

Bill No. LXXIII of 2010

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)
AMENDMENT BILL, 2010

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further to amend the Juvenile Justice (Care and Protection of Children) Act, 2000.

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

1. (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Amendment Act, 2010. Short title and commencement.

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

56 of 2000 **2.** In the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the principal Act), in section 48, sub-section (2) shall be omitted. Amendment of section 48.

3. For section 58 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 58.

10 ‘58. (1) Where it appears to the competent authority that any juvenile or child kept in a special home or an observation home or a children's home or a shelter home or in an institution in pursuance of this Act, is a mentally ill person or addicted to alcohol or other drugs which lead to behavioural changes in a person, the competent authority may order his removal to a psychiatric hospital or psychiatric nursing home Transfer of juvenile or child as are mentally ill or addicted to alcohol or other drugs.

in accordance with the provisions of the Mental Health Act, 1987 or the rules made thereunder. 14 of 1987

(2) In case the juvenile or child had been removed to a psychiatric hospital or psychiatric nursing home under sub-section (1), the competent authority may, on the basis of the advice given in the certificate of discharge of the psychiatric hospital or psychiatric nursing home, order to remove such juvenile or child to an Integrated Rehabilitation Centre for Addicts or similar centres maintained by the State Government for mentally ill persons (including the persons addicted to any narcotic drug or psychotropic substance) and such removal shall be only for the period required for the in-patient treatment of such juvenile or child. 5 10

Explanation.—For the purposes of this sub-section,—

(a) "Integrated Rehabilitation Centre for Addicts" shall have the meaning assigned to it under the scheme called "Central Sector Scheme of Assistance for Prevention of Alcoholism and Substance (Drugs) Abuse and for Social Defence Services" made by the Government of India in the Ministry of Social Justice and Empowerment or any other corresponding scheme for the time being in force; 15

(b) "mentally ill person" shall have the meaning assigned to it in clause (l) of section 2 of the Mental Health Act, 1987; 14 of 1987

(c) "psychiatric hospital" or "psychiatric nursing home" shall have the meaning assigned to it in clause (q) of section 2 of the Mental Health Act, 1987. 20 14 of 1987

STATEMENT OF OBJECTS AND REASONS

The Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted to provide a juvenile justice system for juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto.

2. Section 48 of the said Act provides for committal to approved place of juvenile or child suffering from dangerous diseases and his future disposal. Sub-section (2) of this section provides that where a juvenile or the child is found to be suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis and such other diseases or is of unsound mind, he shall be dealt with separately through various specialized referral services or under the relevant laws as such.

3. Section 58 of the Act, *inter alia*, provides for the transfer of juvenile or child of unsound mind or child suffering from leprosy or addicted to drugs from special home or children's home or shelter home or an institution to a mental hospital or a leper asylum or treatment centre for drug addicts or to a place of safety for being kept there for a period as may be required.

4. The provisions referred to in the preceding paragraphs 2 and 3 provide for segregation of such children from other children in the special home or children home or shelter home or an institution which appear discriminatory in nature. In the opinion of experts also, segregation is no more necessary for the treatment of such children. The Union Ministry of Health has also recommended for amendment of the aforesaid Act for removing the discriminatory provisions.

5. Hon'ble High Court of Delhi *vide* an interim order dated 4th February, 2009 in a Public Interest Litigation filed by Kusth Asha Deep Foundation, [Writ Petition (Civil) No. 8112/2007 against Union of India and Others] held that there is urgency and need for immediate steps to be taken both to remove/amend discriminatory legislations and to ensure that the patients/ persons suffering from leprosy enjoy equal status as other citizens.

6. Rajya Sabha Committee on Petitions for Integration and Empowerment of Leprosy Affected Persons, in its 131st Report presented on 24th October, 2008 has also recommended that there is a need to amend the relevant provision of the Act so that the juvenile or child is not subjected to segregation or discrimination.

7. In view of the position stated in the foregoing paragraphs, the Central Government has decided to amend the Juvenile Justice (Care and Protection of Children) Act, 2000, *inter alia*, to remove discriminatory provisions in the said Act against children and to—

(a) omit sub-section (2) of section 48 which requires a juvenile or child suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis and such other diseases or of unsound mind, to be dealt with separately through various specialised referral services or under the relevant laws as such; and

(b) substitute section 58 by a new section to provide that—

(i) where it appears to the competent authority that any juvenile or child kept in a special home or a observation home or a children's home or a shelter home or in an institution in pursuance of this Act, is a mentally ill person or addicted to alcohol or other drugs which lead to behavioural changes in a person,

the competent authority may order his removal to a psychiatric hospital or psychiatric nursing home in accordance with the provisions of the Mental Health Act, 1987 or the rules framed thereunder;

(ii) in case the juvenile or child had been removed to a psychiatric hospital or psychiatric nursing home as mentioned in (i) above, the competent authority may, on the basis of the advice given in the certificate of discharge of the psychiatric hospital or psychiatric nursing home, order to remove such juvenile or child to an Integrated Rehabilitation Centre for Addicts or similar centres maintained by the State Governments for mentally ill persons (including the persons addicted to any narcotic drug or psychotropic substance) and such removal shall be only for the period required for the in-patient treatment of such juvenile or child.

8. This Bill seeks to amend the Juvenile Justice (Care and Protection of Children) Act, 2000 to achieve the above objects.

NEW DELHI;
The 6th October, 2010.

KRISHNA TIRATH

ANNEXURE

EXTRACTS FROM THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

(56 OF 2000)

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Committal to approved place of juvenile or child suffering from dangerous diseases and his future disposal.	48. (1) *	*	*	*	*
	(2) Where a juvenile or the child is found to be suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis and such other diseases or is of unsound mind, he shall be dealt with separately through various specialised referral services or under the relevant laws as such.				
	*	*	*	*	*
Transfer of juvenile or child of unsound mind or suffering from leprosy or addicted to drugs.	58.	Where it appears to the competent authority that any juvenile or the child kept in a special home or a children's home or shelter home or in an institution in pursuance of this Act, is suffering from leprosy or is of unsound mind or is addicted to any narcotic drug or psychotropic substance, the competent authority may order his removal to a leper asylum or mental hospital or treatment centre for drug addicts or to a place of safety for being kept there for such period not exceeding the period for which he is required to be kept under the order of the competent authority or for such further period as may be certified by the medical officer necessary for the proper treatment of the juvenile or the child.			
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RAJYA SABHA

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further to amend the Juvenile Justice (Care and Protection of Children) Act, 2000.

*[Shrimati Krishna Tirath, Minister of State (Independent Charge) of the Ministry of
Women and Child Development]*