



READY RECKONER

ON

The Juvenile Justice (Care and Protection of Children) Act, 2015 and Model Juvenile Justice Rules, 2016

NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS
(NCPCR)

5th Floor, Chanderlok Building, 36, Janpath, New Delhi-110001

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Note: Please contact NCPCR's website www.ncpcr.gov.in for full text of the Juvenile Justice (Care and Protection of Children) Act, 2015, Juvenile Justice Model Rules, 2016 and the Protection of Children from Sexual Offences Act, 2012.

THE JUVENILE JUSTICE ACT, 2015

I. Objective of the Act.

*The Act creates a robust legal framework for the protection of the rights of all children whether alleged or found to be in conflict with law or children in need of care and protection. The **Child** is defined as a person who has not completed 18 years of age (Section 2 (12)) The Act also bestows Rights to the child such as of:*

- i. Participation and to be heard in all processes and decisions affecting his interest with privacy & confidentiality and having an interpreter/translator;
- ii. Non-discrimination, equality and access to free legal aid; legal representation;
(Sections 3,8 & Rule 7)

II. Offences against Child under the Act

(Sections 74 to 85 read with Rules 56,57,58,59, 60)

1. Disclosure of identity;
2. Cruelty;
3. Employment of child for begging and illegal activities;
4. Giving of intoxicating liquor or narcotics drugs or psychotropic substance to child;
5. Using of child for vending, peddling, carrying, supplying or smuggling of Intoxicating liquor, narcotic drug or psychotropic substance;
6. Exploitation of child employee;
7. Adoption without following prescribed procedure;
8. Sale and procurement of children;
9. Corporal punishment;
10. Use of child by militant groups;
11. Kidnapping and abduction;
12. Offences on disabled children.

III. Important Definitions —

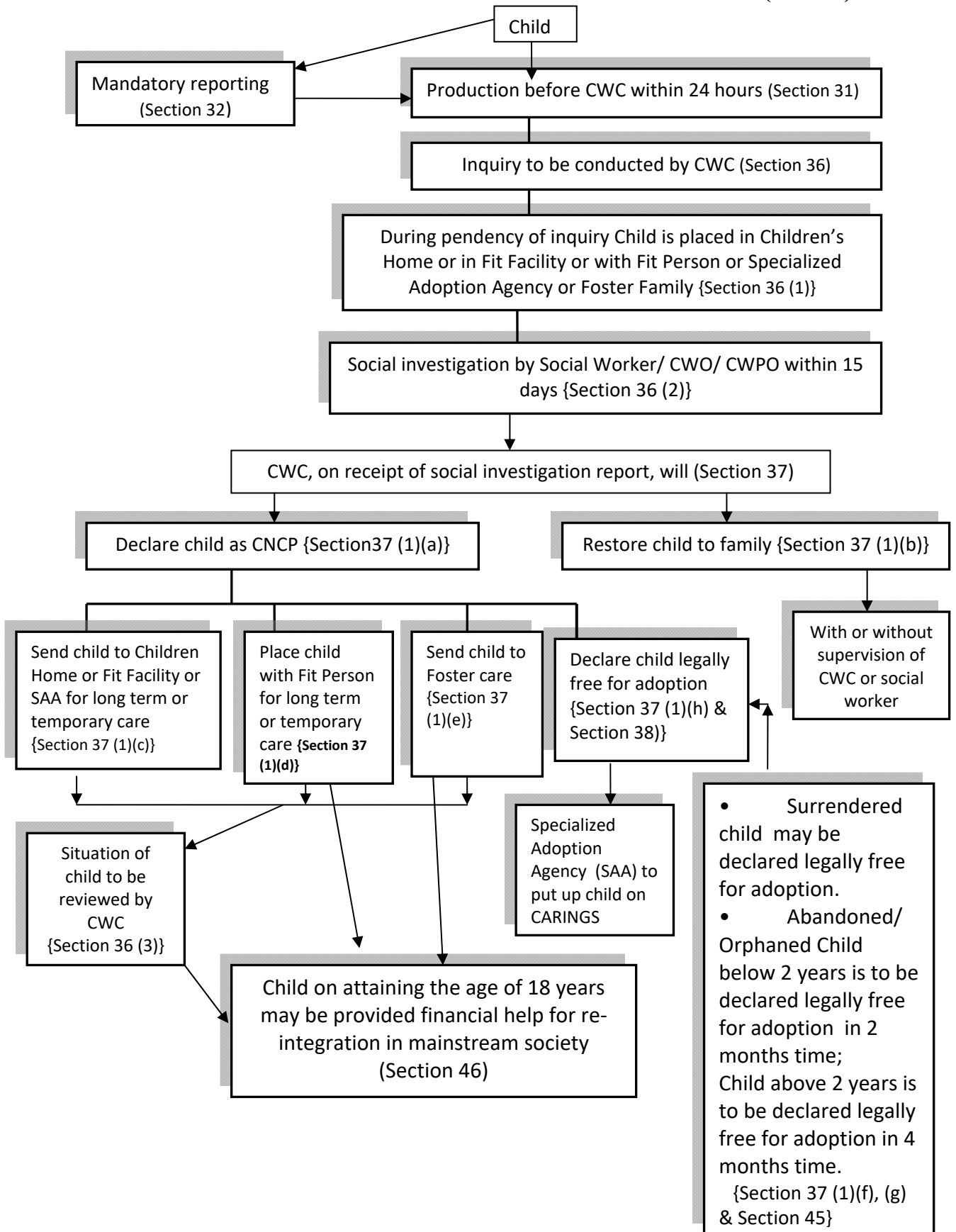
- (1) “abandoned child” means a child deserted by biological/adoptive parents/guardians, as declared by CWC;
- (2) “child in conflict with law” (CCL) is alleged/found to have committed an offence;
- (3) “child in need of care and protection”—
 - (i) homeless/without any means of subsistence/living on the street; or
 - (ii) working in contravention of labour laws or begging, or used for illegal activities; or
 - (iii) resides with a person (guardian) who has injured/exploited/abuse/neglected/threatened to kill the child; or abused for unconscionable gains; or
 - (iv) mentally ill/mentally/physically challenged/suffering from terminal or incurable disease, with no support or look after/having parents or guardians unfit to take care; or
 - (v) missing/run away child, or whose parents cannot be found after inquiry; or
 - (vi) has been/is being/likely to be sexually abused, tortured or exploited; or
 - (vii) vulnerable and likely to be inducted into drug abuse or trafficking; or
 - (viii) victim of/affected by any armed conflict/civil unrest or natural calamity; or
 - (ix) at imminent risk of marriage before attaining the age of marriage;
- (4) “Child Welfare Officer” is an officer attached to a Children’s Home;
- (5) “Child Welfare Police Officer” is an officer thus designated;

- (6) “Children’s Home” is established, maintained and registered, by State Government;
- (7) Children’s Court/Special Court are established under POCSO Act 2012.
- (8) “Child Care Institution” means Children Home, Open Shelter, Observation Home, Special Home, Place of Safety, Specialized Adoption Agency and Fit Facility;
- (9) “Court” means a civil court, with jurisdiction in matters of adoption and guardianship;
- (10) Corporal punishment means physical punishment for purpose of disciplining child.
- (11) “Childline services” is a 24x7 emergency outreach service for children in crisis;
- (12) “District Child Protection Unit” (DCPU) to ensure implementation of this Act;
- (13) “Fit Facility” is a registered organization to temporarily keep a particular child;
- (14) “Fit Person” is a person, to own the responsibility of a child, for a specific purpose;
- (15) “Foster Care” is placement of a child, by CWC in alternate care;
- (16) “Heinous Offences” for which minimum punishment is of imprisonment for 7 years or more;
- (17) “Observation Home” is established and registered by State Government;
- (18) “Open Shelter” is established and maintained by State Government;
- (19) “orphan” is a child— without biological or adoptive parents or legal guardian.
- (20) “Petty Offences” for which maximum punishment is imprisonment of up to 3 years;
- (21) “Place of Safety” means any place or institution, not being a police lockup or jail, established separately to take care of the children alleged or found to be in conflict with law;
- (22) “Probation Officer” is appointed under Probation of Offenders Act, 1958 or under DCPU;
- (23) “Prospective Adoptive Parents” (PAP) is a person or persons eligible to adopt a child;
- (24) “Serious Offences” for which punishment is imprisonment between 3 to 7 years;
- (25) “Special Juvenile Police Unit” (SJPU) is a unit designated for handling children;
- (26) “Special Home” is an institution established for housing of children, who are found, to have committed an offence;
- (27) “Specialized Adoption Agency” is an institution registered and established for housing orphans, abandoned and surrendered children, for adoption;
- (28) “Surrendered Child” is relinquished by the parent or guardian to CWC;
- (29) Juvenile Justice Board (JJB). (i) is constituted for every district for exercising powers relating to children in conflict with law.
 - (ii) JJB shall consist of a Metropolitan Magistrate or a Judicial Magistrate of First Class (Principal Magistrate) and two social workers of whom at least one shall be a woman.
- (30) Child Welfare Committee (CWC): (i) is constituted for every district for exercising the powers relation to children in need of care and protection.
 - (ii) CWC shall consist of a Chairperson, and four other members of whom atleast one shall be a woman and another, an expert on the matters concerning children.

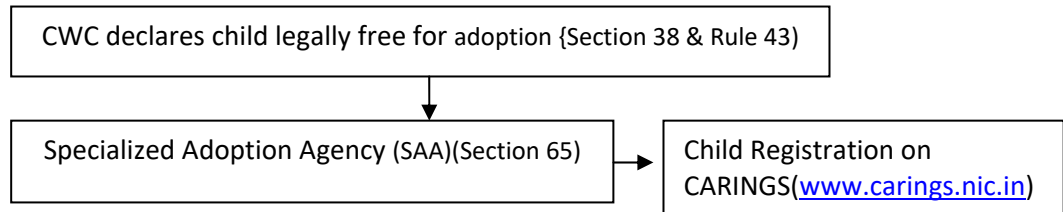
IV. Presumption and determination of Age by CWC/JJB:

- (a) Based on the obvious appearance of the person, the CWC/JJB shall record age of child as nearly as may be and proceed with the inquiry {Section 19 (1)}.
- (b) In case of reasonable doubt, CWC/JJB, shall undertake process of age determination, by seeking -
 - (i) date of birth certificate from school, or matriculation or equivalent certificate; or
 - (ii) certificate given by a corporation/municipal authority/panchayat;
 - (iii) only in absence of (i) and (ii) above, age shall be determined by an ossification test etc. within 15 days.
- (c) Age recorded by CWC/JJB to be the age of such person be deemed to be the true age of person {Section 94 (3)}.

**Flow Chart of Processes for
CHILD IN NEED OF CARE AND PROTECTION (CNCP)**



**Overview of
ADOPTION PROCESS (Section 56 to 70 and Rules 32 to 49)**
(under New Adoption Guidelines'2015)
Pre-Adoption Process



Flow chart of Adoption Process within country

- Step-1:** Prospective Adoptive Parent (PAP) to register on CARINGS for selection of preferred SAA for Home Study Report (HSR) and indicate from where they wish to adopt.
- Step-2:** User ID and Password generated (Acknowledgement letter). PAP to upload documents within 30 days of registration.
- Step-3:** Registration number generated. SAA conducts HSR of the PAP and uploads it on CARINGS (online).
- Step-4:** Suitability of PAP is examined (if not suitable, PAP informed of rejection and reasons for rejection are recorded). PAP reserves 1 child, as per their preference.
- Step-5:** PAP visits SAA within 15 days from the date of reservation and finalizes child.
If child is not finalized within stipulated time, PAP will lose seniority.
- Step-6:** On acceptance of child by PAP, SAA completes referral and adoption process (in CARINGS). PAP takes child in pre-adoption Foster Care and SAA files petition in the Adoption Court.
- Step-7:** Adoption Court order issued. Post-adoption follow up report is conducted for a period of 2 years.

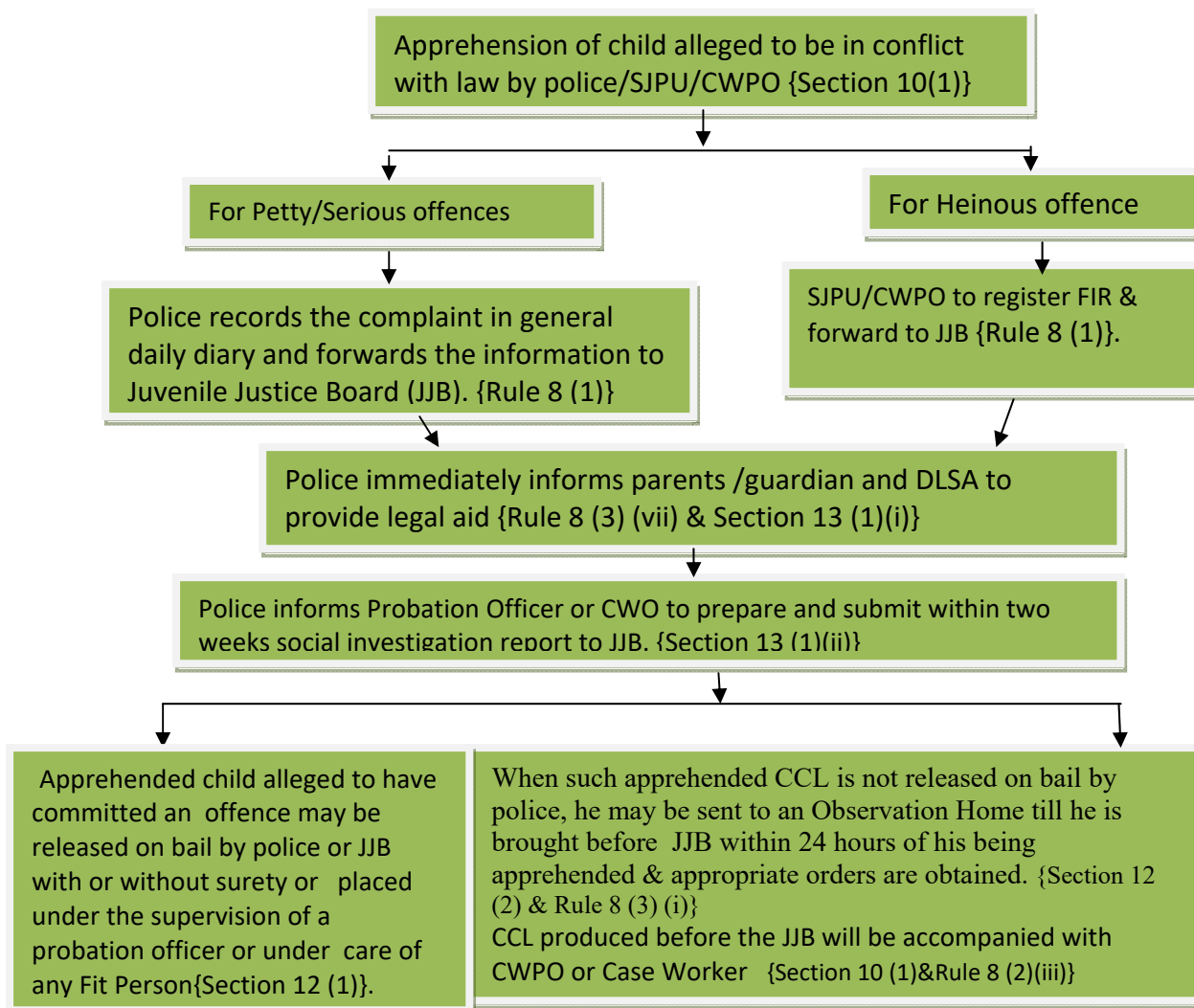
FLOW CHART OF ADOPTION PROCESS (INTER COUNTRY)

- Step-1:** Prospective Adoptive Parent (PAP) residing in foreign country may contact the nearest Authorized Foreign Adoption Agency (AFAA) or Central Authority (CA) for registration, to adopt a child from India. In case of foreign citizen residing in India, they have to register online on CARINGS.
- Step-2:** Home Study Report (HSR) and documents are uploaded online CARINGS by AFAA/CA. HSR is approved by CARA.
- Step-3:** AFAA reserves child, as per the preference of PAP, within a period of one month. If the case is not finalized within stipulated time, the PAP will lose seniority.
- Step-4:** SAA completes the referral and adoption process (in CARINGS). Original dossier sent by AFAA/CA to SAA.
- Step-5:** On receipt of the acceptance of the child from the PAP, the SAA shall file an application in the court for obtaining the adoption order.
- Step-6:** Dossier received at SAA and then Conformity is issued. Departure of Child.
- Step-7:** Citizenship given to child in country of adoption.
- Step-8:** Post-adoption follow up is conducted for a period of 2 years.

Source: Central Adoption Resource Agency (www.cara.nic.in)

VI. Flow chart for dealing with CHILD IN CONFLICT WITH LAW (CCL)

A. PROCESS AT POLICE STATION [Sections 10 &13]



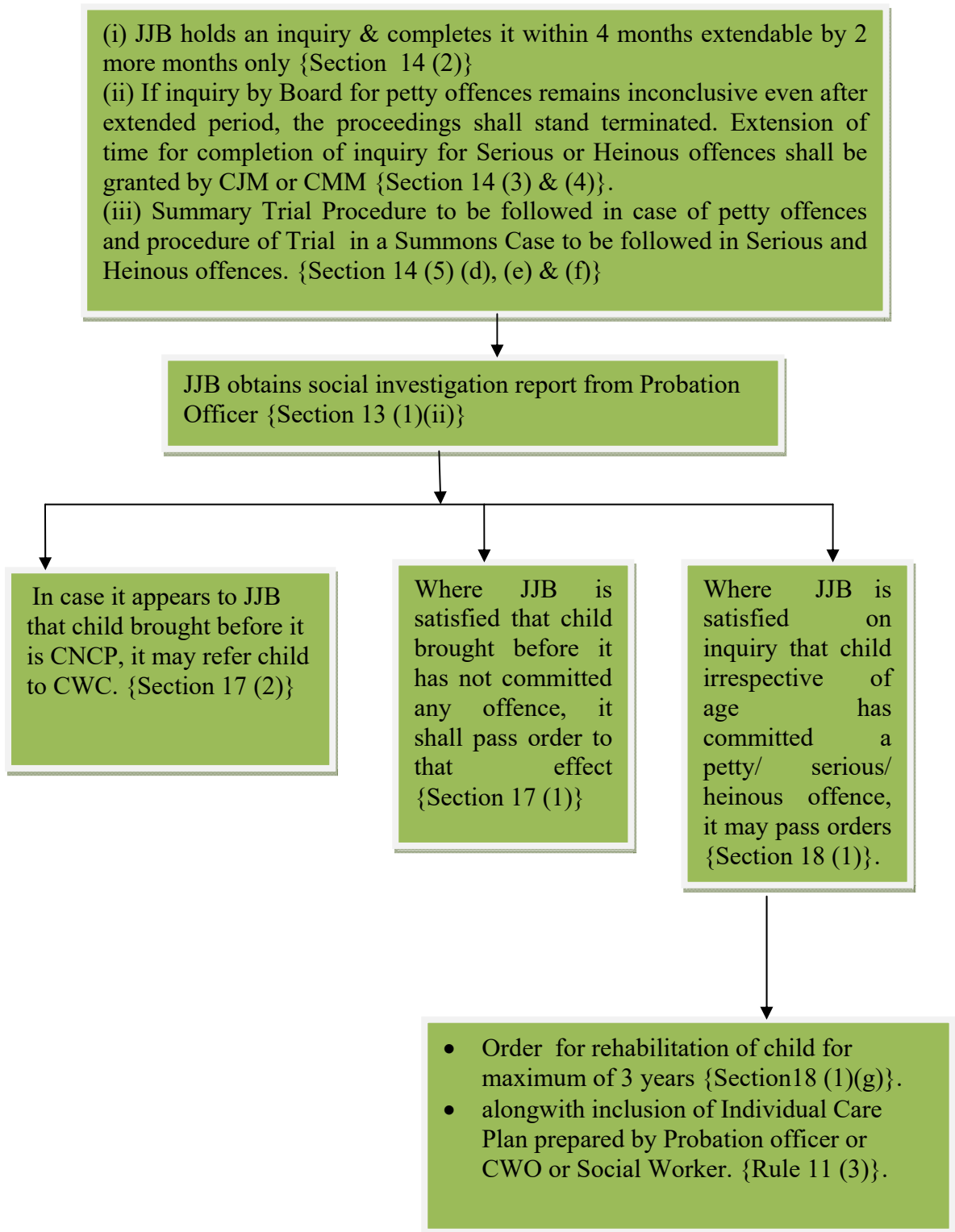
A (a). Procedure at Police Station

DOs (Section 10 & Rule 8)	Don't (Section 10 & Rule 8)
<ul style="list-style-type: none"> ▪ Child to be taken to Child Friendly Corner/room. ▪ Child should be produced before JJB within 24 hours. ▪ CWPO should be in plain clothes and not in uniform. ▪ Use of any coercion or force on the child is prohibited. ▪ Inform the child promptly and directly of the charges levelled against him through his parent or guardian. ▪ Copy of FIR should be provided to child or copy of the police report should be given to the parent or guardian. ▪ Provide appropriate medical assistance, assistance of interpreter or a special educator, or any other assistance which the child may require. ▪ Inform the District Legal Services Authority (DSLISA) for providing free legal aid to the child. 	<ul style="list-style-type: none"> ▪ No FIR is to be registered against a CCL except in a Heinous offence or offence committed jointly with adult. ▪ Child should not be kept in Police Station or lock up or an adult Jail. ▪ Child will not be hand cuffed/chained/fettered. ▪ Child shall not be asked to sign any statement. ▪ Child shall not be compelled to accept his guilt. ▪ No joint proceedings of child in conflict with law along with a person who is not a child (Section 23)

B. PROCESSES IN JUVENILE JUSTICE BOARD

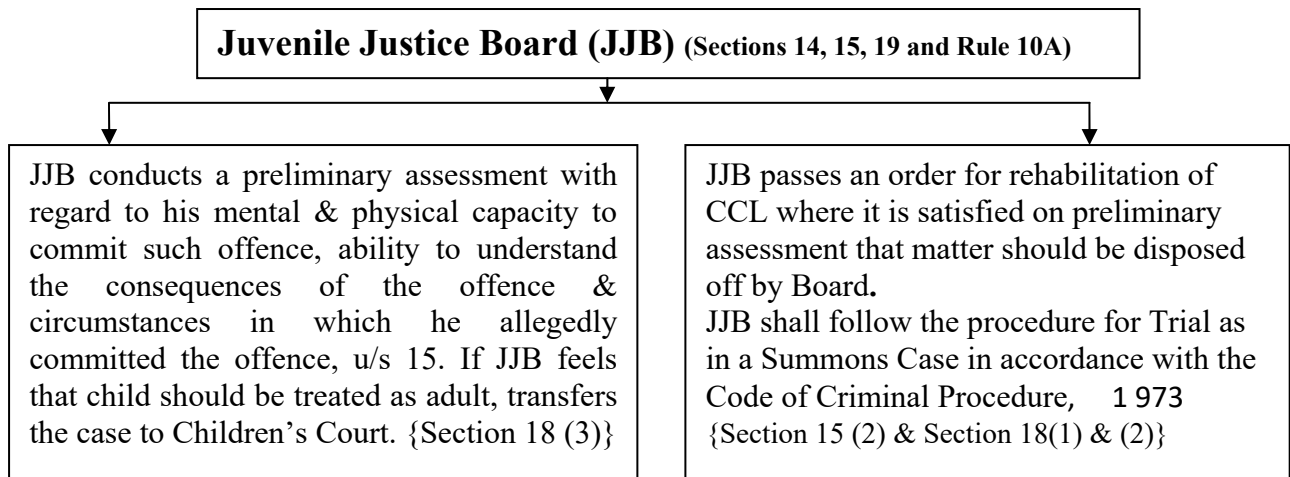
B. (a) FLOW CHART IN CASES OF PETTY OR SERIOUS OFFENCES BY ALL CHILDREN INCLUDING HEINOUS OFFENCES BY CHILDREN UPTO 16 YEARS OF AGE

[Sections 13,14,17,18 and Rules 9, 10 and 11]

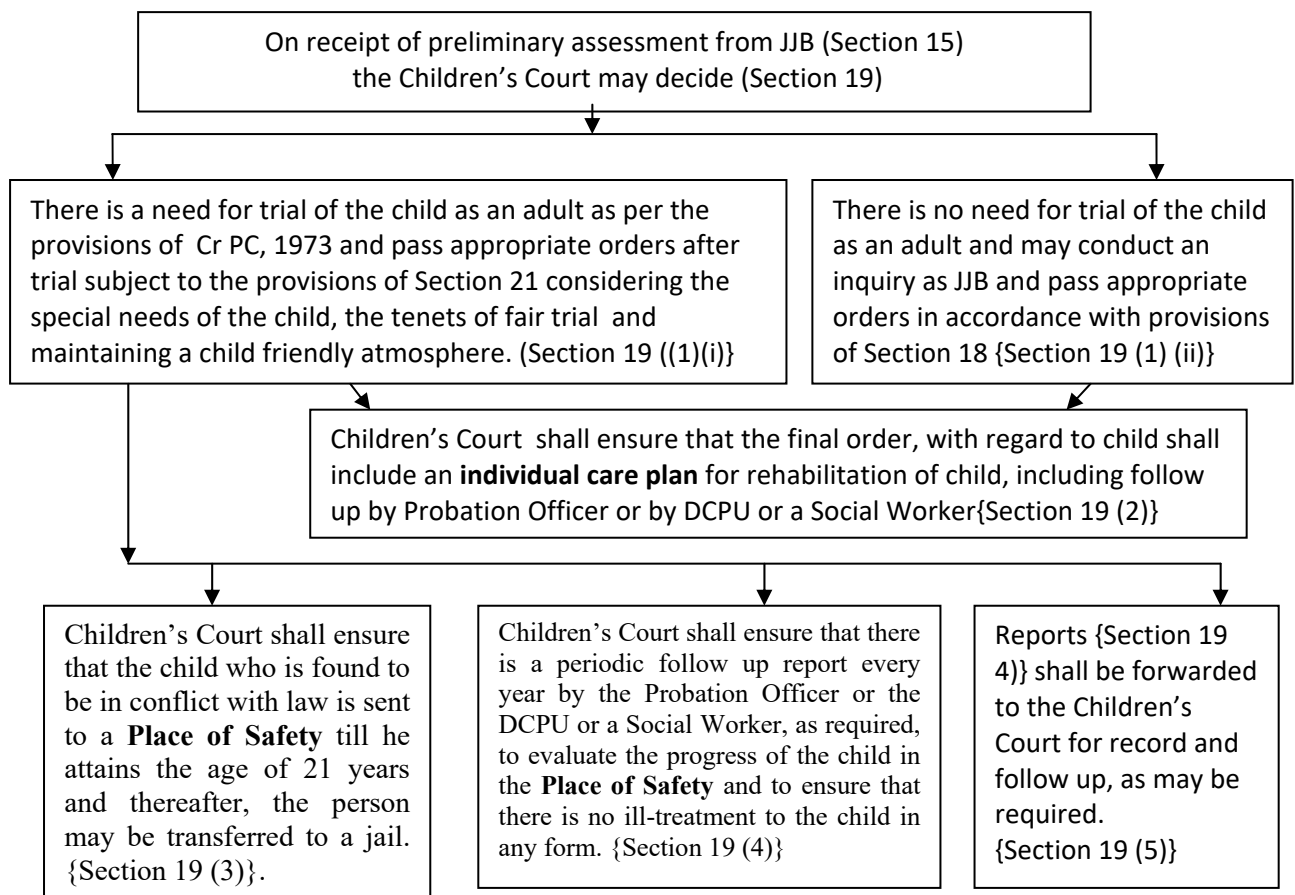


NOTE: INQUIRY IS TO BE COMPLETED WITHIN 4 MONTHS, EXTENDABLE BY 2 MORE MONTHS ONLY.

B (b). PROCESSES IN A HEINOUS OFFENCE BY CCL BETWEEN 16-18 YEARS



B (c). CHILDREN'S COURT



B (d). Destruction of records: The records of conviction of a child in conflict with law shall be kept in safe custody till the expiry of the period of appeal or for a period of 7 years, and thereafter destroyed by the Person-in-charge or Board or Children's Court, as the case may be.

Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of Section 19 (1) of the Act, the relevant records of conviction of such child shall be retained by the Children's Court. (Section 14)

VII. Appeals and Revisions under the Act

Provisions for appeals and revisions against an order of CWC/JJB/Children's Court have been provided under Sections 101 and 102 of the JJ Act, 2015.