeds of sale or other disposal of the property as well as any money or property not immediately required to be used to serve the objective of the Fund in any one or more of the modes of investment for the time being authorized by law for the investment of trust moneys as the Board of Management may think proper.

The Juvenile Justice Board may delegate to one or more of the members such of its powers, which in its opinion are merely a procedural arrangement.

**66. THE SELECTION COMMITTEE SHALL CONSIST OF FOLLOWING SEVEN MEMBERS:**

- 1) A retired Judge of the High Court or retired Secretary to the State Government having experience in social welfare shall be the Chairperson of the Selection Committee.
- 2) Two representatives of Non Governmental Organizations working in the area of Child Rights
- 3) A representative from an Academic Body.
- iv4) Two representatives of the concerned department of the State Government.
- v
- vi5) A representative of the State Human Rights Commission/such recognized agency/cell
- 6) The Selection Committee shall lay down minimum qualifications and invite nominations of qualified candidates from the public out of which the final selection shall be made to the

committee. The selection committee will also prepare of a list of names out of which members may be selected to fill in vacancies, which may arise during the tenure of the Child Welfare Committee.

**67. DISPOSAL OF RECORDS/DOCUMENTS:** The records/documents in respect of children should be kept in a safe place for a period of 7 years and thereafter be destroyed with the help of Juvenile Justice Board/Child Welfare Committee.

**68. DATA BASES:**

1) *Children within the system:* All the case files maintained by the Institutions, the Child Welfare Committee and the Juvenile Justice Board should be computerized and networked so that the data is centrally available.

2) *Missing children:* Data relating to missing or lost children shall be specially computerized and networked locally and centrally through the setting up of Missing Children's Bureaus, which shall facilitate the scanning of children's photographs along with their basic identifying information. All data relating to missing children shall be disseminated as widely as possible.

3) *Support services:* Names and addresses of all recognized Children's Homes, fit institutions and other data bases of organizations, voluntary probation officers, other support services for should be maintained and updated regularly by the competent authorities. Age and sex appropriate facilities as prescribed under section 34 of the Act, shall also be mentioned in the list.

**69. REPEAL AND SAVING.-** Juvenile Justice (\_\_\_\_\_) Rules, 20\_\_\_\_, as in force within the state/UT of \_\_\_\_\_ shall stand repealed immediately after the enforcement of these Rules :

Provided that any action taken, order issued, by-laws made under the provisions of these rules thereby repealed shall, in so far as it is not in consistent with the provisions of these rules, be deemed to have been taken, issued or made under the provisions of these rules.

## FORMS

### **FORMS/REPORTS**

#### **Principles**

The views of the child shall be given due respect in the recording of any information/conclusions/decisions taken about him/her. The final record/report shall be read out to the child in a manner, which ensures his/her comprehension, and his/her signature/thumb impression shall be taken as proof of the same.

Information for these reports/forms shall be collected in a sensitive and professional manner, preferably by persons/personnel who have received special training in undertaking the same, taking into account the critical importance of soliciting, recording and updating accurate information about the children.

Care shall be taken not to coerce children into providing information for these reports. If the child is not ready to provide any information at the time, the same shall be recorded and the child provided the necessary counseling to enable him/her to share such information

The services of an interpreter shall be taken if necessary.

**FORM – I**

Vide Sub Rule----- of Rule-----

**Order for Social investigation Report**

To

Probation Officer/ Person in-charge Voluntary Organisation/ Social worker/ Case Worker

---

Whereas (1) a report/ complaint under section -----of the Juvenile Justice (Care and Protection of children) Act, 2000 has been received from -----  
----- in respect of (name of the child) son/ daughter of -----  
residing at-----.

3)----- son/ daughter of -----  
-----residing at -----  
----has been produced before the Board/ Committee under section----- of  
the Juvenile Justice (Care and Protection of Children) Act, 2000.

You are hereby directed to enquire into the character and social antecedents of the said child and submit your social investigation report on or before-----  
----- or within such time allowed to you by the Board/Committee.

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

(signature)

Principal Magistrate, Juvenile Justice  
Chairperson, Child Welfare Committee

Board/  
SEAL

### FORM – II

Vide Sub Rule ----- of Rule-----

#### **SUPERVISION ORDER**

When the Child is placed under the care of a parent, guardian or other fit person

Profile No.----- of -----20-----.

Whereas (name of the child) has this day found to have committed an offence and has been placed under the care of (name) ----- (address) -----  
----- on executing a bond by the said -----  
----- and the court is satisfied that it is expedient to deal with the said child by making an order placing him/ her under supervision.

It is hereby ordered that the said child be placed under the supervision of -----  
----- probation officer /case worker, for a period of ----- subject to the following conditions:-

1. that the child along with the copies of the order and the bond executed by the said -----  
----- will be produced before the probation officer/ caseworker named therein-----.
2. That the child will be submitted to the supervision of the probation officer.
3. That the child resides at-----for a period of-----.
4. That the child will not be allowed to quit the district jurisdiction of -----  
without the permission of the probation officer/case worker.
5. That the child will not be allowed to associate with bad characters.
6. That the child will live honestly and peacefully; and will go to school regularly/endeavour to

earn an honest livelihood.

7. That the child will attend the attendance centre regularly.
8. That the person under whose care the child is placed will arrange for the proper care, education and welfare of the child.
9. That preventive measures will be taken by the person under whose care the child is placed to see that the child does not commit any offence punishable by any law in force in India.
10. That the child will be prevented from taking narcotic drugs or psychotropic substances or any other intoxicants.
11. That the directions given by the probation officer/case worker from time to time, for the due observance of the conditions mentioned above, will be carried out.

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

(signature)

Principal Magistrate, Juvenile Justice Board/  
Chairperson, Child Welfare Committee

- Additional, conditions, if any, may be inserted by the Juvenile Justice Board/Child Welfare Committee.

### FORM – III

#### Order of detention

Vide Sub-Section -----of Section-----, Sub-Section-----of Section----- and Sub-section -  
-----of Section-----.

To

The Officer in charge/ Project Manager

-----  
Whereas on the -----day of-----20---- (name of the child)  
son/daughter of -----aged-----residing at-----  
----- being found in Profile No.-----to be child in conflict  
with law/ child in need of care and protection under section----- is ordered by me---  
----- Principal Magistrate, Juvenile Justice Board /chair person, Child Welfare  
Committee, under section -----of Juvenile Justice Act, 2000 to be kept in the  
Special Home/Children Home/Shelter Home -----for a period of -----.

This is to authorize and require you to receive the said child into your charge, and to keep  
him/her in the Special Home/Children Home/Shelter Home -----for the  
aforesaid order to be there carried into execution according to law.

Given under my hand and the seal of Juvenile Justice Board/Child Welfare Committee.

This -----day of -----20

(Signature)

Principal Magistrate, Juvenile Justice Board/Chairperson, Child Welfare Committee.

Encl:

Copy of the judgement, if any, of orders, particulars of home and previous record:

Strike, which is not required.

Previous history under the Juvenile Justice (Care and Protection of Children) Act, 2000

Date Order passed including period of detention if any section  
Competent Authority

#### FORM IV

Vide Sub-Section----- of Section -----

#### **Bond to be executed by a Parent/Guardian/Relative or fit person in whose care a child is placed under**

Clause (e), Sub-Section (1) of Section 15/Sub-Section (3) of Section 39

Whereas I -----being the parent, guardian, relative or fit person under whose care (name of the child has been ordered to be placed by the Juvenile Justice Board/Child Welfare Committee----- have been directed by the said Juvenile Justice Board/Child Welfare Committee to execute a bond in the sum of Rs. ------(Rupees-----) with one surety\*/ two sureties. I hereby bind myself on the said -----being placed under my care I shall have the said -----properly taken care of and I do further bind myself to be responsible for the good behaviour of the said-----and to observe the following conditions for a period of ----- years commencing from -----.

- 4)That I shall not change my place of residence without giving previous intimation in writing to the Juvenile Justice Board/Child Welfare Committee through the Probation Officer/child Welfare Officer;
- (2)That I shall not remove the said----- from the limits of the jurisdiction of the Juvenile Justice Board/Child Welfare Committee without previously obtaining the written permission of the Board /Committee;
- (3)That I shall send the said-----daily to school/to such daily work as is approved by the Board/Committee unless prevented from so doing by circumstances beyond my control;
- (4)That I shall send the said-----to an Attendance Centre regularly unless prevented from so doing by circumstances beyond my control;
- (5)That I shall report immediately to the Board/Committee whenever so required;
- (6)That I shall produce the said -----if he/she seriously misbehaves or absconds from my care;
- (7)That I shall render all necessary assistance to the Probation Officer/Case Worker to enable him to carry out the duties of supervision;

(8)in the event of my making default herein, I bind myself to forfeit to Government the sum of Rs. -----(Rupees-----).

Dated this -----day of -----20---

Before me signed

Signature of person executing the bond.

The Juvenile Justice Board/Child Welfare Committee may enter additional conditions, if any, numbering them properly;

(Where a bond with sureties is to be executed add)

I/We -----of -----(place of residence with full particulars)-----hereby declare myself, surety/ourselves sureties for the aforesaid ----- --(name of the person executing the bond)-----do and perform and in case of his making fault therein; I/We hereby bind myself /ourselves jointly said severally to forfeit to government the sum of Rs.----- dated this the ----- day of -----20-- --- in the presence of

(Signed)

#### FORM V

Vide Clause -----of Sub- Section ----- of Section -----of the Act.

#### **Bond to be signed by child who has been ordered**

Whereas, I -----inhabitant of -----(give full particulars such as house no., road, village/town, tehsil, district, state -----have been ordered to be sent back to my native place by the Juvenile Justice Board/Child Welfare Committee-----under section----- of the Juvenile Justice (Care and Protection of Children) Act, 2000 on my entering into a bond under Sub- Rule ----- -of Rule -----of the Juvenile Justice (Care and Protection of Children) Justice, Rule 20----- to observe the conditions mentioned herein below. Now, therefore, I do solemnly promise to abide by these conditions during the period-----.

I hereby bind myself as follows:

1That during the period-----I shall not ordinarily leave the village/town/district to which I am sent and shall not ordinarily return to----- or go anywhere also beyond the said district without the prior permission of the Board/Committee;

2That during the said period I shall attend work/school in the village/town or in the said district to which I am sent;

3That in case of may attending work/school at any other place in the said district I shall keep the Board/Committee informed of my ordinary place of residence.



## FORM VI

Vide sub rule-----of rule -----

I,-----resident of -----give full particulars such as house. No./road, village/town, district, state-----do hereby declare that I am willing to take charge of -----aged-----under the orders of he Juvenile Justice Board/Child Welfare Committee-----subject to the following terms and conditions :

- (I)If his/her conduct is unsatisfactory I shall at once inform the ‘competent authority’.
- (II)I shall do my best for the welfare and education of the said -----as long as he/she remains in my charge and shall make proper provision for his/her maintenance.
- (III)In the event of his/her illness, he/she shall have proper medical attention in the nearest hospital.
- (IV)I undertake to produce him/her before the ‘competent authority’ when so required.

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

Signature:

Signature and address of witness (es):

**FORM VII**

Vide Sub-----Rule-----of Rule-----

I, -----name and designation of the releasing authority-----State  
Govt./UT administration, do by this order permit-----son/daughter of -----  
-----cast-----residence-----number-----who was  
ordered to be detained in a observation home, special home, children home, shelter home, after  
care home by the Juvenile Justice Board/Child Welfare Committee -----  
-----under section-----of the Juvenile Justice (Care and Protection of Children) Act 2000,  
for a term of -----on the -----day of -----2-----  
and who is now in the -----homes, at -----to be discharged  
from the said -----on condition that he/she be placed under  
the supervision and the authority of -----during the remaining position  
of the aforesaid period of stay,

This order is granted subject to the conditions endorsed hereon, upon the breach of any which it shall be liable to be revoked.

Dated

Signature and Designation of  
Releasing ordering Authority

Place:

**Conditions:**

1The released person shall proceed to-----and live under the supervision and  
authority of -----until the expiry of the period of his/her detention  
unless the remission is sooner cancelled.

2He/she shall not, without the consent of the -----remove himself/herself from that  
place or any other place, which may be named by the said-----

3He/She shall obey such instructions as he/she may receive from the said-----with  
regard to punctual and regular attendance at employment or otherwise.

4He/She shall attend the Attendance Centre at -----regularly.

5He/She shall abstain from committing any offense and shall lead a sober and industrious life  
to the satisfaction of -----.

6In the event of his/her committing a breach of any of the above conditions the remission of the  
period of detention hereby granted shall be liable to be cancelled and on such  
cancellation he/she shall be dealt under sub section (3) of section 59 of the Juvenile  
Justice (Care & Protection of Children) Act 2000.

I hereby acknowledge that I am aware of the above conditions which have been read  
over/explained to me and that I accept the same.

(Signature or mark of the released person)

Certified that the conditions specified in the above order have been read over/explained to  
(Name)-----and that he/she has accepted them as the conditions upon which  
the remission of the period of detention has been granted to him/her and that he/she has been  
realized accordingly on the-----

Signature and Designation of the certifying authority  
(i.e. Officer-in-charge of the institution)

**FORM VIII**

Vide Sub-Rule -----of Rule-----

**Social Investigation Report**

Sl. No. -----

Submitted to the Juvenile Justice Board/Child Welfare Committee,-----  
------(address).

**INTRODUCTORY INFORMATION**

Profile No.

Probation Department

Profile No.

Under section

Title of Profile

*Police Station*

**DETAILS OF PRODUCING AGENT**

**Name of the person/agency who received, contacted or apprehended the child:**

Address:

Phone/FAX/e mail:

**REASON FOR CHILD COMING UNDER THE PURVIEW OF THE LAW**

If the child is alleged to be in conflict with law, under what Section:

If the child is in need of care and protection, what is the child classified as:

Missing/Lost child

Orphaned/Abandoned child

Runaway child

Mentally challenged child

Others

**DEMOGRAPHIC DATA OF THE CHILD**

Name

Age

Sex

Religion/

Education

Occupation

Permanent Address and all contact information

Last address before coming under the purview of the law

Three nearest landmarks to child's present home

**FAMILY COMPOSITION**

Members of Family    Name    Age    Occupation/    Wages

School

Other Details

such as health

Father/Step Father

Mother/Step Mother

Siblings

Other relatives

## FIRST CONTACT DATA

(Data collected at the time of reception, prior to any visit or detailed inquiry)

Date and time the child was found:

Place where the child was found giving details of at least three nearest landmarks

Condition in which the child was received with specific remarks about

5)Emergency: any serious injury/abuse requiring medical attention

-Description of activity the child was engaged in at the time of being contacted, if relevant – such as begging, roaming, etc.

-Dress: the colour and type of dress worn at the time, condition in which the clothes were, etc.

-Physical condition: hygiene, general health, hunger, injuries, any observable disability, etc.

-Emotional condition: whether the child was distressed, appeared lost, asking for help, whether he/she was willing to share information readily, etc. Any specific stress that the child may be currently under and reason for the same as given by the child

Name and details of relatives/significant persons/organizations known to the child who can provide any further information about him/her

Details of any personal belongings that the child may choose to reveal on his/her person at the time, which could provide further information about his/her background or circumstances at the time

Reason for the present circumstances as given by the child:

-Push factors ( i.e. reasons why child was forced to leave home such as whether he/she complains of abuse/violence within the home/previous residence)

6)Pull factors ( i.e. reasons why child was attracted out of the home by outside influences)

-Attitude towards parents/family as expressed by the child (fear, affection, whether he/she wants to go back home or is seeking alternate shelter, etc.)

## HOME STUDY REPORT

Description of home and living conditions

Initial impression of the home

Nature of place of residence (kutcha, pucca, number of rooms, pavement dwelling, locality etc.)

Present living conditions

Comment on Economic status

---

Functionality of the family and family members

Emotional factors

Physical condition

Social factors

Economic factors

Religious factors

Relationship between family members

Relationship between parents (according to the child and other family members)

Relationship between parents and children (according to the child and family members)

Relationship with child under investigation (according to the child and other family members)

---

Parenting skills and practices

Parent attitude towards discipline in the home and child's reaction

Is there any violence or abuse against the child or other family members? (According to the child and other family members)

---

#### *HISTORY OF CHILD*

Physical condition - any serious illness etc.

Medical history/Mental illness/MR etc

Friends/associates of the child and significant details about them

Habits, interests (moral, recreational etc.)

Child's interest in education /schooling as expressed by him/her

School (attitude towards school, Teachers, class mates and vice-versa)

Work record (jobs held, reasons for leaving if any)

Vocational interests, (attitude towards job or employers)

Outstanding characteristics

---

#### **REASONS FOR COMING UNDER THE PURVIEW OF THE LAW**

If the child is considered as being in need of care and protection, what are the reasons given by the child for his/her present circumstances?

If the child is alleged to be in conflict with the law – what are the reasons given by the child for having allegedly committed the crime?

Any other significant person's (parent/guardian/social worker/neighbour etc known to the child) opinion of the same?

Reason given by the person who first met/received/apprehended the child

---

In the case of Children affected by Displacement/ Disaster/Conflict, the social investigation report shall contain the following additional information:

Place of origin

Place of separation from family

Situation at place of origin and reasons for displacement

Reason for coming to Karnataka specifically if the child has come from another State

Period of stay in Karnataka

Any other family member displaced with the child

Other institutions, camps lived in (In Karnataka and outside Karnataka)

Adult who accompanied the child to Karnataka if not transferred from an Institution under the Act:

Child's relationship with that adult:

Needs of the child as assessed by the primary case worker, and other expert assessments

Needs, desires and plans as expressed by the child:

#### **RESULT OF INQUIRY**

*Analysis of the case and tentative conclusions as to the reasons for neglect or*

*actions deemed to be in conflict with the law*

*Problem analysis*

*Summary of personal history*

*Present situation and context of child Focusing on nature, description and cause of neglect/conflict/behavior deemed as being in conflict with law, educational background, relationship with family, history of abuse, history of institutionalization etc)*

Summary of family History

*Impression of functionality of family*

Other facts of importance if any such as significant incidents, which may contribute to the understanding of the child

Need analysis

---

*Needs of the child as perceived by the child*

*Needs of the child as perceived by the probation officer/case worker*

Any opinion or specific request expressed by the child at the time:

Tentative conclusions:

Is the child likely to have run away from home, is he/she a lost/missing child, any other tentative conclusion for the child coming to be in the present circumstances

Any other remarks or specific observations such as any out of the ordinary remarks, behavior, whether the details given by the child seem to be genuine, etc.

Recommendation regarding treatment and plan for the same

According to the child taking into account the future plans/aspirations of the child  
As recommended by the Producing agent/Probation Officer/Child Welfare Officer

Signature of the probation officer/caseworker.

---

**FORM IX**

Vide Sub-Rule-----of Rule-----

Fortnightly Progress report of Probationer

**Part I**

Name of the Probation Officer/Case Worker

For the month of

Register No.

Competent Authority

Profile No.

Name of the Child  
Date of Supervision Order  
Address of the Child  
Period of Supervision

**Part II**

Places of interview

Dates

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-----  
-----

-----  
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- 1 Where the child is residing?
- 2 Progress made in any educational/training course
- 3 What work he/she is doing and his/her monthly average earning, if employed.
- 4 Savings kept in the Post Office
- 5 Savings Bank Account in his/her name
- 6 Remarks on his/her general conduct and progress.
- 7 Whether properly cared for?

**Part III**

- 8 Any proceedings before the competent authority of or
  - a) Variation of conditions of bond
  - b) Change of residence
  - c) Other matters
- 9 Period of supervision completed on-----
- 10 Result of supervision with remarks (if any)
- 11 Name and addresses of the parent or guardian or fit person under whose care the child is to live after the supervision is over.

Date of report

Signature of the Probation Officer/Case Worker

**FORM X**

**APPLICATION FORMAT FOR FOSTER CARE**

Name of the Applicant: \_\_\_\_\_

Married/Single: \_\_\_\_\_ Age: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_ Tel. No: \_\_\_\_\_

Number of Children \_\_\_\_\_ Age \_\_\_\_\_

Employment of Applicant: \_\_\_\_\_

Employment of Husband: \_\_\_\_\_

Employment of Wife: \_\_\_\_\_

Other Sources of Income: \_\_\_\_\_

Have you ever fostered a child before? (If so give particulars)

Name of the Child	Age	Period of Foster Care
_____	_____	_____
_____	_____	_____

Reasons to Foster:

\_\_\_\_\_  
\_\_\_\_\_

Are you willing to undertake short-term foster care?

**If Yes, Specify the Period** \_\_\_\_\_

References (Name & Address of two persons)

Age, Sex and other specifications of child you desire to foster:

DATE:

**FORM XI**

### HOME STUDY OF FOSTER FAMILY

*Home Study Report shall contain the following:*

*1. Identifying information such as background information of the foster parent / parents including, identifying information, education, family history, medical history, employment history, residence & facilities, lifestyle, parenting / child care experience and the motivation to take a child in foster care, duration of foster care offered, supported by necessary documents such as certificates of proof of age, proof of marriage, general health certificate, income statement, letters of reference, consent of persons residing in the family, photographs of the couple, photos of child, Case study of the child.*

2. Antecedents of the prospective foster family including:

- Their own childhood experiences, upbringing and interpersonal relationships.
- Information on other members of the family

- Attitude of the children and relatives of the foster family towards the foster care plan
- Social, ethno-cultural, linguistic and religious identity of the prospective foster family
- Sanctions against any charges of criminal offence and child abuse.

3. Recent photograph of the family.
4. Physical, intellectual, emotional and educational status of prospective foster family.
5. Medical report on the family's health status and health history.
6. Employment and financial assets.

Accommodation and community environment.

8. Motivation.
9. Ability to provide nurturing care and supervision in an atmosphere of affection and moral and material security.
10. Statement of positive reference and emotional support from relatives, friends, community.
11. Assessment by a multidisciplinary support team of professionals (as far as possible) stating:
  - Their reasons for approving the prospective foster parent/s
  - Details of the child (age, sex, acceptance of siblings, special needs child etc) they would prefer to adopt and are capable of parenting.

## FORM XII

### Foster care agreement ( Rule 34 - 9 )

I/We (name of foster parent/s) \_\_\_\_\_  
 who received (name of the child) \_\_\_\_\_ in my/our home on (date)  
 \_\_\_\_\_ from \_\_\_\_\_ under take that we will do all of the  
 following:

#### Ensure that the child's Physical Needs are met:

- Meet the child's basic needs for food, clothing and shelter.
- Feed the child nourishing meals on a regular basis.
- Regularly check the child clothing needs and keep the child well clothed year around.
- Provide for the child's personal care, health and hygiene needs.
- See that the child is clean and well groomed. Teach personal hygiene methods when

necessary.

- That the child's medical needs are regularly checked and met.
- Assure that the child follows a healthy, structured daily routine.
- Provide opportunities for the child to get regular and sufficient exercise.

•

**Ensure that the child's emotional needs are met:**

- Include the child in all family activities.
- Express affection often. Demonstrate affection in appropriate, healthy ways..
- Seek to establish supportive relationship with child's biological family.
- Never speak negatively about the child's family or history. Listen and empathize.
- Help children advance through the grieving and adjustment process that accompanies removal from their homes and placement.
- Respect confidentiality of the child.

**Ensure that the child's Educational needs are met:**

- Enroll the child in a school
- Provide for daily attendance at school
- Provide a quiet physical space for the child to complete school assignments.
- Monitor the child's educational progress.
- Attend any after school meeting required.
- Provide access to after school activities, sports, etc.

**Ensure Discipline tasks are undertaken:**

- Provide consistent and realistic discipline and guidance that is age appropriate and does not involve corporal punishment.

**Work with Probation Officer/Social Welfare officer :**

- Attend all meetings and participate fully.
- Provide adequate information regarding the child's progress, behaviors at home and school to the probation officer/social welfare officer.
- Notify the probation officer/social welfare officer immediately in all emergencies.
- Submit all requested documents in a timely manner.
- Participate in planning for the child—permanency, treatment, options etc.
- Inform the probation officer/social welfare officer concerned immediately of plans to change residence and address.
- Adhere to procedures and principles laid down in the Juvenile Justice (Care and Protection) Act 2000 and Rules.
- Agree that the social welfare officer/probation officer can remove the child from the home in the case of violation of any of the rules laid down under this Act

.....  
(signed, foster Mother)

.....

(Address of foster parents)

**FORM XIII**

**Report of producing agent on first stage of production**

Report of the person/agency who produced the child in need of care and protection before any authority. (Points to be taken care of while filling the form)

- 1.As far as possible the child/juvenile should not be coerced into providing information for this report.
- 2.This form shall be filled as soon as possible to the time of receiving the child so as to preserve any information/memories relating to the child/juvenile at the time of being found.
- 3.Any changes in the information provided by the child/juvenile should be mentioned in this report.

1. Name of the person/agency referring the juvenile/child:

2. Address:

3. Phone/fax/e mail:

4. Name of the nearest police station:

5. Date and time the child/juvenile was found:

6. Date and time the child/juvenile was found:

7. Name of the authority before whom the child/juvenile was produced:

**Details of the child/juvenile when found:**

Name and alias of the child/juvenile as and if given by the child/juvenile

Approximate age of the child/juvenile

Name and address of the school if given by the child/juvenile

Name of place of work if the child/juvenile was employed.

Name and details of relatives or agencies known to the child/juvenile

Details of any personal belongings found on his/her person at the time

Details of any family as given by the child at the time.

Reasons for the present circumstances as given by the child/juvenile – what was the predisposing factor in terms of what incident provoked the child/juvenile to leave his/her previous residence and come to be in the present circumstances.

-Push factors i.e reasons why the child/juvenile was forced to leave such as whether he/she complains of abuse/violence within the home/previous residence,

-Pull factors i.e. reasons why child/juvenile was attracted out kof the home by outside influences.

Place where the child/juvenile was found giving details of at least three nearest landmarks.

Condition in which the child/juvenile was found with specific remarks about

- emergency: whether there was any serious injury/abuse requiring medical attention.
- Description of the activity the child was engaged in at the time of being found.
- Dress: the colour and type of dress worn at the time, condition in which the clothes were.
- Physical condition: hygiene, general health, hunger, injuries, any observable disability
- Emotional condition: whether the child was distressed, appeared lost, asking for help, whether he/she was willing to share information readily.
- Attitude towards parents/family as expressed by the child/juvenile (fear, affection, whether he/she was willing to go back home or is seeking alternate shelter)
- Any outstanding observations (any out of the ordinary remarks, behaviour, whether the details given by the child seem to be genuine, etc.)
- Any opinion or specific request expressed by the child at the time.

Note: information for this report should be taken from documents maintained by the previous institution and Xerox copies of the same should be enclosed. In case the child/juvenile has been referred from an organisation which uses form(a-1) pertaining to the producing agent, the Xerox form may be used for this section A of form c)

**FORM XIV**  
**Report from the Previous Institution**

Note: Information for this report should be taken from documents maintained by the previous **institution and Xerox copies of the same should be enclosed.**

Section A

First contact information about the child

**In case the child has been referred from an organization which uses the social investigation report format, the Xerox form may be used for this section A of Form c) If not, such information shall be solicited from the referring institution in the social investigation report format. Special care shall be taken to record the identifying information of the child so as to enable the child to trace his/her roots at any later point in time.**

Section B

**Information pertaining to the child relevant to the period of stay at the previous institution. Case Summary of the child should be enclosed here with supporting documents such as progress reports, medical reports, and all other relevant documentation.**

**Note:** If the child has resided in more than one institution prior to his/her being admitted into this institution then details of those institutions should also be recorded here.

## **FORM XV**

Classification of children & problem identification with regard to children in need of care and protection

Missing

Abandoned

Mentally Ill or seriously Retarded

Alleged to be in conflict with law

### **Social History**

Note: This information shall be recorded by the Social caseworker and updated regularly as and when additional information is received about the child.

1)Parents:

- Both alive and together
- Both alive but separated
- Mother and step mother alive
- Father and step father alive
- One of the parent dead (single parent)
- Looked after by step mother/father
- Both not alive
- Not known

2)Guardians

- Maternal uncles/aunts
- Relatives
- Grandmother/father/parents
- Neighbors/community

3)Child and the address

- Very clear and can be located
- Clear but difficult to locate – nearby major places told by the child is located
- Clear but not locatable – describes family surroundings in detail
- Description very poor

4)Economic situation at home

- Earnings of the family per month
- Home – jhopdi, small thatched house, small concrete house, good house
- Family – begging, migrating, stationary
- Meals per day

- At home – cycle, car, Fan, TV Radio, Cooker
- Clothes worn are torn. Last a child had a new one.
- Footwear

5)Child wants to go home

- Afraid of home
- Crying to go home
- Indifferent
- Not wanting to go home

6)Parents/relatives are aware

- Parents know that the child is here – voluntary admission
- Parents have been told by the child but do not know that the child is here
- Parents/guardian do not know
- Child did not tell anybody

7)Torture to the child/loved by whom

- Father drinks and beats
- Work situation- owner beats repeatedly
- If the child do not earn the family members beat
- Beaten by friends
- Beaten by teachers
- Loved by parents/guardians
- Loved by whom in the family other than the parents
- Loved by someone outside the family

8)Child leaving home – habit

- Child has left home for the first time
- Has left home more than once
- Child has a habit of leaving home and returning home repeatedly
- Child is advised by the parents to leave home.

9)Members in the child's family and their work

- Father/ guardian
- Mother
- Younger brother
- Elder brother
- Younger sister
- Elder sister

10)Reasons as to why the child left home.

**FORM XVI**  
**Review sheet**

1) Degree of overall adjustment to placement

Poor    Average    Fair    Good    very good

According to the child

According to the Primary case worker

Reasons for the same as given by the child:

Reasons for the same as concluded by the Primary Case Worker:

Recommendations for the future

2) Participation in the daily activities of the Institution

Poor    Average    Fair    Good    very good

According to the child

According to the primary case worker

Reasons for the same as given by the child:

Reasons for the same as concluded by the Primary Case Worker:

Recommendations for the future

3) Performance in academics (if applicable)

Poor    Average    Fair    Good    very good

Reasons for the same as given by the child:

Reasons for the same as concluded by the Primary Case Worker:

Reasons for the same given by the teacher/s

Reasons for the same as given by the parents/guardians (if applicable)

Recommendations for the future

4) Performance in vocational training (if applicable)

Poor    Average    Fair    Good    Very good

Reasons for the same as given by the child:

Reasons for the same as concluded by the Primary Case Worker:

Reasons for the same given by the teacher/s

Reasons for the same as given by the parents/guardians (if applicable)

Recommendations for the future

5) General Behavior

any significant changes in behavior (positive or negative, with specific observations on emotional status, coping strategies,)

Opinion of the child and Reasons for the same as given by the child:

Reasons for the same as concluded by the Primary Case Worker:

Recommendations for the future

#### 6) Health Status

any significant changes in health

as reported by the medical officer

as observed by the primary case worker

any specific complaints that the child has to make at the time of the review

Reasons for the same as given by the child:

Reasons for the same as concluded by the Primary Case Worker

Reasons for the same as given by the parents/guardians (if applicable)

Action to be taken

#### 7) Attempts of the child to enhance his/her behavior/performance record

Poor Average Fair good very good

Reasons for the same as given by the child:

Reasons for the same as concluded by the Primary Case Worker:

#### **Any special achievements**

#### **Suggestions/Recommendations for the future**

8) Any incidents that have taken place during the interim period of previous review and the present review that needs to be recorded

Nature of incident

Opinion of the child, parent/guardian and caseworker about the cause and result of that incident

Implications for the child's progress

9) Any points brought up by the child with regard to his/her review report

10) Any other relevant observations or information

Recommendations

## FORM XVII

### Pre release programme report

#### **Factors to be taken into account while preparing this report:**

- This report shall be prepared 6 months prior to the date of discharge
- The report shall take into account the recommendations of the last review report and all other relevant documentation or information
- The opinion of the child shall be given primary consideration

Age of the child:

Education/Vocational Training of the child

Final progress report to be attached

Date of discharge:

Date of report:

Recommended Rehabilitation plan including possible placements:

Reasons for the same:

Sponsorship requirement and report if applicable:

Opinion of the child

Any other information or comment

## **ANNEXURES**

- 1. Government Order of the Government of Andhra Pradesh on Co-Management of Homes under the Act**
- 2. International Declaration on Foster Care and Adoption**
- 3. References**
- 4. List of discussions held**

**Annexure – I**

### **GOVERNMENT OF ANDHRA PRADESH ABSTRACT**

Dept. of Juvenile Welfare, Correctional Services & Welfare of Street Children - Modalities in Implementing Co-management in 4 Juvenile Institutions of Hyderabad - Constitution of Working Committee - Orders - Issued.

**WOMEN DEVELOPMENT, CHILD WELFARE & DISABLED WELFARE (CL) DEPT.**

**G. O. Rt. No.81**

**Date : 02.03.2001**

**Read the following:-**

- 1) D.O.Lr.No.7515/CL/A2/2000, dt. 12.10.2000 of the Principal Secretary, Women Development, Child Welfare & Disabled Welfare Dept.,
- 2) Appraisal & Feasibility Report for Co-management of Juvenile Justice System.

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A team consisting of 2 Deputy Directors of Correctional Services and 4 Non-Government Organisations, constituted in the reference 1" cited, visited the Juvenile Institutions in Hyderabad city and submitted the Appraisal and Feasibility Report suggesting the modalities for implementing the Co-management in 4 Juvenile Institutions for improving the performance and functioning of Juvenile Institutions. After examining the recommendations of the team, Government, hereby approved the Co-management proposal and constitute a Working Committee with the following members:

- (1) Principal Secretary,  
Women Development, Child Welfare & Disabled Welfare Dept., .....Chair Person
- (2) Commissioner,  
Juvenile Welfare, Correctional Services & Welfare of Street Children .....Convenor
- (3) Deputy Director of Correctional Services (Admn.),  
O/o the Commissioner, JWCS & WSC ..... Member
- (4) Deputy Director of Correctional Services (Plg.),  
O/o the Commissioner, JWCS & WS ..... Member
- (5) Mrs. Sudha Murali, Programme Officer, UNICEF ..... Member
- (6) Bro. Jose Vetticatti, Director, Boys Town ..... Member
- (7) Mr. Isidore Phillips, Divya Disha ..... Member
- (8) Sri G. Manohar, Krushi ..... Member
- (9) Dr. Sunitha Krishnan, Prajwala ..... Member
- (10) Superintendent, Govt. Special-cum-Juvenile Home for Girls, Hyd. .... Member

The role and functions of the Committee are defined in the Annexure to this order and the Committee will be in force until further orders. The tenure and component of the committee is liable to be altered or terminated by the Government at any time without assigning any reasons thereof.

The functional assessment of how the Home will be operated will be done by the Superintendents and the NGOs jointly on the following lines:

- 1.The staff salaries of the Department will be paid by the Superintendent.
- 2.The staff of NGOs working in the Home will be paid by the NGOs concerned.
- 3.All decisions will be taken by the Home Committee and the Superintendent and the NGO representatives will decide on the diet, etc., within budget provision of each Home.
- 4.The accounts will be jointly approved and operated by the Superintendent and NGO representatives.
- 5.The day to day management of the Home will be decided jointly by the Home Committee.
- 6.There should be flexibility to the Home Committee to decide on the requirements of the children within allotted / approved budget for the State Home under various Heads.
- 7.The Home Committee will consider the participation of the children in any decision concerning their welfare and activities within the Home.
- 8.The Home Committee will have the freedom to mobilize resources for the Home and utilise them suitably.
- 9.The Home Committee is empowered to bring about environment changes and structural adjustments within the Home with the approval of the Working Committee.

Further, the Commissioner, Juvenile Welfare, Correctional Services & Welfare of Street Children is requested to constitute the Home Committees for each Home, Hyderabad.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

**GAYATHRI RAMACHANDRAN,  
PRINCIPAL SECRETARY TO GOVT.**

To,

- 1)The Commissioner, Juvenile Welfare, Correctional Services & Welfare of Street Children, Hyderabad.
- 2)All the Members through the Commissioner, Juvenile Welfare, Correctional Services & Welfare of Street Children, Hyderabad.
- 3)The Secretary to Chief Minister.
- 4)The Private Secretary to Chief Secretary to Govt.
- 5)The Private Secretary to Minister, Women & Child Welfare.

**//FORWARDED BY ORDER//**

Sd/-  
SECTION OFFICER

**//True Copy//**

PROCEEDINGS OF THE COMMISSIONER OF JUVENILE WELFARE,  
CORRECTIONAL, SERVICES & WELFARE OF STREET CHILDREN, A.P.,  
HYDERABAD

**Present: Sri C. Dothanga, IPS**

**Proc.No.P2/28/2000**

**Dt.07.**  
**03.200**  
**1**

**Sub:-** Dept. of Juvenile Welfare, Correctional Services & Welfare of Street Children - Co-management of 4 Juvenile Institutions in Hyderabad - Constitution of Home Committees - Orders - Issued.

- Ref:-** 1. Appraisal & Feasibility Report on Co-management.  
2. GO Rt. No.87, Women Development, Children Welfare & Disabled Welfare(CL) Dept., dt.2.3.2001.

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**ORDER:-**

In terms of the Govt. Orders cited, following Home Committees are constituted for implementing co-management project for each of the 4 Juvenile Institutions for improving the performance and functioning of the Juvenile Institutions within the ambit of Juvenile Justice Act 1986 and A.P. Juvenile Justice Rules 1987. The committees are as follows:

1. Juvenile Home for Boys, Hyderabad:  
Superintendent

.....

Conve  
nor

Sri Isidore Phillips, Divya Disha

.....

Memb  
er

Sri G. Manohar, KRUSHI

.....

Memb  
er

Civil Asst. Surgeon

.....

Memb  
er

Case Worker

.....

Memb  
er

2. Special Home for Boys, Hyderabad:  
Superintendent

.....

Conve  
nor

Sri G. Manohar, KRUSHI

.....

Memb  
er

Bro. Jose Vetticattil, Boys Town

.....

Memb  
er

Civil Asst. Surgeon

.....

Memb  
er

Deputy Superintendent

.....

Memb  
er

3. Special-cum-Juvenile Home for Girls, Hyderabad:  
Superintendent

.....

Bro. Jose Vetticattil, Boys Town	.....	Conve nor
Dr. Sunitha Krishnan, Prajwala	.....	Memb er
Civil Asst. Surgeon	.....	Memb er
Case Worker	.....	Memb er
<u>4. Observation Home for Boys, Hyderabad:</u> Superintendent	.....	
Sri G. Manohar, KRUSHI	.....	Conve nor
Isidore Phillips, Divya Disha	.....	Memb er
Civil Asst. Surgeon	.....	Memb er
Intake Probation Officer	.....	Memb er

- 2.The Home Committees shall function, on the lines indicated in the GO and take in appropriate methodology for bringing about environmental, attitudinal change among the staff as well as juveniles. The Committee shall meet once in a week or often if required for review of the programmes and for chalking out the future programmes.
- 3.The Superintendents of the Homes are informed that the Co-management Policy is aimed at bringing about reforms in the functioning systems of the Home administration and therefore, they are requested to orient the staff suitably to understand the philosophy behind the co-management and adjust with the new environment of working with NGOs.
- 4.The Committees shall send periodical reports (once in 15 days) to this office for review and to place a Summarised Report before the Working Committee. The role and functions of the Home Committee are defined in the annexure to this order. The Committee shall be in force until further orders. The tenure and component of the Committee is liable to be altered or terminated by the Commissioner, Juvenile Welfare, Correctional Services & Welfare of Street Children at any time without any reasons thereof.
- 5.A copy of the G.O cited is also communicated herewith.
- 6.The receipt of this order should be acknowledged.

## **COMMISSIONER**

**To:**

The Superintendent, Juvenile Home for Boys, Hyderabad, Special Home for Boys, Hyderabad, Observation Home for Boys, Hyderabad & Special-cum-Juvenile Home for Girls, Hyderabad.

The Members of the Committee.

**Copies to:**

The Principal Secretary to Govt., Women Development, Child Welfare & Disabled Welfare (CL) Dept.

The Private Secretary to Hon'ble Minister for Women & Child Welfare

The Project Officer, UNICEF, Hyderabad

## **Role and Functions**

### **Executive Committee:**

- i)The Executive Committee shall be responsible for the implementation and monitoring of the juvenile welfare programme. It shall function according to the policies and guidelines of the Government as set down in the respective Act and also as directed by the State Advisory Board.
- ii)It has the role of interpreting and translating into concrete measures for implementation of all matters regarding the management of the homes and it ensures that such measures are implemented in a manner that enables the proposed realisation of the goals and objectives of the whole programme of Juvenile Welfare Care.
- iii)It shall direct the working committee for implementation of specific measures, receive and review periodic reports from the working committee regarding implementation and impact of such measures regarding the general working of the homes.
- iv)The Executive Committee shall have the responsibility to prepare the annual budget estimates and have it approved by competent authorities.
- v)To mobilise funds and resources.
- vi)To approve the expenditure covering all aspects of the programme.
- vii)To review utilisation of funds, activities and implementation of programmes in the homes.
- viii)To submit a consolidated annual report to the State Advisory Board about all its programmes and about the Co-management system.
- ix)The Executive Board shall meet at least once in every six months and often if necessary.

**B. Chandra Kantha**  
**Section Officer**  
**WD, CW & DW Dept.**  
**A.P. Secretariat**  
**Hyderabad - 22**

## **Role and Functions**

### **Working Committee:**

The Working Committee is constituted by the Executive Committee from the members of the Executive Committee. To implement in the homes the programmes approved by the Executive Committee.

- i) To review the functioning of the homes at least once in every three months and more often if required.
- ii) To submit half-yearly review report to the Executive Committee and make suggestions and regarding more effective implementation of programmes.
- iii) To monitor and direct the functionaries in the homes through the respective Home Committee.
- iv) To review and direct the functioning of the Home Committee and issue appropriate guidelines for the effective Co-management of the homes.
- v) To implement such decisions as are entrusted to it by the Executive Committee for mobilisation of resources, initiation of collaboration, etc.
- vi) To help the Executive Committee draw up the Budget estimates, and General Annual Report of the functioning of the homes.
- vii) To ensure that the rules and objectives of the Juvenile Welfare programme is achieved through proper implementation, monitoring and review of programmes and personnel.

**B. Chandra Kantha**  
**Section Officer**  
**WD, CW & DW Dept.**  
**A.P. Secretariat**  
**Hyderabad - 22**

### **Home Committee:**

The Home Committee has the direct responsibility of daily implementation of the programmes for the welfare of children in the homes. It shall discharge this responsibility according to the direction of the Working Committee:

- i) Will meet at least once in a week to work out proper weekly modulation of all the activities in the home.
- ii) Identify all such needs as may arise in the home and direct functionaries to meet such needs.
- iii) Prepare planners on all the matters related to children and the home.
- iv) Monitor and review the role of personnel and their functions.
- v) Maintain and supervise proper records.
- vi) Submit regularly to the Working Committee; report on programme implementation and its impact.

## **Annexure – II**

### **Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally**

**Adopted by General Assembly resolution 41/85 of 3 December 1986**

The General Assembly,

Recalling the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women,

Recalling also the Declaration of the Rights of the Child, which it proclaimed by its resolution 1386 (XIV) of 20 November 1959,

Reaffirming principle 6 of that Declaration, which states that the child shall, wherever possible, grow up in the care and under the responsibility of his parents and, in any case, in an atmosphere of affection and of moral and material security,

Concerned at the large number of children who are abandoned or become orphans owing to violence, internal disturbance, armed conflicts, natural disasters, economic crises or social problems,

Bearing in mind that in all foster placement and adoption procedures the best interests of the child should be the paramount consideration,

Recognizing that under the principal legal systems of the world, various valuable alternative institutions exist, such as the kafalah of Islamic Law, which provide substitute care to children who cannot be cared for by their own parents,

Recognizing further that only where a particular institution is recognized and regulated by the domestic law of a State would the provisions of this Declaration relating to that institution be relevant and that such provisions would in no way affect the existing alternative institutions in other legal systems,

Conscious of the need to proclaim universal principles to be taken into account in cases where procedures are instituted relating to foster placement or adoption of a child, either nationally or internationally,

Bearing in mind, however, that the principles set forth hereunder do not impose on States such legal institutions as foster placement or adoption,

Proclaims the following principles:

## A. GENERAL FAMILY AND CHILD WELFARE

### Article 1

Every State should give a high priority to family and child welfare.

### Article 2

Child welfare depends upon good family welfare.

### Article 3

The first priority for a child is to be cared for by his or her own parents.

### Article 4

When care by the child's own parents is unavailable or inappropriate, care by relatives of the child's parents, by another substitute--foster or adoptive-- family or, if necessary, by an appropriate institution should be considered.

### Article 5

In all matters relating to the placement of a child outside the care of the child's own parents, the best interests of the child, particularly his or her need for affection and right to security and continuing care, should be the paramount consideration.

### Article 6

Persons responsible for foster placement or adoption procedures should have professional or other appropriate training.

### Article 7

Governments should determine the adequacy of their national child welfare services and consider appropriate actions.

### Article 8

The child should at all times have a name, a nationality and a legal representative. The child should not, as a result of foster placement, adoption or any alternative regime, be deprived of his or her name, nationality or legal representative unless the child thereby acquires a new name, nationality or legal representative.

#### Article 9

The need of a foster or an adopted child to know about his or her background should be recognized by persons responsible for the child's care unless this is contrary to the child's best interests.

### B. FOSTER PLACEMENT

#### Article 10

Foster placement of children should be regulated by law.

#### Article 11

Foster family care, though temporary in nature, may continue, if necessary, until adulthood but should not preclude either prior return to the child's own parents or adoption.

#### Article 12

In all matters of foster family care, the prospective foster parents and, as appropriate, the child and his or her own parents should be properly involved. A competent authority or agency should be responsible for supervision to ensure the welfare of the child.

### C. ADOPTION

#### Article 13

The primary aim of adoption is to provide the child who cannot be cared for by his or her own parents with a permanent family.

#### Article 14

In considering possible adoption placements, persons responsible for them should select the most appropriate environment for the child.

#### Article 15

Sufficient time and adequate counseling should be given to the child's own parents, the prospective adoptive parents and, as appropriate, the child in order to reach a decision on the child's future as early as possible.

#### Article 16

The relationship between the child to be adopted and the prospective adoptive parents should be observed by child welfare agencies or services prior to the adoption. Legislation should ensure that the child is recognized in law as a member of the adoptive family and enjoys all the rights pertinent thereto.

#### Article 17

If a child cannot be placed in a foster or an adoptive family or cannot in any suitable

manner be cared for in the country of origin, inter country adoption may be considered as an alternative means of providing the child with a family.

#### Article 18

Governments should establish policy, legislation and effective supervision for the protection of children involved in inter country adoption. Inter country adoption should, wherever possible, only be undertaken when such measures have been established in the States concerned.

#### Article 19

Policies should be established and laws enacted, where necessary, for the prohibition of abduction and of any other act for illicit placement of children.

#### Article 20

In Inter country adoption, placements should, as a rule, be made through competent authorities or agencies with application of safeguards and standards equivalent to those existing in respect of national adoption. In no case should the placement result in improper financial gain for those involved in it.

#### Article 21

In inter country adoption through persons acting as agents for prospective adoptive parents, special precautions should be taken in order to protect the child's legal and social interests.

#### Article 22

No inter country adoption should be considered before it has been established that the child is legally free for adoption and that any pertinent documents necessary to complete the adoption, such as the consent of competent authorities, will become available. It must also be established that the child will be able to migrate and to join the prospective adoptive parents and may obtain their nationality.

#### Article 23

In inter country adoption, as a rule, the legal validity of the adoption should be assured in each of the countries involved.

#### Article 24

Where the nationality of the child differs from that of the prospective adoptive parents, all due weight shall be given to both the law of the State of which the child is a national and the law of the State of which the prospective adoptive parents are nationals. In this connection due regard shall be given to the child's cultural and religious background and interests.

## **Annexure – III**

### **H.I.V Testing**

There is an active debate in the country on the issue as to whether should be mandatory testing of people suspected of carrying HIV infection. Considerable thought has been given to this issue. The Government feels that there is no public health rationale for mandatory testing of a person for HIV/AIDS. On the other hand, such an approach could be counter-productive as it may scare away a large number of suspected cases from getting detected and treated. HIV testing carried out on a voluntary basis with appropriate pre-test and post-test counseling is considered to be a better strategy and is in line with the WHO guidelines on HIV testing. Govt. of India has earlier issued a comprehensive HIV testing policy and the following issues are reiterated here:-

- i.No individual should be made to undergo a mandatory testing for HIV
- ii.No mandatory HIV testing should be imposed as a precondition for employment or for providing health care facilities during employment.
- iii.Adequate voluntary testing facilities with pre-test and post-test counseling should be made available throughout the country in a phased manner. There should be at least one HIV testing centre in each district in the country, which can be done in a phased manner.

- iv. In case a person likes to get his HIV status verified through testing, all necessary facilities should be given to that person and results should be kept strictly confidential and should be given out to the person and with his consent to the members of his family. Disclosure of the HIV status to the spouse of the person will entirely depend on the person's willingness to share the information. However, the person should be encouraged to share this information with the spouse and family as it helps the person in getting proper home-based care when he is afflicted with AIDS.
- v. In case of marriage, if one of the partners insists on a test to check the HIV status of the other partner, such tests should be carried out by the contracting party to the satisfaction of the person concerned.

The HIV testing policy adopted in the NACO is found to be appropriate for the different types of testing that have to be done. At present people are tested for -

- a) Screening in blood banks
- b) Epidemiological surveys; and
- c) Confirmatory testing for clinical management and voluntary testing.

In the case of screening for blood donation, a single test by Rapid/ELISA is done to eliminate the possibility of HIV-positive blood. In the case of epidemiological surveys also the same procedure is adopted, i.e. with one or two tests either with ELISA or Rapid or Simple with high sensitivity. In both the above cases the testing is anonymous and the result is not given to the person concerned unless asked for. In the case of clinical management and for confirmatory testing of HIV status of persons who voluntarily ask for it, the sample will be tested with at least two ELISA and one Rapid/Simple by a different antigen preparation. The result is given out with proper pre-test and post-test counseling.

#### Annexure - IV

### REFERENCES & ACKNOWLEDGEMENTS

#### **International instruments**

1. Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally (3 Dec 1986)
2. UN Convention on the Rights of the Child, 1989
3. UN Standard Minimum Rules for the Administration Of Juvenile Justice (Beijing Rules 1986)
4. UN Rules for Juveniles Deprived of their Liberty (1986)

#### **Comparative jurisdictions**

1. Uganda Children's Bill 1995
2. The Children's Act 1998 Ghana
3. The Child's Right to grow up in a family – Guidelines for Practice on National & Inter country Adoption & Foster Family Care – Adoption Center, Sweden

#### 4. Law Commission Recommendations - South Africa

#### **Written Reports and Notes Prepared by Various Partners**

1. Report of Working Group Meeting to Draft Minimum Requirements for the Placement of older Institutionalized Children with Permanent Families –organized by KSCCW at NIMHANS on 20<sup>th</sup> July 1999.
2. Notes on Foster Care Placement – Ms. Nina P Nayak, KSCCW
3. Suggestions for assessment – Dr Satish Girimaji, NIMHANS
4. Paper on first contact- Fr George Kollashany SDB - Consultant to CCL
5. Written Suggestions for first contact – Fr Anthony Sebastian - ECHO, Brinda Adige, BOSCO  
SAATHI (Raichur), Snehabhavan (Cochin)
6. Suggestions on children affected by tourism - EQUATIONS
7. Suggestions for diet – M. Sandhya, Parivar Seva Sanstha
8. Critique and suggestions on Adoption – Nomita Chandy, Ashraya, Nina Nayak - KSCCW
9. Paper on Adoption under the JJA 2000 – Sarasu Thomas, NLSIU
10. Critique of the Act and suggestions – Pramod Kulkarni – SAATHI- Raichur
11. Process of First Contact – Fr. Sunny, Yuva Chetna on behalf of BOSCO
12. Co Management of Institutions – Sony George - CRRC, Bro. James, NANBAN, Madurai
13. Structural Changes envisaged under the JJA 2000 – Nina P Nayak, KSCCW
14. Suggestions on SJPU – Mr. Ajay Kumar Singh, Jt. Commissioner of Police, Bangalore, Brinda Adige, MSV, Anthony Sebastian - ECHO
15. Suggestions for Dealing with children affected by HIV – Jagruthi

#### **Model Practices**

1. Guidelines for evolving paper on Best Practice – Fr. George Kollashany Sdb.- Consultant to CCL
2. The Camp Model for Home Placement of Children, SAATHI, Raichur
3. Peer Group Homes for After Care – Concept from Navajeevan, Vijayawada, Andhra Pradesh

**Oral contributions:** Made by children, NGO activists, experts and Government personnel:

The insights and experiences shared by children who have been discharged from the Homes under the Act have contributed immensely to our understanding of the system. Narratives and written reflections that they have shared have helped us to hear the voices of children and some of these have been translated into Rules in this document.

We also value the Government and NGO participation at various discussions organized by CCL. These discussions were held during the rule making process, as part of the Participatory Action Research Project and at other consultations (list enclosed).

## Annexure - V

### List of discussions that have taken place on Rules for the JJA 2001

1. Rule making and Working Group - 1<sup>st</sup> March 2001

**Participants:** Bosco, CRRC, KSCCW, Vathsalya, CCL, ECHO. Fr. George K.

2. First Contact - 12<sup>th</sup> March 2001

**Participants:** ECHO, Fr. George, MSV, Snehabhavan – Cochin, Bosco, SATHI, and Representative of the Bangalore Police, CCL

3. Foster Care – 15<sup>th</sup> March 2001

**Participants:** KSCCW, Prajna Counselling Center, Vathsalya, CCL, Sarasu Thomas (NLSIU)

4. JJA 2001 & Rule Making – 3<sup>rd</sup> April 2001

**Participants:** Secretary, Director and officials DWCD, Representative of the DC, Secretary- Law Department, SAATHI, KSCCW, Ashraya, CCL - NLSIU, Prajna Counselling Centre, NIPCCD, SICHREM, CRRC, Bosco, CRY, Functionaries of JJ Institutions.

5. Adoption 4<sup>th</sup> April 2001

**Participants:** Prof. Pillai (NLSIU), Sarasu Thomas (NLSIU), CCL

6. Adoption 7<sup>th</sup> April 2001

**Participants:** Ashraya, VCA, KSCCW, CCL, Sarasu Thomas – NLSIU

7. Planning for 5<sup>th</sup> May - 20<sup>th</sup> April 2001

**Participants:** CRRC, Bosco, ECHO, CCL

8. Adoption – 26<sup>th</sup> April 2001

**Participants:** VCA, Ashraya, Vathsalya, Sarasu Thomas – NLSIU, CCL

9. Children In Conflict With Law – 26<sup>th</sup> April 2001

**Participants:** ECHO, MSV, CCL

10. Sponsorship – 27<sup>th</sup> April 2001

**Participants:** Action Aid, DWCD, KSCCW, CCL

*NOTE: A series of informal discussions have taken place within CCL prior to and during this period, with some inputs from partners at various points*

