

AS INTRODUCED IN LOK SABHA

Bill No. 137 of 2018

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)
AMENDMENT BILL, 2018

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BILL

to amend the Juvenile Justice (Care and Protection of Children) Act, 2015.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 **1.** (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Amendment Act, 2018. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO CHAPTER VIII OF THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)
ACT, 2015Amendments
to Chapter
VIII.

2. In the Juvenile Justice (Care and Protection of Children) Act, 2015, in CHAPTER VIII,— 2 of 2016.
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(i) in section 56, in sub-section (5), for the words "valid order from the Court", the words "valid order from the District Magistrate" shall be substituted;

(ii) in section 58, —

(a) in sub-section (3), for the words "in the court", the words "before the District Magistrate" shall be substituted; 10

(b) in sub-section (4), for the words "the receipt of a certified copy of the court order", the words "receipt of the certified copy of the order passed by the District Magistrate" shall be substituted;

(iii) in section 59,—

(a) in sub-section (7), for the words "in the court", the words "before the District Magistrate" shall be substituted; 15

(b) in sub-section (8), for the words "the receipt of a certified copy of the court order", the words "receipt of the certified copy of the order passed by the District Magistrate" shall be substituted;

(iv) in section 60, in sub-section (1), for the words "an order from the court", the words "an order from the District Magistrate" shall be substituted; 20

(v) in section 61,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Procedure for disposal of adoption proceedings."; 25

(b) in sub-section (1), for the words "the court shall satisfy itself that", the words "the District Magistrate shall satisfy that" shall be substituted;

(c) in sub-section (2), for the words "and the case shall be disposed of by the court", the words "and the proceeding shall be disposed of by the District Magistrate" shall be substituted; 30

(vi) in section 63, for the words "issued by the court", the words "issued by the District Magistrate" shall be substituted;

(vii) in section 64, for the words "concerned courts", the words "District Magistrates" shall be substituted;

(viii) in section 65 in sub-section (4), for the words "order from the court", the words "order from the District Magistrate" shall be substituted. 35

CHAPTER III

MISCELLANEOUS

Transfer of
pending
matters under
Chapter VIII of
the Juvenile
Justice (Care
and Protection
of Children)
Act, 2015 to
the District
Magistrate.

3. All the proceedings pending before any court for adjudication under Chapter VIII of the Juvenile Justice (Care and Protection of Children) Act, 2015, before the commencement of this Act, shall stand transferred to the District Magistrate having jurisdiction over the area to entertain such proceedings. 40 2 of 2016.

STATEMENT OF OBJECTS AND REASONS

The Juvenile Justice (Care and Protection of Children) Act, 2015 (the Juvenile Justice Act) has come into effect from the 15th January, 2016, with comprehensive provisions for the children alleged and found to be in conflict with law and children in need of care and protection. The Juvenile Justice Act, has been enacted keeping in view of the standards prescribed in the Convention on the Rights of the Child, the United Nations Millennium Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption (1993) and other related international instruments.

2. Chapter VIII of the Juvenile Justice Act deals with adoption. Sub-section (1) of section 56 of the Juvenile Justice Act provides that adoption shall be resorted to for ensuring right to family for the orphan, abandoned and surrendered children, as per the provisions of the said Act and the rules and regulations made thereunder. Section 63 of the Juvenile Justice Act states that the adoption is final on the issuance of the adoption order by the Court. Sub-section (2) of section 61 of the said Act provides that the adoption proceedings shall be disposed of by the court within a period of two months from the date of filing of an application.

3. However, it has been observed that there is inordinate delay in issuing adoption orders by the courts due to heavy work load. As on 20th July, 2018 there are 629 cases relating to passing of orders for adoption pending in various courts across the country. Due to delay in issuing the adoption orders by the courts, the child continues to languish in the child care institutions, even after getting a family.

4. In order to address the aforesaid issue and in the best interest of the child, it has been decided to amend the Juvenile Justice Act to empower the 'District Magistrate' to issue orders for the purpose of adoption. This would ensure timely processing of adoption cases and to provide orphaned, abandoned and surrendered children with familial care and protection.

5. Accordingly, the Juvenile Justice (Care and Protection of children) Amendment Bill, 2018, *inter alia*, proposes:—

(a) substituting the words "District Magistrate" for "court" and empowering the District Magistrate to issue order for adoption under section 63 and proposes to make consequential amendments in sections 56(5), 58(3), 58(4), 59(7), 59(8), 60(1), 61(1), 61(2), 64 and 65(4) of the Juvenile Justice Act; and

(b) transferring all the proceedings pending before any court relating to adoption orders under Chapter VIII of the Juvenile Justice Act to the District Magistrate having jurisdiction over the area to entertain such proceedings.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 27th July, 2018.

MANEKA SANJAY GANDHI.

ANNEXURE

EXTRACTS FROM THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

(2 OF 2016)

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CHAPTER VIII

ADOPTION

Adoption. **56. (1)** * * * * *

(5) Any person, who takes or sends a child to a foreign country or takes part in any arrangement for transferring the care and custody of a child to another person in a foreign country without a valid order from the Court, shall be punishable as per the provisions of section 80.

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Procedure for adoption by Indian prospective adoptive parents living in India. **58. (1)** * * * * *

(3) On the receipt of the acceptance of the child from the prospective adoptive parents along with the child study report and medical report of the child signed by such parents, the Specialised Adoption Agency shall give the child in pre-adoption foster care and file an application in the court for obtaining the adoption order, in the manner as provided in the adoption regulations framed by the Authority.

(4) On the receipt of a certified copy of the court order, the Specialised Adoption Agency shall send immediately the same to the prospective adoptive parents.

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Procedure for inter-country adoption of an orphan or abandoned or surrendered child. **59. (1)** * * * * *

(7) On receipt of the acceptance of the child from the prospective adoptive parents, the Specialised Adoption Agency shall file an application in the court for obtaining the adoption order, in the manner as provided in the adoption regulations framed by the Authority.

(8) On the receipt of a certified copy of the court order, the specialised adoption agency shall send immediately the same to Authority, State Agency and to the prospective adoptive parents, and obtain a passport for the child.

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Procedure for inter-country relative adoption. **60. (1)** A relative living abroad, who intends to adopt a child from his relative in India shall obtain an order from the court and apply for no objection certificate from Authority, in the manner as provided in the adoption regulations framed by the Authority.

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Court procedure and penalty against payment in consideration of adoption. **61. (1)** Before issuing an adoption order, the court shall satisfy itself that—

(a) the adoption is for the welfare of the child; (b) due consideration is given to the wishes of the child having regard to the age and understanding of the child; and (c) that neither the prospective adoptive parents has given or agreed to give nor the specialised adoption agency or the parent or guardian of the child in case of relative adoption has received or agreed to receive any payment or reward in consideration of the adoption, except as permitted under the adoption regulations framed by the Authority towards the adoption fees or service charge or child care corpus.

(2) The adoption proceedings shall be held *in camera* and the case shall be disposed of by the court within a period of two months from the date of filing.

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63. A child in respect of whom an adoption order is issued by the court, shall become the child of the adoptive parents, and the adoptive parents shall become the parents of the child as if the child had been born to the adoptive parents, for all purposes, including intestacy, with effect from the date on which the adoption order takes effect, and on and from such date all the ties of the child in the family of his or her birth shall stand severed and replaced by those created by the adoption order in the adoptive family:

Effect of adoption.

Provided that any property which has vested in the adopted child immediately before the date on which the adoption order takes effect shall continue to vest in the adopted child subject to the obligations, if any, attached to the ownership of such property including the obligations, if any, to maintain the relatives in the biological family.

64. Notwithstanding anything contained in any other law for the time being in force, information regarding all adoption orders issued by the concerned courts, shall be forwarded to Authority on monthly basis in the manner as provided in the adoption regulations framed by the Authority, so as to enable Authority to maintain the data on adoption.

Reporting of adoption.

65. (1) * * * * *

Specialised Adoption Agencies.

(4) In case any Specialised Adoption Agency is in default in taking necessary steps on its part as provided in this Act or in the adoption regulations framed by the Authority, for getting an orphan or abandoned or surrendered child legally free for adoption from the Committee or in completing the home study report of the prospective adoptive parents or in obtaining adoption order from the court within the stipulated time, such Specialised Adoption Agency shall be punishable with a fine which may extend up to fifty thousand rupees and in case of repeated default, the recognition of the Specialised Adoption Agency shall be withdrawn by the State Government.

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LOK SABHA

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BILL

to amend the Juvenile Justice (Care and Protection of Children) Act, 2015.

(Smt. Maneka Sanjay Gandhi, Minister of Women and Child Development)