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Notes	16/1995 which amends sections 5 and 39(1) of the Act is attached. Juveniles Courts (Establishment Order) made under s. 11 of this Act commencing Dec. 27, 1970 (40/1970) is attached.

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**CHILDREN AND YOUNG PERSONS ACT  
CHAPTER 37:50**

Act  
17 of 1970  
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Note

This Act has not been affected by the Age of Majority Act, Ch. 37:01. (See s. 3(4) of that Act).

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### CHILDREN AND YOUNG PERSONS ACT

#### **17 of 1970.**

AN ACT to make provision for the care, supervision and protection of children and young persons and for purposes connected therewith.

#### **Commencement**

[1st October 1970]

#### PART I

#### PRELIMINARY

#### **Short title**

1. This Act may be cited as the -

CHILDREN AND YOUNG PERSONS *ACT*.

#### **Interpretation**

2. In this Act -

"child" means a person under the age of fourteen years;

"contribution order" means an order made by a juvenile court under section 39 requiring any person to make contributions in respect of any juvenile committed to the care of a fit person;

"guardian" in relation to a juvenile, includes any person who, in the opinion of the court, having cognizance of any case in relation to the juvenile or in which the juvenile is concerned, has for the time being the charge of or control over the juvenile;

"intoxicating liquor" means any fermented, distilled or spirituous liquor which cannot, save in certain specified circumstances, according to any law for the time being in force be legally sold without a licence;

"juvenile" means a person under the age of eighteen years;

"juvenile court" means a juvenile court established under section 11; "place of safety" means any place appointed by the Minister to be a place of safety for the purposes of this Act;

"public place" includes any public park or garden and any ground to which the public for the time being have or are permitted to have access, whether on payment or otherwise;

"street" includes any highway, road, land, footway, square, court, alley or passage, whether a thoroughfare or not;

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"young person" means a person who has attained the age of fourteen years and is under the age of eighteen years.

### **Age of criminal responsibility.**

3. It shall be conclusively presumed that no child under the age of twelve years can be guilty of any offence.

### **General consideration for guidance of court.**

4. Every court, in dealing with a juvenile who is brought before it as being in need of care or protection or as an offender or otherwise, shall have regard to the welfare of the juvenile and shall, if it considers it necessary, take steps for removing the juvenile from undesirable surroundings.

## PART II

### PREVENTION OF CRUELTY TO AND PROTECTION OF JUVENILES

### **Cruelty to juveniles.**

5. (1) Any person who, having attained the age of eighteen years and having the custody, charge or care of any juvenile, wilfully assaults, ill-treats, neglects, abandons or exposes the juvenile or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause the juvenile unnecessary suffering or injury to health (including injury to or loss of sight or hearing or limb or organ of the body, and any mental derangement) is liable-

(a) on conviction on indictment, to a fine of three thousand dollars and to imprisonment for two years;

(b) on summary conviction, to a fine of seven hundred and fifty dollars and to imprisonment for three months.

(2) For the purposes of this section -

(a) a parent or other person legally liable to maintain a juvenile shall be deemed to have neglected him in a manner likely to cause injury to his health if, being able to do so, the parent or other person fails to provide adequate food, clothing, rest, medical aid or lodging for him;

(b) where it is proved that the death of an infant under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passage of the infant) while the infant was in bed with some other person who

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has attained the age of eighteen years and was at the time of going to bed under the influence of drink or any drug, then that other person shall be deemed to have neglected the infant in a manner likely to cause injury to the infant's health;

- (c) any person having attained the age of seventeen years, who gives or causes to be given, or sells or causes to be sold to any child under the age of twelve years any intoxicating liquor, except upon the order of a duly qualified medical practitioner, or in case of sickness, apprehended sickness or other urgent cause, shall be deemed to have ill-treated that child in a manner likely to cause injury to the child's health;

### **Ch. 10:31**

- (d) any person, having attained the age of eighteen years and having the custody, charge or care of any child under the age of seven years, who allows that child to be in any room or yard containing a stove, coal-stove or open fire-place not sufficiently protected to guard against the risk of that child being burnt or scalded, without taking reasonable precautions against the risk. and by reason thereof that child is killed or suffers serious injury, shall be deemed to have neglected that child in a manner likely to cause injury to that child's health; but neither this paragraph nor any proceedings taken thereunder shall affect the liability of any person to be indicted for manslaughter or for any offence against the Offences against the Person Act

(3) A person may be convicted of an offence under this section-

- (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health was obviated by the action of another person;
- (b) notwithstanding the death of the juvenile in respect of whom the offence is committed.

(4) Upon the trial of any person who has attained the age of eighteen years for infanticide or for the manslaughter of a juvenile of whom he had the custody, charge or care, the jury may, if satisfied that he is guilty of an offence under this section, find him guilty of that offence.

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(5) (a) If it is proved that a person convicted under this section was directly or indirectly interested in any sum of money accruing or payable in the event of the death of the juvenile and had knowledge that that sum of money was accruing or becoming payable, then -

(i) in the case of a conviction on indictment the maximum amount of the fine which may be imposed under this section is five thousand dollars and the court may, instead of any other penalty, sentence that person to imprisonment for five years;

(ii) in the case of a summary conviction the maximum amount of the fine which may be imposed under this section is one thousand five hundred dollars and the Magistrate may, instead of any other penalty, sentence that person to imprisonment for six months.

(b) For the purposes of this subsection-

(i) a person shall be deemed to be directly or indirectly interested in a sum of money if he has any share in or any benefit from the payment of that money notwithstanding that he is not the person to whom it is legally payable;

(ii) a copy of a policy of insurance certified to be a true copy by an officer or agent of the insurance company granting the policy shall be evidence that the juvenile therein stated to be insured has been in fact so insured and that the person in whose favour the policy has been granted is the person to whom the money thereby insured is legally payable.

(6) Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him.

### **Begging.**

6. (1) Any person who-

(a) causes or procures any juvenile; or

(b) having the custody, charge or care of a juvenile, allows him,

to be in any street, premises or place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there

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is any pretence of singing, playing, performing, offering anything for sale, or otherwise) is guilty of an offence against this Act

(2) If a person having the custody, charge or care of a juvenile is charged with an offence under this section, and it is proved -

- (a) that the juvenile was in any street, premises or place for any such purpose as is mentioned in subsection (1); and
- (b) that the person charged allowed the juvenile to be in the street, premises or place,

he shall be presumed to have allowed him to be in the street, premises or place for that purpose unless the contrary is proved.

(3) If any person while singing, playing, performing or offering anything for sale in a street or public place has with him a child who has been lent or hired out to him, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving of alms.

#### **Warrant to search for and remove juvenile.**

7. (1) If it appears to a Magistrate on information on oath laid by any person who, in the opinion of the Magistrate is acting in the interests of a juvenile that there is reasonable cause to suspect -

- (a) that a juvenile has been or is being assaulted, ill-treated or neglected in a manner likely to cause the juvenile unnecessary suffering; or

#### **First Schedule.**

- (b) that any offence mentioned in the First Schedule has been or is being committed in respect of the juvenile,

the Magistrate may issue a warrant authorising any police officer -

- (i) to search for the juvenile and, if it is found that the juvenile has been or is being assaulted, ill-treated or neglected in any such manner, or that any such offence has been or is being committed in respect of him, to take him to and detain him in a place of safety; or
- (ii) to remove the juvenile with or without search to a place of safety and to detain him there, until, in either such case, the juvenile can be brought before a juvenile court.

(2) A Magistrate issuing a warrant under this section may by the same warrant cause any person accused of any offence in respect of

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the juvenile to be apprehended and brought before him or some other Magistrate of the State in order that proceedings may be taken against him according to law.

(3) Any police officer authorised by warrant under this section to search for any juvenile, or to remove any juvenile with or without search, may enter if need be by force any house, building or other place specified in the warrant and may remove him therefrom.

(4) The police officer executing any warrant issued under this section may be accompanied by the person laying the information, if that person so desires, and may also, if the Magistrate by whom the warrant is issued directs, be accompanied by a duly qualified medical practitioner.

### **Power to bring juveniles in need of care or protection before court.**

8. (1) Any police officer or authorised person may bring before a juvenile court a juvenile in need of care or protection.

(2) For the purposes of this section-

(a) "authorised person" means-

(i) any probation officer; or

(ii) any person appointed by the Minister as such on the recommendation of a social welfare officer;

(b) "Minister" means the Minister responsible for Community Development and Social Affairs;

(c) "care or protection" includes control and guidance, as well as discipline.

### **Powers of court.**

#### **First Schedule.**

9. (1) A juvenile court before which any juvenile is brought by virtue of sections 7, 8 or 10, or any court before which is brought any juvenile in respect of whom any of the offences mentioned in the First Schedule has been committed, may, if satisfied that the welfare of the juvenile so requires, make an order -

(a) committing him to the care of any fit person, whether a relative or not, who is willing to undertake the care of him; or

(b) requiring his parent or guardian to enter into a recognizance to exercise proper care and guardianship; or

(c) placing him, either in addition to, or without making any order under paragraph (a) or (b), for a specified

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period not exceeding three years, under the supervision of a probation officer; or

(d) committing him to be detained in a government training school for a period not exceeding three years.

(2) Any order made under subsection (1) may from time to time be renewed, varied or revoked by the court on its own motion or on the application of any person.

(3) If a juvenile court before which any juvenile is brought is not in a position to decide whether any or what order ought to be made under this section, it may make such interim order as it thinks fit for the juvenile's detention or continued detention in a place of safety, or for his committal to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

(4) Any interim order made under subsection (3) shall not remain in force for more than thirty days; but at any time within such period the court may, if it considers it expedient to do so, make a further interim order; however, in no case shall any interim order or orders made under this and subsection (3) remain in force for more than sixty days after the date of the first order made under this subsection.

(5) If the juvenile court by which an interim order is made is satisfied on any occasion that by reason of illness or accident the juvenile is unable to appear personally before the court any further interim order which the court has power to make on that occasion may be made in the absence of the juvenile.

(6) The consent of any person to undertake the care of a juvenile in pursuance of an order made under subsection (1)( a) shall be proved in such manner as the court may think sufficient to bind him.

### **Disposal of juvenile by order of court.**

10. (1) Where a person having the custody, charge or care of a juvenile has been -

### **First Schedule.**

- (a) convicted in respect of that juvenile of any of the offences mentioned in the First Schedule; or
- (b) committed for trial for any such offence; or
- (c) bound over to keep the peace towards that juvenile by any court, that court may order that juvenile to be brought before a juvenile court with a view to the juvenile court making an order under section 9, and

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shall direct that the probation officer be informed as soon as practicable of the order made.

(2) Where any court has under this section made an order directing that a juvenile be brought before a juvenile court, it shall be the duty-

(a) of the complainant, if he is a police officer, in the proceedings against the person having the custody, charge or care of the juvenile; or

(b) if that complainant is not a police officer, of the senior police officer present in court at the time that the order was made,

to bring the juvenile before the juvenile court.

### PART III

#### ESTABLISHMENT OF JUVENILE COURTS

##### **Establishment of juvenile courts. Ch. 4:20.**

11. (1) Notwithstanding the provisions of the Magistrate's Code of Procedure Act the Minister may by Order published in the *Gazette* provide for -

(a) the establishment of one or more juvenile courts in the magisterial districts of the State;

(b) juvenile courts to be held in, or elsewhere than in buildings used as a Magistrate Court; and

(c) fixing the time when juvenile courts shall be held.

(2) Every juvenile court shall consist of a chairman who would normally be a Magistrate and two assessors one of whom shall be a woman; but a Magistrate may sit alone in any case where he considers that it would be impracticable for the court to be constituted in the manner aforesaid, or that it would be inexpedient in the interests of justice to adjourn the business of the court.

##### **Trial by juvenile courts. Ch.4:20.**

12. When a young person or child is charged with any offence, the Magistrate shall, for the purpose of hearing the charge, sit in the juvenile court established in the district in which he is exercising jurisdiction under this Act and, notwithstanding the provisions of any law to the contrary, the procedure to be followed on the hearing of such charge shall be in accordance with that prescribed in this Act and in the Magistrate's Code of Procedure Act.

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### **Exclusion of the public from juvenile courts.**

13. (1) In a juvenile court no person other than the members and officers of the court and the parties to the case, their solicitors and counsel and other persons directly concerned in the case shall, except by leave of the court, be allowed to attend.

(2) For the purposes of this section any person appointed as a probation officer shall be deemed an officer of the court.

## PART IV

### PROCEEDINGS IN JUVENILE COURTS

### **Provisions as to power of juvenile courts.**

14. On the hearing of a charge against or an application relating to a person who is believed to be a juvenile, a juvenile court may, if it thinks fit to do so, proceed with the hearing and determination of the charge or application notwithstanding that it is discovered that the person in question is not a juvenile.

### **Parents or guardians of juveniles to be present.**

15. On the hearing of a charge against or an application relating to a person who is believed to be a juvenile, a juvenile court shall summon the parents or guardians or others responsible for the care of any juvenile brought before the court, to be present in court while the charge or application is being determined.

### **Method. of dealing with juvenile offenders, Ch. 12:33. Ch. 4:20.**

16. (1) where a juvenile has been found guilty of any offence before a juvenile court, that court (which for the purposes of this section shall be deemed to be a court of summary jurisdiction within the meaning of the Probation of Offenders Act) may, notwithstanding sections 90, 91,92,93 and 94 of the Magistrate's Code of Procedure

Act make an order -

- (a) dismissing the case;
- (b) under the Probation of Offenders Act;
- (c) placing the offender, either in addition to or without making any other order under this section, for a specified period not exceeding three years, under the supervision of a probation officer;
- (d) committing the offender to the care of any fit person, whether a relative or not, who is willing to undertake the care of him;
- (e) ordering the parent or guardian of the offender to enter into a recognizance for the good behaviour of the offender;

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- (j) in appropriate cases for the payment of a fine or compensation;
- (g) committing the juvenile to be detained in a government training school;
- (h) ordering the juvenile to pursue a course of instruction at a government training school for a stated period.

(2) Consent of any person to undertake the care of a juvenile in pursuance of an order made under subsection (1)( *d*) shall be proved in such manner as the court may think sufficient to bind him.

### **Ch. 4:20.**

(3) An appeal shall lie from any decision or order of a juvenile court and the procedure to be followed on the bringing and hearing of the appeal shall be in accordance with the Magistrate's Code of Procedure Act

### **Special provisions relating to probation.**

17. (1) Where a juvenile has been placed under the supervision of a probation officer, that officer shall, while the order remains in force, visit, advise and befriend him and, when necessary, endeavour to find him suitable employment, and may, if it appears necessary in his interest to do so, at any time while the order remains in force and he is under the age of sixteen years, bring him before a juvenile court, and that Court may, if it thinks it is desirable in his interest to do so, commit him to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

### **Ch. 12:33.**

(2) Where a person is bound by his recognizances before a juvenile court or that court makes an order under the Probation of Offenders Act in respect of a juvenile, the attainment by that person of the age of sixteen years shall not deprive the court of jurisdiction to enforce his attendance and deal with him in respect of any failure to observe the conditions of his recognizances, or of jurisdiction to vary or discharge the recognizance.

### **Provisions relating to committal of fit persons.**

18. (1) Where under section 9 a juvenile is brought before a juvenile court, or where a juvenile has been convicted of any offence and the court is satisfied that it is in the best interests and welfare of the juvenile to make an order committing him to the care of a fit person, and ascertains on enquiry that such a person is available and willing to undertake the care of the juvenile, the court may summon such fit person before it for the purpose of examining such person as to his fitness to be so appointed.

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(2) A court before making an order under this Act committing a juvenile to the care of a fit person, shall endeavour to ascertain the religious persuasion of the juvenile and shall, wherever possible, in making the order take into consideration such religious persuasion.

(3) Every order committing a juvenile to the care of a fit person shall contain a declaration -

- (a) as to the age and religious persuasion (if ascertained) of the juvenile with respect to whom the order is made; and
- (b) where a contribution order has at the same time been made under section 39, stating the amount of the contribution and by whom it is payable.

## PART V

### PROVISIONS PRELIMINARY TO AND TRIAL OF JUVENILE OFFENDERS

#### **Separation in police stations, etc. of juveniles from adults.**

19. Arrangements shall be made by the Commissioner of Police for preventing a juvenile while detained in a police station. or while being conveyed to or from any criminal court, or while waiting before or after attendance in any criminal court, from associating with any adult, not being a relative, who is charged with any offence other than an offence with which the juvenile is jointly charged.

#### **Bail or detention of juveniles.**

20. (1) Where a person apparently a juvenile is apprehended, with or without warrant, and cannot be brought forthwith before the appropriate court. the police officer in charge of the police station to which he is brought shall enquire into the case and may release him on a recognizance being entered into by him or his parent or guardian (with or without sureties) for such amount as will, in the opinion of the officer, secure his attendance upon the hearing of the charge, and shall so release him unless -

- (a) the charge is one of homicide or other grave crime; or
- (b) it is necessary in his interest to remove him from association with any reputed criminal or prostitute; or
- (c) the officer has reason to believe that his release would defeat the ends of justice.

(2) Where a person apparently a juvenile is apprehended and is

not released under subsection (I), the police officer in charge of such police station shall cause him to be detained in a place of safety until he can be brought before the appropriate court.

**Remand or committal to place of safety.**

21. (1) A Magistrate's Court on remanding or committing for trial a juvenile who is not released on bail shall commit him to custody in a place of safety named in the commitment, or to a government training school, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law; and in the case of a young person it is not Obligatory on the Court to commit him if the Court certifies that he is of so unruly a character that he cannot safely be committed, or that he is of so depraved a character that he is not a fit person to be detained; and where the commitment so certifies he may be committed to such place, including a prison, as may be specified in the commitment warrant.

(2) A commitment under this section may be varied or, in the case of a young person who proves to be of so unruly a character that he cannot safely be detained in such custody, or to be of so depraved a character that he is not a fit person to be so detained, revoked by the Court which made the order or, if application cannot conveniently be made to that Court, by any court having jurisdiction in the place where the Court which made the order sat, and if it is revoked the young person may be committed to such place, including a prison, as may be specified in the commitment warrant

**Trial of juvenile when charged with an adult,**

22. Where a juvenile is charged with an offence jointly with a person who has attained the age of eighteen years, or that person is charged at the same time with aiding, abetting, causing, procuring, allowing or permitting that offence, the charge shall be heard by a juvenile court; but the juvenile and adult may appear formally in the first instance in another court before the case against the juvenile is sent to the juvenile court.

**Procedure in juvenile courts.**

23. (1) Where a child or young person is brought before a juvenile court for any offence, the court shall as soon as possible explain to him in simple language the substance of the alleged offence.

(2) Where a child is brought before a juvenile court for any offence other than homicide, the case shall be finally disposed of in such court, and it is not necessary to ask the parent whether he consents that the child be dealt with in the juvenile court

(3) Where a young person is brought before a juvenile court for an indictable offence other than homicide, and the court becomes

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satisfied at any time during the hearing of the case that it is expedient to deal with it summarily, the court shall put to the young person the following or a similar question, telling him that he may consult his parent or guardian before replying:

"Do you wish to be tried by this court or by a jury?" and the court shall explain to the young person and to his parent or guardian the meaning of being so tried and the place where the trial would be held.

(4) After explaining the substance of the alleged offence the court shall ask the child or young person (except in cases where the young person does not wish to be tried in the juvenile court) whether he admits the offence.

(5) If the child or young person does not admit the offence the court shall then hear the evidence of the witnesses in support thereof. At the close of the evidence in chief of each such witness the court shall ask the child or young person- or, if it sees fit. the child's parent or guardian, whether he wishes to put any questions to the witnesses,

If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so. The court shall put to the witnesses such questions as appear to be necessary. The court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.

(6) If it appears to the court that a *prima facie* case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.

(7) If the child or young person admits the offence or the court is satisfied that it is proved. he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him the court shall obtain such information as to his general conduct, home surroundings. school record and medical history. as may enable it to deal with the case in the best interests of the child or young person and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the court may from time to time remand the child or young person on bail or in custody.

(8) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is

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necessary for purposes of enquiry or observation, the court may cause an entry to be made in the court register that the charge is proved and that the child or young person has been remanded. The court before which a child or young person so remanded is brought may, without further proof of the commission of the offence, make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.

(9) Any child or young person charged with an indictable offence and tried by a juvenile court under this section may, in lieu of or in addition to any other punishment, be sentenced to pay a fine of two hundred and fifty dollars or to pay compensation or, if a young person, to be detained at the government training school for three years.

(10) The provisions of subsection (9) shall not render punishable for an offence any child who is not, in the opinion of the court, above the age of twelve years and of sufficient capacity to commit crime.

### PART VI

#### LEGAL PROVISIONS RELATING TO JUVENILES

##### **Power to take offenders into custody.**

24.(1) Any police officer may take into custody, without warrant, any person who -

##### **First Schedule.**

- (a) commits, within his view, any of the offences mentioned in the First Schedule;
- (b) has committed or whom he has reason to believe has committed any of the offences mentioned in the First Schedule;

if the police officer has reasonable ground for believing that that person will abscond, or if the police officer does not know and cannot ascertain that person's name and address.

(2) Where, under the powers conferred by this section, a police officer arrests any person without warrant, the police officer in charge of the police station to which that person is brought shall, unless in his belief the release of that person on bail would tend to defeat the ends of justice or to cause injury or danger to the juvenile against whom the offence is alleged to have been committed, release the person arrested on that person entering into such recognizance, with or without sureties, as may in the judgment of that officer be required to secure the attendance of that person upon the hearing of the charge.

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### **Power to hear case in absence of juvenile. First Schedule.**

25. Where, in any proceedings with relation to any of the offences mentioned in the First Schedule the court is satisfied that the attendance before it of any juvenile in respect of whom the offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the juvenile.

### **Restriction of presence of juvenile in court.**

26. No child, other than an infant in arms, shall be permitted to be present in court during the trial of any other person charged with any offence, or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purpose of justice; and any child present in court when under this section he is not to be permitted to be so present shall be ordered to be removed.

### **Determination of age.**

27. (1) Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a juvenile, the court shall make due enquiry as to the age of that person and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Act, be the true age of that person, and where it appears to the court that the person so brought before it has attained the age of nineteen years, that person shall, for the purposes of this Act, be deemed not to be a juvenile.

### **First Schedule. Ch. 10:36.**

(2) Where in any Charge or indictment for any offence under this Act or any of the offences mentioned in the First Schedule, except an offence under the Sexual Offences Act, it is alleged that the person by or in respect of whom the offence was committed was a juvenile, young person or child or was under or had attained any specified age, and he appears to the court to have been at the date of the commission of the alleged offence a juvenile, young person or child or to have been under or to have attained the specified age, as the case may be, he shall for the purposes of this Act be presumed at that date to have been a juvenile, young person or child or to have been under or to have attained that age, as the case may be, unless the contrary is proved.

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## PART VII

### EVIDENCE AND PROCEDURE

#### **Evidence of child of tender years. Ch.4:20.**

28. (1) Where in any proceedings against any person for any offence, any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given upon oath, if in the opinion of the court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth; and his evidence, though not given on oath, but otherwise taken and reduced into writing in accordance with the Magistrate's Code of Procedure Act or of this Act, shall be deemed to be a deposition; but where evidence admitted by virtue of this section is given on behalf of the prosecution the accused is not liable to be convicted of the offence unless that evidence is corroborated by some other material evidence in support thereof implicating him.

(2) If any child whose evidence is received as aforesaid wilfully gives false evidence in such circumstances that he would, if the evidence had been given on oath, have been guilty of perjury, he is guilty of an offence against this Act.

#### **Power to clear court when juvenile giving evidence.**

29. (1) Where, in any proceedings in relation to an offence against or any conduct contrary to decency or morality, a person who in the opinion of the court is a juvenile is called as a witness, the court may direct that all or any persons who are not members or officers of the court or parties to the case, their counselor solicitors or persons otherwise directly concerned in the case be excluded from the court during the taking of the evidence of that witness; but nothing in this section shall authorise the exclusion of *bona fide* representatives of a newspaper or news agency.

(2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

#### **Extension of power to take deposition of juvenile. First Schedule.**

30. (1) Where a Magistrate is satisfied by the evidence of a duly qualified medical practitioner that the attendance before a Magistrate's Court of any juvenile, in respect of whom any of the offences mentioned in the First Schedule is alleged to have been committed, would involve serious danger to his life or health, the Magistrate may take in writing the deposition and add thereto a statement of his reason for taking it and

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of the day when and place where it was taken, and of the names of the persons (if any) present at the taking thereof.

(2) The Magistrate taking any such deposition shall transmit it with his statement-

- (a) if the deposition relates to an offence for which any accused person is already committed for trial, to the proper officer of the Court for trial at which the accused person has been committed;
- (b) in any other case, to the Magistrate before whom proceedings are pending in respect of the offence.

#### **Admission in evidence of deposition of juvenile.**

##### **First Schedule.**

31. Where, in any proceedings in respect of any of the offences mentioned in the First Schedule, the court is satisfied by the evidence of a duly qualified medical practitioner that the attendance before the court of any juvenile in respect of whom the offence is alleged to have been committed, would involve serious danger to his life or health, any deposition of the juvenile taken under section 30 shall be admissible in evidence either for or against the accused person without further proof thereof. If it purports to be signed by the Magistrate by or before whom it purports to be taken; but the deposition is not admissible in evidence against the accused person unless it is proved that reasonable notice of the intention to take the deposition has been served upon him and that he or his counselor solicitor had, or might have had if he had chosen to be present, an opportunity of cross-examining the juvenile making the deposition.

#### **Evidence of accused person. Cap. 64. (1961 Ed.).**

##### **First Schedule. Second Schedule. [12 of 1990].**

32. As respects proceedings against any person for any of the offences mentioned in the First Schedule to this Act, the Evidence Ordinance or any Act replacing that Ordinance shall have effect as if in the Schedule to that Ordinance or the Act replacing it the Second Schedule to this Act were included.

#### **Mode of charging offence and limitation of time, First Schedule.**

33. (1) Where a person is charged with committing any of the offences mentioned in the First Schedule in respect of two or more juveniles, the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not, if he is summarily convicted, be liable to a separate penalty in respect of each juvenile except upon separate informations.

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(2) The same information or summons may also charge any person as having the custody, charge or care, alternatively or together, and may charge him with the offence of assault, ill-treatment, neglect, abandonment or exposure, together or separately. and may charge him with committing all or any of those offences in a manner likely to cause unnecessary suffering or injury to health, alternatively or together, but when those offences are charged together, the person charged shall not, if he is summarily convicted, be liable to a separate penalty for each.

#### **First Schedule.**

(3) Where any offence mentioned in the First Schedule charged against any person is a continuous offence, it is not necessary to specify in the information, summons or indictment the date of the acts constituting the offence.

### PART VIII

#### GENERAL

#### **Court other than juvenile court to have power of a juvenile court.**

34. Where under this Act a juvenile is tried before any court which is not a juvenile court, then such court shall have in relation to that juvenile all the powers of a juvenile court.

#### **Rights and powers of fit persons.**

35. The person to whose care a juvenile is committed by an order made under this Act shall, while the order is in force, have the same rights and powers and be subject to the same liabilities in respect of the juvenile's maintenance as if he were his parent, and the juvenile so committed shall continue in his care notwithstanding any claim by a parent or other person.

#### **Transfer of juvenile under care of fit persons.**

36. (1) The court by which an order committing a juvenile to the care of a fit person is made, may at any time, on the application of a social welfare officer or a probation officer order a juvenile under the care of a fit person to be transferred to the care of some other person.

(2) Upon a juvenile being transferred in accordance with subsection (1) the court shall cause notice thereof to be sent to the person liable to make contributions in respect of him.

#### **Escapes from fit persons.**

37. (1) A juvenile who runs away from a person to whose care he has been committed under this Act may be apprehended without warrant by any police officer or authorised person for the purposes of section 8 and brought back to that person if that person is willing to receive him; but if that person is not willing to receive him he may be taken before a juvenile court which may make an order in respect of him

as if he had been brought before the court as being in need of care and protection.

(2) Any person who knowingly assists or induces a juvenile to run away from a person to whose care he has been committed, or harbours or conceals a juvenile who has so run away and prevents him from returning, is guilty of an offence against this Act

**Contributions.**

38. (1) Where an order has been made by a juvenile court committing a juvenile to the care of a fit person, the following persons shall make contributions in respect of him:

- (a) his father, adopted father or step-father;
- (b) his mother, adopted mother or step-mother; and
- (c) any person, who, at the date when any such order is made, is Cohabiting with the mother of the juvenile, whether he is the putative father or not.

(2) Where a juvenile has been committed to the care of a fit person, contribution under this Act shall be payable to that person to be applied by him in or towards the maintenance or otherwise for the benefit of the juvenile.

**Contribution orders.**

39. (1) Where an order has been made by a juvenile court committing a juvenile to the care of a fit person, the court may at the same time make a contribution order on any person who is, under section 38, liable to make contributions in respect of the juvenile, requiring that person to contribute such weekly sum, not exceeding ten dollars in respect of each juvenile, as the court having regard to his means thinks fit.

(2) A contribution order shall, unless varied or revoked, remain in force so long as the juvenile remains in the care of the fit person, and the court when making such order shall have regard to any affiliation order in force in respect of the juvenile. Any such contribution order may be varied or revoked on the application of either the contributor or the person to whom the contributions are payable.

**Ch.4:20.**

(3) A contribution order is enforceable at the instance of the person to whom the contributions are payable, in the same manner as an affiliation order made under the Magistrate' s Code of Procedure Act.

(4) A person on whom a contribution order is made shall, if he changes his address, forthwith give notice thereof to the person to whom, immediately before the change, the contributions were payable.

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and if he fails to do so, or if he knowingly gives notice false in any material particular, he is guilty of an offence against this Act.

#### **Provisions as to affiliation order.**

40. (1) Where a juvenile who is ordered by a juvenile court to be committed to the care of a fit person is illegitimate, and an affiliation order for his maintenance is in force, the court may at the same time order the payments under the affiliation order to be paid to the person to whom contributions in respect of the juvenile are payable under section 38.

(2) Any sums received under the affiliation order shall be applied in like manner as if they were contributions received under a contribution order.

(3) The making of an order under this section with respect to an affiliation order shall not extend the duration of that order.

#### **General penalty.**

41. Any person guilty of an offence against this Act for which no special punishment is provided, is liable on summary conviction to a fine of seven hundred and fifty dollars, and in default of payment to imprisonment for three months, and in the case of a continuing offence to a further fine of fifty dollars for each day on which the offence continues after conviction.

#### **Forms, Third Schedule.**

42. An order, other than an interim order, committing a juvenile to the care of a fit person, a contribution order and an order under section 40 shall be in the appropriate form set out in the Third Schedule, and such forms may be amended or revoked and different and additional forms may be prescribed by Order made by the Minister.

#### **Rules. Third Schedule.**

43. (1) The Minister may make Rules providing for such matters as may be necessary or expedient for carrying out the purposes of this Act into effect and in particular, without limiting the generality of the foregoing, may make Rules adding to, rescinding, varying or amending any forms contained in the Third Schedule.

(2) Rules made under this section may provide that a person who commits any breach of such Rules is guilty of an offence and upon summary conviction for such offence is liable to a fine of one thousand five hundred dollars and to imprisonment

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FIRST SCHEDULE

**Sections 7, 9, 10, 24, 25, 27, 30, 31, 32, 33.**

- 1. Any offence under Part n of this Act

**Ch. 10:31.**

- 2. Any offence under sections 29, 53 and 54 of the Offences against the Person Act.

**Ch. 10:36.**

- 3. Any offence against a juvenile under sections 43, 44, 50, 59 and 60 of the said Offences against the Person Act, or under the Sexual Offences Act
- 4. Any other offence involving bodily injury to a juvenile.

**Section 32.**

SECOND SCHEDULE

<i>Chapter</i>	<i>Title</i>	<i>Parts of law</i>
44	Offences against the Person Act Ch.10:31	Sections 29, 43 and 44

TIDRD SCHEDULE

THE CHILDREN AND YOUNG PERSONS ACT Ch. 37:50  
ORDER COMMITTING JUVENILE TO CARE OF FIT PERSON

To

WHEREAS

a juvenile was brought before the juvenile court for as being in need of care or protection, or charged with an offence of .....

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AND WHEREAS the said court considers it expedient and in the best interests of the welfare of the said juvenile to make an order committing the said juvenile to the care of a fit person who is willing to undertake the care of him:

THESE, THEREFORE, are to command you the said to deliver the said juvenile to who has undertaken to care the said juvenile, and to command you the said to receive the said juvenile into your custody and to keep him in accordance with and until he is released under the provisions of the Children and Young Persons Act. Ch. 37:50.

IT IS HEREBY DECLARED THAT-

- (a) the age of the said juvenile is        years        months,  
being born on the day        of        ;
- (b) his religious persuasion is        ;
- (c) a contribution order in the sum of \$        a week payable by being the of the said juvenile has been made.

Given under my hand this        day of        at

**Sections 39, 42.**

THE CHILDREN AND YOUNG PERSONS ACT, Ch. 37:50

CONTRIBUTION ORDER

WHEREAS an order committing        a juvenile to the care of        of  
has this day been/was on the        day of        made by this court:

AND WHEREAS the said has made application for a contribution order:

IT IS HEREBY ORDERED that

being the        of the said juvenile shall pay to  
the sum of        each week to be applied in accordance with the provisions of the Children and Young Persons Act, Ch. 37:50, the first of such payments to be made on the        day of        so long as the said juvenile remains in the care of the said        or until this order is varied or revoked in accordance with the provisions of the Children and Young Persons Act, Ch. 37:50.

Given under my hand this        day of        at

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**Section 40.**

THE CHILDREN AND YOUNG PERSONS ACT, Ch.37:50.

ORDER TRANSFERRING PAYMENTS UNDER AFFILIATION ORDER

WHEREAS an affiliation order was made on the                    day of                    against                    of  
ordering him to pay the sum of a week to towards the maintenance and education of a juvenile of the age of

AND WHEREAS an order committing the said juvenile to the care of                    has this day  
been/was on the                    day of                    made by this court:

AND WHEREAS the said                    has made application for a contribution order:

IT IS HEREBY ORDERED that the payments to be made by the said                    under  
the said affiliation order shall be made to                    instead of to the said                    the  
first of such payments to be made on the                    day of                    so long as the said affiliation order  
remains in force, to be applied in accordance with the provisions of the Children and Young Persons Act,  
Ch. 37:50.

Given under my hand this                    day of                    at

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*Juvenile Courts (Establishment) Order*

[Subsidiary]

SUBSIDIARY LEGIS LATION

*40/1970.*

JUVENILE COURTS (ESTABLISHMENT) ORDER

*made under section 11*

**Commencement.**

[24th December 1970]

**Short title.**

1. This Order may be cited as the  
JUVENILE COURTS (ESTABLISHMENT) ORDER.

**Establishment of juvenile courts.**

2. Juvenile courts are hereby established in the Magisterial Districts "E", "F" and "O" at the places set out in the Schedule.

**Holding of juvenile courts.**

3. Juvenile courts shall be held in the buildings used as Magistrate Courts in each of the places set out in the Schedule hereto.

**Sitting of court.**

4. Juvenile courts shall be held at 10.00 a.m. or at such other times and on such days as the Magistrate may appoint.

**Sections 1 and 2.**

SCHEDULE

District "E" - In Roseau, St. Joseph and Soufriere.

District "F" - In Grandbay, La Plaine, Delices and Castle Bruce.

District "G" - In Portsmouth, Vieille Case, Marigot and Colihaut.

1995

CHILDREN AND YOUNG PERSONS  
(AMENDMENT)

ACT 16

COMMONWEALTH OF DOMINICA

ACT No. 16 OF 1995

I assent

C.A. SORHAINDO *President.*

15th May, 1995

AN ACT TO AMEND THE CHILDREN AND YOUNG PERSONS ACT, CHAP 37:50.

(Gazetted 25th May, 1995.)

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

1. This Act may be cited as the -

**Short title.**

CHILDREN AND YOUNG PERSONS (AMENDMENT) ACT 1995.

**Interpretation. Ch. 37:50.**

2. In this Act the Children and Young Persons Act is referred to as "the Act".

**Amendment of section 5 of the Act**

3. Section 5 of the Act is amended by deleting paragraphs (a) and (b) of subsection (1) and replacing them with the following:

"(a) on conviction on indictment, to a fine of five thousand dollars and to imprisonment for five years, or  
(b) on summary conviction, to a fine of one thousand dollars and to imprisonment for one year."

**Amendment of section 39 of the Act.**

4. Section 39(1) of the Act is amended by substituting the word "ten" with the word "fifty".

Passed in the House of Assembly this 10th day of April, 1995.

ALEX F. PHILLIP (MRS.)  
*Acting Clerk of the House of Assembly.*

DOMINICA

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