

THE CHILD JUSTICE ACT, 2008 (ACT NO 75 OF 2008)



FACTSHEET: CHILD JUSTICE ACT 2008

1. The Child Justice Act (CJA) came into effect on **1 April 2010**.
2. The Inter-sectoral Committee on Child Justice (ISCCJ), comprising government departments and non-governmental bodies was established by legislation to support policy matters and operational challenges in managing children in conflict with the law.
3. The CJA introduces a Criminal Justice System (CJS) for **children under the age of 18** who are in conflict with the law.
4. In practice, this means that children under the age of 18, who allegedly commit crimes, will be handled in terms of specific procedures. For example, a preliminary inquiry is held prior to the first court appearance and will take place within 48 hours of arrest.
5. The preliminary inquiry is a more inquisitorial procedure rather than an adversarial procedure. The Magistrate, the child, his/her parents, the Prosecutor, the Probation Officer and the arresting officer are present at the preliminary inquiry. A legal aid attorney may also be present. These people examine the factors that may have influenced the child to commit the crime concerned and determine ways of assisting the child to acknowledge that he/she did wrong.
6. If the child shows remorse, a plan is developed to address the crime in such a way that the child does not fall into a cycle of crime and violence.
7. The plan could involve a **diversion option for an offence** committed by the child away from the mainstream CJS. The child may be ordered to attend a programme such as a life skills programme, an anger management programme, a substance abuse programme and so forth as a way of addressing the underlying problem that led the child to commit the crime/s.
8. These **diversion programmes form part of the sentencing options** available to the Magistrate and are provided for in chapter 10 of the CJA. These sentencing options include:
 - Community-based options – diversion programmes
 - Restorative Justice Sentences, e.g. Family Group Conference and Victim offender mediation



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- Fines or alternative fines which may include symbolic restitution, payment of compensation or any other option that the court deems fit and proper
 - Sentences involving correctional supervision
 - Compulsory attendance to a non-custodial sanctions programme
 - Sentences of compulsory residence in child and youth care centre
 - Direct imprisonment
9. The child's compliance with the diversion order will be monitored and reported on back to court.
10. The Act **balances the rights and responsibilities of the child offender, the victim, the family and the community**. It takes into consideration the impact of the offence on the victim, by means of a victim impact statement. The statement reflects the physical, psychological, social, financial, or any other consequences of the offence for the victim.
11. This provision allows for a healing and a conciliatory process to take place and further expands and entrenches the notion of restorative justice. It also makes it easier to facilitate the **rehabilitation and integration** of the child offender into society.
12. Currently, the DoJ&CD has two existing One Stop Family and Child Justice Centres which are located in Bloemfontein and Port Elizabeth. As a result of financial challenges, departments are considering the designation of at least one centre in each province at existing Secure Care Facilities. The Department of Social Development has 33 existing Secure Care Facilities for children awaiting trial countrywide and will open 6 more soon. Government is planning to build 18 more during the next 3 financial years.
13. Apart from the provisions of the Child Justice Act, children's interests are also protected in the Children's Act, 2005 (Act 38 of 2005) and the Sexual Offences Act (Act 32 of 2007).



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