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PRACTICE NOTE — CHILD RIGHTS & JUVENILE JUSTICE

The Juvenile Justice (Care and Protection of Children) Act — Key Points

Children in conflict with law, children in need of care & protection, adoption, and offences against children

Title note: There is no enacted "Juvenile Justice Act, 2026." The law presently in force is the **Juvenile Justice (Care and Protection of Children) Act, 2015**, as amended by the **JJ (Amendment) Act, 2021** (in force from 1 September 2022). A **Juvenile Justice (Amendment) Bill, 2026** is under public/legislative discussion (proposing, among other things, to lower the transfer-to-adult-trial threshold from 16 to 14 years for heinous offences) — it is **not yet law**. This note covers the current 2015/2021 framework and flags the pending Bill separately on the last page. Always verify the Bill's status before advising.

STRUCTURE

Preamble + 10 Chapters, 112 Sections

REPLACES

Juvenile Justice (Care and Protection of Children) Act, 2000

IN FORCE (2021 AMENDMENT)

Amendment Act, 2021 in force from 1 September 2022

APPLIES TO

Every person below the age of 18 years — children in conflict with law (CICL) and children in need of care and protection (CNCP)

CORE INSTITUTIONS

Juvenile Justice Board (JJB) and Child Welfare Committee (CWC) in every district

KEY DEFINITIONS

"CHILD" & "CHILD IN CONFLICT WITH LAW" — S. 2(12), 2(13)

- **Child:** any person who has not completed 18 years of age.
- **Child in Conflict with Law (CICL):** a child alleged or found to have committed an offence, and who was below 18 years on the date of commission of the offence.

"CHILD IN NEED OF CARE AND PROTECTION" — S.2(14)

- Includes a child who is found without a home/settled abode, is abandoned/surrendered, is being physically/sexually/emotionally abused, is a victim of trafficking, is missing, or is otherwise at risk — a broad, non-exhaustive definition (11 sub-clauses).

INSTITUTIONAL STRUCTURE

JUVENILE JUSTICE BOARD (JJB) — S.4–S.11

- Constituted for every district; deals exclusively with **children in conflict with law**. Comprises a Metropolitan/Judicial Magistrate (First Class) as Principal Magistrate + **2 social worker members** (at least one woman); functions as a child-friendly bench, not a regular criminal court.

CHILD WELFARE COMMITTEE (CWC) — S.27–S.30

- Constituted for every district; deals exclusively with **children in need of care and protection** — has final authority to dispose of cases for the care, protection, treatment, and rehabilitation of such children, as well as for their basic needs and protection of rights.

CLASSIFICATION OF OFFENCES — S.2(33), 2(45), 2(54)

CATEGORY	DEFINITION
Petty Offences — S.2(45)	Maximum punishment under IPC/any law is imprisonment up to 3 years.
Serious Offences — S.2(54)	Punishment is imprisonment for a term of more than 3 years but not exceeding 7 years.

Heinous Offences — S.2(33) **Minimum** punishment prescribed is imprisonment of 7 years or more. (SC has clarified: offences with a maximum above 7 years but **no minimum** sentence do not automatically qualify as "heinous" — must be assessed per the statutory language; murder under IPC/BNS is heinous, being punishable with mandatory minimum life imprisonment.)

BAIL — SECTION 12

PRESUMPTION IN FAVOUR OF BAIL

- A child alleged to be in conflict with law shall ordinarily be released on bail (with/without surety) or placed under supervision of a probation officer/fit person — **irrespective of the offence**, subject to narrow exceptions (reasonable grounds to believe release would expose the child to moral, physical, or psychological danger, or defeat the ends of justice).
- Mere gravity of the offence is **not by itself** sufficient ground to refuse bail — courts must record specific reasons linked to the statutory exceptions.

HEINOUS OFFENCES — PRELIMINARY ASSESSMENT & TRANSFER

SECTION 15 — PRELIMINARY ASSESSMENT

- Where a child aged **16–18 years** is alleged to have committed a heinous offence, the JJB conducts a preliminary assessment of the child's mental and physical capacity to commit the offence, ability to understand its consequences, and the circumstances of the alleged offence — assisted by experienced psychologists/psycho-social workers.
- To be completed within **3 months** from the date of first production of the child before the Board.

SECTION 18(3) — TRANSFER TO CHILDREN'S COURT

- If the Board concludes there is need for trial as an adult, it may order transfer of the case to the **Children's Court**, which then decides whether to try the child as an adult or retain the child-friendly disposition under the Act — the child is not automatically tried as an adult merely on transfer.

SPECTRUM OF INSTITUTIONAL & NON-INSTITUTIONAL CARE

FACILITY	PROVISION & PURPOSE
Open Shelter	S.43 — short-term, non-institutional support for children in need, e.g. street/working children, without formal admission.
Foster Care	S.44 — child placed with a family (other than biological/adoptive) for temporary care; foster families monitored and may receive State financial support.
Observation Home	S.47 — temporary reception of a CICL during inquiry, pending JJB proceedings.
Special Home	S.48 — reformatory services for a CICL found to have committed an offence, for the period of the order.
Place of Safety	S.49 — for a person who has ceased to be a child during the pendency of a case, or a child transferred/tried as an adult under S.18/19.

ADOPTION — CHAPTER VIII (S.56–S.73)

CENTRAL ADOPTION RESOURCE AUTHORITY (CARA)

- Adoption of an orphan, abandoned, or surrendered child is undertaken through a Specialised Adoption Agency, in accordance with CARA-notified Adoption Regulations; intra-family/relative adoptions are also recognised under the Act.

SECTION 61 — DISTRICT MAGISTRATE'S POWER (2021 AMENDMENT)

- Power to pass adoption orders shifted from the civil court to the **District Magistrate** (including Additional DM) w.e.f. the 2021 Amendment — aimed at speedier disposal; proceedings held in-camera, to be disposed of ordinarily within **2 months** of filing.

OFFENCES AGAINST CHILDREN — CHAPTER IX

SECTION 75 — CRUELTY TO A CHILD

- Assault, abandonment, abuse, exposure, or wilful neglect of a child: up to **3 years'** imprisonment and/or fine up to ₹1 lakh. If by a person in charge of a child-care institution: rigorous imprisonment up to **5 years** and fine up to ₹5 lakh; enhanced to **3–10 years** if the child is physically incapacitated or suffers mental illness as a result.

SECTION 82 — CORPORAL PUNISHMENT

- Any person in-charge of/employed at a child-care institution subjecting a child to corporal punishment for disciplining: fine of ₹10,000 on first conviction, imprisonment up to 3 months and/or fine on subsequent conviction — with dismissal from service on conviction.

PENDING — JUVENILE JUSTICE (AMENDMENT) BILL, 2026 (NOT YET LAW)

REPORTED PROPOSAL — VERIFY CURRENT STATUS BEFORE RELYING

- Reported to propose lowering the age threshold at which a child accused of a **heinous offence** may be subjected to the Section 15 preliminary-assessment/transfer mechanism from **16 years to 14 years** — i.e. widening the pool of children who could potentially face trial as adults for heinous offences.
- As of the date of this note, the Bill has **not been confirmed as passed** by Parliament or notified into force. Public commentary highlights concerns around due process, rehabilitation-first principles under juvenile justice jurisprudence, and pendency in Juvenile Justice Boards (a significant proportion of JJB cases nationally remain pending, with several Boards not fully constituted).
- **Practice instruction: before advising or filing on the basis of any "2026 Act" provision, independently confirm via indiacode.nic.in / PRS Legislative Research / the Gazette of India whether the Bill has been enacted and notified, and cite only the enacted text.**

PRACTICE NOTES

Bail Is the Default — Argue It That Way

In CICL matters, frame bail applications around the S.12 presumption and the narrow statutory exceptions — do not let the gravity of the alleged offence alone dominate the argument; require the prosecution to establish the specific exception.

Age Determination Is Frequently Decisive

Disputes over whether the accused was below 18 on the date of the offence (school records, birth certificate, ossification test per S.94) are often outcome-determinative — prioritise this inquiry at the earliest stage of any CICL matter.

Adoption Filings — File Before the DM, Not the Civil Court

Since the 2021 Amendment, adoption petitions go to the District Magistrate/Additional DM, not the civil court — verify the correct forum and current CARA Adoption Regulations before filing.

For internal practice reference only — this note highlights select, frequently used provisions of the JJ Act, 2015 (as amended by the 2021 Amendment Act) and does not cover the full 112 sections or Model Rules. The referenced 2026 Amendment Bill is not yet law — verify its current status independently before relying on it. Cross-check exact section text and the latest notifications before relying in advice or proceedings. Prepared 2 August 2026.

Primary sources: The Juvenile Justice (Care and Protection of Children) Act, 2015 and the JJ (Amendment) Act, 2021 (indiacode.nic.in, cara.wcd.gov.in); PRS Legislative Research; commentary via iPleaders, LiveLaw, SCC Online, Vidhi Judicial Academy, and NCPDR guidelines on Section 15 preliminary assessment.