REPUBLIC OF SOMALILAND

Juvenile Justice Law No. 36/2007

House of Representatives
Hargeisa, Somaliland

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CHAPTER ONE

PART I.

Article 1. Definitions

In this act, unless the context indicates otherwise

A Child	Means any human being below the age of 15 years old.
Maturity	Means any human being who reached 15 years with the signs of maturity. Likewise, a mature person shall be whoever reaches the age of 18 years without the signs of maturity
Adult	Means an adult person nominated by the court instead of his parents or guardian in their absence.
A Guardian	Means any person who is responsible of the child in accordance with the law.
Diversion	Means orders and decrees issued by a competent judge with the aims of rehabilitating a child
Children Court	Means a court that hears and determines case involving children established under this law.
Children Police	Means special police unit for the protection of children.
Children Pre-trial Detention Centers	Means detention centers for young offenders established under this law.
Deprivation of Liberty	Means any form of restriction of liberty including detention, arrest and commitment to a Children Rehabilitation Center.
Open Facility	Means an institution such as Children Rehabilitation Center with little restriction of movement imposed on the child. It is also a facility where a child can fully interact with the community.
Closed Facility	Means an institution where the movement of the child in and out of the premises and his contact with the community is allowed but with surveillance.
High Security Facility	Means an institution with strict regulations and where the child is placed under a constant surveillance.
Minister	Means Minister of Justice and Minister of Family Affairs and Social Development.
Restorative Justice	Means the promotion of reconciliation, restitution and responsibility through the involvement of the child, parent, other family members of the

	child, victim and the community.
Probation Officer	Means an officer affiliated to the children court that is responsible for the assessment of children in conflict with law.

Article 2: General Principles

Interpretations

The provisions of this law shall be interpreted in a manner consistent with the Somaliland Constitution, Sharia, International Child Rights Conventions and International Human Rights Law.

Article 3. Precedence of this Law

This law shall have precedence over any other law or provision in all matters concerning the administration of Children Justice.

Article 4. Citations

This is special law which administers the offenses committed by children and cited as Juvenile Justice Law.

Articles 3.

Article 5. Objectives of this Law

The objectives of this law are:

5.1. To protect the rights of children in accordance with International Child Right Conventions and International Human Rights Law and in a manner consistent with Somaliland cultural and Islamic values.

5.2. To homogenize the provisions of Secular, Sharia and Somali Customary laws relating to children in conflict with law.

5. 3. To establish a fair and humane Children Justice system, which aims at:

a. Protecting and promoting physical and mental well-being and personal development of the children.

b. Fostering children's sense of dignity and worth, while reinforcing their respect for human rights and fundamental freedoms of others, by holding them accountable for their actions.

c. Safeguarding the interest of victims and the community while supporting reconciliation by means of restorative justice response.

d. Promoting the involvement of parents, victims, elders, women, professionals, and communities in the children justice process in order to facilitate the reintegration of children as socially constructive and productive members of the society.

Provisions of this law shall apply to all children in Somaliland irrespective of sex, nationality, religion, ethnic or social origin, immigration or legal status or any other status of the child.

A child lacking of family support, or educational or employment opportunities must have equal access to available services.

Children shall be entitled to equal treatment where they commit similar offences

State shall provide free legal assistance to destitute children.

Article 6. Best Interests of the Child

In any action and decision affecting children, the best interest of the child shall be the primary consideration.

Article 7. Protection of Privacy

7.1 Privacy of child offender shall be protected at all stages of the process.
7.2 No information that may have negative impacts and lead to the identification of the child shall be published or released.
7.3 Personal records of the child who commit an offence shall be kept strictly confidential and be closed to a third party, unless such a party is directly concerned with the case or a duly authorized person.

Article 8. Deprivation of Liberty

A child may be deprived of liberty only as a measure of last resort; and only for the minimum necessary period of time.

A child may be deprived of liberty only if he is caught in flagrant delicto or accused of committing offenses set forth by law.

Children deprived of liberty shall be placed or kept in a safe and secure place permitted by law.

Article 9. Rights of Child deprived of liberty

9.1 Any child deprived of liberty shall have the right to:

70. To be notified of the charges against him/her.
71. Get his/her parents or guardian be informed of the reasons of his/her arrest and establish contacts.
72. Be presumed innocent until his/her guilt is proven in a court of law.

73. Have legal counsel and to communicate with his/her legal advisers freely.
74. Silent and to be questioned only in the presence of his/her parents, guardian or legal counsel.
75. Get his/her parents or guardian present at all stages of the proceedings.
76. Prompt appearance before the court.
77. Be allowed to Call and cross-examine witnesses and examination in chief
78. Appeal against any decision or sentence passed on him/her to a higher authority.
79. Free interpretation services if the language of the court is not his/her mother tongue.
80. Be protected from any form of physical punishment and psychological harassment.
81. Be detained separately from adults and girls from boys.
82. Adequate food and water; sufficient clothing, bedding and blankets and medical treatment, care and support.
83. Education and reading material.
84. Regular visit from parents, relatives and/or lawyers.

9.2 A mentally disabled child or unable to speak who is deprived of liberty shall have the provided in the proceeding article, he/she also has the right to have an expert to explain to him/her needs and requirements

Article 10 Criminal Capacity

Notwithstanding the provisions of the Penal Code or any other law:

10.1. Whoever, at the time he committed an act, had not attained fifteen years of age shall not be liable.

10.2. A child who attained fifteen years of age until eighteen years may be liable for criminal responsibility in accordane with the Penal Code, but not full criminal responsibility

10.3 Whoever, at the time he committed an act, had attained eighteen years of age shall have complete criminal punishment and shall not be recognized as child or youth.

Article 11. Proportionality

Punishment for commission of an offence by a child must be proportionate to the circumstances of the child, the gravity and the nature of the offence..

Article 12. Prohibition of Certain Punishments

No child shall be subject to:

a. Death penalty.
b. Life imprisonment.
c. Corporal punishment.

d. Maximum punishment of the child shall not exceed 15 years (aggravated circumstances)

Article 13. Protection of the child's record

13.1 A complete record of the following information concerning every child in the Child Rehabilitation Center, shall be made and kept strictly confidential:

a. Information on the identity of the child.
b. The fact of and reason for commitment and the authority thereof.
c. The day and hour of admission or transfer.
d. Details of any known physical and mental problems.
e. All information of the child in the file shall not be accessible to a third part unless such person has vested interest in the case or legally authorized.

13.2 All reports including legal, medical and disciplinary records and any other document relating to the child shall be placed in a confidential individual file.

13.3 The file shall be kept in a safe place accessible only to authorized persons or parents/legal representatives..

13.4 Every child shall have the right to contest any fact or opinion contained in his/her file so as to permit the rectification of inaccurate, unfounded or unfair statements.

Article 14. Participation

14.1 Every child who is capable of communicating his/her views shall be given an opportunity to express his/her views in any judicial proceedings concerning the child.

14.2 Views of the child shall be taken into consideration by the court and shall be given due weight in accordance with the age and maturity of the child.

14.3 it is the responsibility of the judge to provide a lawyer or interpreter to assist the child that is unable to express his views.

14.4 the lawyer provided the proceeding article shall not be absent from the court hearings.

CHAPTER TWO

PART I

Article 15. Children Court

15.1. There shall be established Children Court in every region and district.

Regional Children Courts shall constitute a section of the regional Court

District Children Courts shall constitute a section of the district Court.

Children Courts shall be governed by the provisions of this law, The Law on the Organization of Judiciary, Criminal Procedure Code and Civil Procedure Code.

Article 16. Powers of children court

16.1 District Children Court shall have jurisdiction over the whole territory of the district with respect to offences punishable for a period not exceeding three years or a fine not exceeding 3,000,000 (three million) Somaliland Shilling.

16.2 Regional Children Courts shall have jurisdiction over the whole territory of the region with respect to all offences relating to children, not falling under the jurisdiction of the District Children Court

Article17. Appeals

The Court of Appeal shall have a Children Appellate Section where appeals against judgments of the courts of the first instance shall be heard.

Article 18: Composition of Children Court

18.1 Children Courts shall consist of a presiding judge and two Assessors from the public.

18.2 Subject to the provisions of the organization of the judiciary law, the children district/regional courts shall have:

a) The selection criteria of a judge provided under article 24 of the organization of the Judiciary Law.

b) Adequate and appropriate training in Children Justice.

c) have adequate knowledge of the Sharia.

18.3 The children appellate court shall be held in assize procedure. The criteria for the assessors are stipulated in article 24 of the Organization of the Judiciary Law.

The Supreme Court shall have a Children assize Appellate Section

Article 19. Court Assessors

19.1 The selection criteria of the Children Court Assessors shall be in accordance with article 38 fo the Organisation of the Judiciary Law

19.2 The children court shall hear offenses stipulated in the criminal procedure code in an assize manner where a child is accused.

19.3 The Judge of the children courts shall nominate two assessors considering the nature of the offense of the accused child in consultation with:

a) Parents, guardian or legal representative.

b) Victim and his legal representative.

19.4 It is the obligation of the judge to notify the assessors' the date, place and time of the court hearing seven days earlier.

shall be drawn from a list approved and reviewed each year by the Minister of Justice.

Article 20. Oath

Before assuming their duties, the Assessors shall, in open Court, take the following oath:

"I solemnly swear in the name of Allah that I shall discharge my duties in the sole interest of Justice, and serve my country and people loyally.

PART II.

Children Institutions

Section I.

Article 21. The Office of Social Probation

21.1 There shall be established office of social probation, which is affiliated to the Children Courts.

21.2 The Office of Social Probation shall be established by decree of the Minister of Justice.

21.3 The officers of the Social Probation office shall be nominated by the Minister of Justice in consultation with the Minister of Family Affairs and Social Development.

21.4 The officers of the Social Probation office shall be dismissed by the Minister of Justice in consultation with the Minister of Family Affairs and Social Development.

21.5 Terms and conditions of service of the Probation Officers shall be prescribed by regulations of the Minister of Justice.

Article 22. Duties of Probation Officers

Duties of Social probation officers shall be:

a. To provide the court with information, which includes the circumstances of the offence and the accused in writing.
b. To co-ordinate and cooperate with Children Police, social workers, parents, victims and others who may have interest in the case.
c. To supervise diversion programs.
d. To carry out any other duties as conferred to the officers by the law.

Section II.

Children Police

Article 23. Establishment of children police

23.1 Special Police Unit, hereafter called the Children Police, shall be established and operative in all cities and towns where there is a Children Court.

23.2 the children police unit shall be nominated by the police commissioner in consultation with the Minister of Justice.

Article 24. Duties and responsibilities of the Children Police

24.1. To protect public security, peace and order through

12. Prevention of children crimes.
13. Apprehension of young offenders.
14. Investigation of offences committed by children and against children.

24.2 To protect rights of children.

24.3 To provide security and safety to children.

24.4 To protect children who are victims of abuse or, those who are at risk.

Article 25. Children Police Training

Children Police Officers and investigators shall be given an adequate training.

Article 26. Conditions for Recruiting Children Police Officers

Children Police Officers shall be required:

26.1 To have a minimum qualification of Secondary School Certificate or its equivalent.

26.2 To have successfully completed Children Police Training.

To have high moral values, professional ethics and decency.

Must not have been accused of offenses against children.

Section III.

Children Pre-trial Detention Centers

Article 27. Establishment

27.1 Children Pre-trial Detention Centers shall be established by a decree of the Minister of Justice after consulting the Minister of Family Affairs and Social Development.

27.2 Children, who are detained, or arrested, shall be kept only in Children Pre-trail Detention Centers when they are established.

Article 28. Responsibilities of Children Pre-trial Detention Centers

It shall be the responsibility of Children Pre-trial Detention Centers to:

28.1 Keep, supervise and look after the detained children until they are tried or released.

28.2 Provide security and basic necessary services to all children under its custody.

28.3 Prepare individual reports, profiles and assessments of all children under its custody and submit them to the Children Courts.

28.4 Undertake any other duties or responsibilities as conferred to them by the law.

28.5 Children Pre-trial Detention Centers shall be under supervision of Ministry of Justice

Article 29. Governing Provisions

Children Pre-trial Detention Centers shall be governed by:

29.1 The Provisions of this law.
29.2 Regulations to be made by the Government which is consistence with this law.
29.3 Those which are compatible with criminal procedure code

Section IV.

Children Rehabilitation Centers

Article 30. Establishment Children Rehabilitation Centers

The Minister of Justice may, by decree, establish Children Rehabilitation Centers after consulting the Minister of Family Affairs and Social Development

Article 31 Duties of children rehabilitation centers

The aims of Children Rehabilitation Centers shall be:

31.1 Rehabilitating and reforming children who commit offenses without resorting to imprisonment.

31.2 Separating children from the adult prison population to safeguard children's well being and to avoid the negative influences through adult offenders.

31.3 Providing protection, education, and training to children.

31.4 Providing all other necessary support, care and services children may require

31.5 to assist and prepare them for release and reintegration with the community as socially constructive and productive members of the society.

31.6 Fostering and encouraging inter-ministerial and inter-departmental co- operation for the purpose of ensuring that adequate and appropriate cares, protection and services are provided.

Article 32. Responsibilities of Children Rehabilitation Centers

32.1 Children Rehabilitation Centers shall responsible for the custody of all children placed in the facilities.

The Children Rehabilitation Center shall promote the health, self-respect and sense of responsibility of the children under its custody.

32.3 It shall be the duty of Children Rehabilitation Centers to undertake any other responsibilities as conferred to them by law in order to achieve its aims.

Article 33. Regimes

Children Rehabilitation Centers shall be classified into the following three main categories taking into account the gravity and type of the offence being accused of the child:

89. Open facility with minimum security.
90. Closed security facility.
91. High security facility.

Article 34. Placement

34.1 The placement of children in facilities of different categories or with different regimes shall be determined by a competent Court.

34.2 The court while deciding on the placement of the child shall take the following factors into account:

a. The age and gender of the child.
b. The gravity and nature of the offence committed by the child.
c. The physical and mental conditions of the child.

Article 35. Management of the Children Rehabilitation Centers

35.1 An independent Board of Directors shall manage the Children Rehabilitation Centers.

35.2 Members of the Board will be nominated by their respective ministries as stipulated in article

35.3 The Board of Directors shall meet at least once every three months. They may also hold an extraordinary meetings when the chair of the Board proposes and other members consent. It is also admissible that 2/3 of the Board may propose an extraordinary meeting.

Article 36. Composition of the Board

36.1 The Board of Directors shall compose of representatives from:

Ministry of Justice

Ministry of Education

Ministry of Health

Ministry of Family Affairs and Social Development.

National Human Rights Commission

Business Community

Ministry of Youth and Sports

Ministry of Religious Affairs and Endowments

Children Police

Ministry of Interior.

Each of the above will nominate one member which the Minister of Justice will issue by decree

36.2 Members of the Board will be dismissed by their respective institutions.

36.3 Members of the Board mentioned the proceeding article (36.1) shall nominate among themselves Chairperson, Vice Chairperson, Executive Director and Secretary.

36.4. Duties of the Board of Directors shall be:

a) To prepare the needs of the children.

b) To visit rehabilitation centers.

c) To prepare,submit official reports and recommendations to relevant authorities.

d) To communicate with the institutions that they have working relations with in order to rehabilitate children in conflict with the law into the community.

e) To support the child live in a healthy life and to have a good conduct.

f) To establish a fund for the vulnerable children in conflict with the Law and all matters that can benefit the rehabilitation of the child.

Article 37. The Executive Director

The Board of Directors shall elect an Executive Director among them once every two years.

The Board shall have the power to remove the Executive Director.

The Executive Director shall implement the day-to-day activities, orders and decisions of the Board of Directors

Article 38. Governing Provisions

Children Rehabilitation Centers shall be governed by:

The provisions of this Law.

Rules and Procedures to be made by the Board of Directors.

Article 39. Personnel

39.1 All personnel in the Children Rehabilitation Center shall be selected in accordance with the Civil Service Law

39.2 All personnel in the Children Rehabilitation Centers shall be given an adequate and appropriate training relating to issues of the children before inception of the work.

Article 40. Powers of the Minister

Minister of Justice will issue with ministerial decree proper functioning, organizational and Managerial structures of Children Rehabilitation Centers.

Article 41. Registrations and Reception

41.1 No child shall be received in a Children Rehabilitation Center without a valid judicial order.

41.2 The details of such order shall be entered immediately in a register.

41.3 A register shall be maintained in every Children Rehabilitation Center.

41.4 A child shall be explained his or her rights during his/her stay in the Children Rehabilitation Center.

41.5 On admission every child received in the facility, shall be helped to understand:

a) The regulations governing the internal organization of the facility.
b) The goals, aims and methodology of the care and services they receive.
c) The disciplinary requirements and procedures.
d) Complaint procedures.
e) Any other matter which is necessary to enable the child to understand fully his/her rights and obligations during his/her stay in the Children Rehabilitation Center.

Article 42. Transfer

42.1 No child shall be transferred arbitrarily from one Children Rehabilitation Center to another.

42.2 Any transfer of a child from one Children Rehabilitation Center to another shall be ordered by the Children Court.

Article 43. Transport of the child

The transportation conditions shall ensure the safety of the child and should not subject the child to hardships or indignity.

43.2 The transport of the children shall be the responsibility of whoever the child is under their custody

Article 44. Complaint Procedures

44.1. The complaints of the child shall be exposed by the parents, guardians or his legal representative.

44.2 Complaints of the Child against the Administration of the Rehabilitation Centers will be forwarded by the Administration to the Board of Directors.

43.3 Any administrate Complaints shall be determined by the Board of Directors.

Article 45. Child Welfare and Protection Committee (CWPC)

45.1 A Child Welfare and Protection Committee (CWPC) shall be established by a decree of the Minister of Justice in consultation with the Minister of Family Affairs and Social Development.

45.2 The number, duties and responsibilities of the Child Welfare and Protection Committee (CWPC) shall be specified in the decree in which it was established.

CHAPTER THREE

PART I.

Pre-trial Process

Section I.

Appearance of a Child at the Court

Article 46. Methods and duration of appearance of the child

Methods of securing the appearance of the child at the court are:

a. Arrest

b. Order to appear before the court

c. Summon

d. If he is caught with mandatory offenses stipulated under article 35 of the Civil Procedure Code.

Article 47. Arrest and Security of the Child

47.1 A child under 15 years of age shall not be arrested for an offence unless his safety requires

If a child is arrested for security reasons, his/her parents or guardian shall be notified as soon as possible.

A child under 15 years of age caught in flagrante delicto shall be held on bail.

Article 48. Execution of Arrest

The execution of arrest of a child shall be carried out in accordance with article 29 of the criminal procedure code.

Article 49. Place of Arrest

A child who has been arrested shall be kept in a Children Pre-trial Detention Center.

Article 50. Rights of a Child under Pre-trial Detention

A child who is deprived of liberty shall have the right mentioned under article 14 of this Law.

Article 51 Interrogation

The Children Police Officer shall not undertake the interrogation of a child and must ensure the presence of his/her parents, guardian or legal representative.

Article 52. Reporting Arrest

52.1. Arrest of a child shall be immediately reported to:

The Office of the Attorney General.

The competent Children court.

If the Children Police fails to report the arrest of the child within 24 hours, a written report explaining the reasons of the failure shall be submitted to the Children Court at the preliminary hearing.

Article 53. Appearance at the Court

53.1 The arrested child shall be brought to a competent Children Court within 48 hours.

53.2 If the 48 hours expire on a day, which is not a court day, the child shall be brought to court not later than the end of the first court day.

53.3 The Children Police Officer taking the child to the court must prepare and submit a report containing:

Fact of the case.

Reasons for the arrest.

Personal details of the arrested child and any other person involved in the case.

Article 54. Summon to appear before the children court

The summon shall specify the place, the date and the time of the hearing.

A copy of such summon shall be served to the child, parents or his guardian

Within 24 hours after serving the summon, the Children Police Officer in charge of the case, must inform the Probation Officer concerned, that such summon has been served in the prescribed manner.

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Article 55. Bails

Notwithstanding the provisions of any other law, a child may be released on bail into the care of his parents, guardian.

The conditions of the bail shall be in accordance with the provisions of the Criminal Procedure Code.

If the parents, guardian or responsible person do not comply with the conditions of the bail the release shall be revoked.

Section II.

Article 56. Assessment of the Child

A Probation Officer who receives a notification from Police Officer in charge of Police Station that a child has been arrested or served with summons must assess the child or before the child appear at the preliminary hearing.

Article 57. Assessment Report

57.1 A Probation Officer is required to collect all information concerning the child who has been accused of committing an offence. Such information must contain:

a. Place of residence.
b. Surviving parents.
c. Whether the child is under the care of parent or guardian.
d. Whether the child has contact with peer groups.
e. Economic conditions of family.
f. Previous criminal records.
g. Any other information that could help to evaluate the overall character of the child.

57.2 The Probation Officer is required to submit the assessment report at the preliminary

Hearing.

57.3 If the information contains negative impacts on the child's dignity, the Judge will hear in closed hearing at the presence of his parents, guardian and Lawyer.

PART III.

Preliminary Hearing

Article 58. Nature of Preliminary Hearing

58.1 At the preliminary hearing, the child must respond to the accusation of the offense.

58.2 A child's appearance at preliminary hearing must be regarded as his/her first appearance in a court.

Article 59. Objectives of Preliminary Hearing

The objectives of preliminary hearing are: -

a. To establish whether the matter can be diverted.
b. To identify a suitable diversion option where applicable.
c. To establish whether the matter should be transferred to Children Court trial.
d. To provide an opportunity for the Attorney to assess whether there are sufficient grounds for the matter to proceed to trial.
e. The presiding judge must conduct the proceedings in an informal manner by asking questions, interviewing persons at the hearing and eliciting information.

Article 60. Persons to Attend at the Preliminary Hearing

60.1 The following persons must attend at the preliminary hearing:

a. The child

b. The parent or guardian of the child
c. If the parent or guardian cannot be found, an appropriate adult may be appointed by the judge
d. Attorney
e. The Probation Officer
f. Any other person accepted by the Judge whose presence is necessary and serves the best interest of the child.
g. Legal representative
h. The Children Police Officer who investigated the case

Article 61. Procedure Relating to Holding of Preliminary Hearing

61.1 At the start of the preliminary hearing:

a. The judge must determine the age of a child.
b. The judge must explain the method of the resolution at the preliminary hearing.
c. The judge must explain the purpose of the preliminary hearing.
d. Inform the child of the nature of the allegation against him.
e. Explain the child all his rights.
f. Explain the child the immediate procedures to be followed in accordance with the law

61.2 If the child in respect of whom the holding of preliminary hearing is a co- accused with one or more other children, a joint preliminary hearing must be held.

61.3 Where a joint preliminary hearing is held different decisions may be made on respect of each child.

No person may be accused for unlawful witness before a court of Law

Article 62. Recording of the Preliminary Proceedings

Children judge must keep a record of the preliminary hearing.

Article 63. Powers and Duties of Children Judge

Children Judge may:

a. Subpoena or cause to be subpoenaed any person whose presence is necessary for the preliminary hearing.
b. Request any further documentation or information which may be relevant or necessary to the preliminary hearing
c. Take such steps as may be necessary to establish the truth
d. Children Judge may request the Probation Officer to explain, elaborate upon, or justify any information made in the assessment report.

e. The Children Judge may dispense with assessment if it is in the best interests of the child.

f. Children Judge must consider the police report regarding the arrest of the child provided by the arresting Children Police Officer.

Article 64. Age of Child

64.1 If the age of the child is not certain the Judge must determine the age of the child in the preliminary hearing with the help of a recognized medical doctor.

64.2 If the Children Judge determines that the person is over the age of 18 years, he shall stop the preliminary hearing, and the case be transferred to the competent court.

Article 65. Further Detention of Child after first Appearance

Children Judge may order further detention of a child for the following reasons:-

a. The proceedings of a preliminary hearing are adjourned.
b. The release of a child into the care of a parent guardian or appropriate adult or on bail, is for any reason not possible.

Article 66. Adjournment of Preliminary Hearing

66.1 The Children judge may postpone the proceedings of a preliminary hearing for a period not exceeding 48 hours if it is not against the interest of the child

66.2 The proceedings of a preliminary hearing may be adjourned for a maximum of 7 days

PART V.

Diversion

Article 67. Definitions of Diversions

67.1 “Diversion” means an order of the judge aiming at diverted child, it is a process keeping away the child from the criminal procedure code to other mechanism such as customary laws, restorative justice in line with Somaliland Constitution and other international human rights instruments. Orders of judge include,

a. “Compulsory school attendance order” means an order requiring a child to attend school every day for a specified period of time, which attendance is to be monitored by a specified person.
b. “A family time order” means an order requiring a child to spend a specified number of hours with his/her family.

c. “Good behavior order” means an order requiring a child to abide by an agreement made between the child and his/her family to comply with certain standards of behavior.
d. “A positive peer association order” means an order requiring a child to associate with persons who can contribute a positive behavior to the child.
e. “A reporting order” means an order requiring a child to report to a specific person at specified time so as to enable such person to monitor the behavior of the child.
f. “A supervision and guidance order” means an order placing a child under the supervision and guidance of a mentor or peer in order to monitor and guide the behavior of the child.

67.2 any other diversion orders that are in the best interest of the child

Article 68 Purpose of Diversion

68.1 The purpose of diversion is to:

a. To know and understand the special needs of the child.
b. Promote the reintegration of the child into the family and community.
c. Promote reconciliation between the child and the person or community affected by the harm caused by the child.
d. Prevent the child from having a criminal record

Article 69. Child to be considered for Diversion under Certain Circumstance

69.1 A child must be considered for diversion if:

a. The crime committed is punishable with imprisonment for a period less than ten years.
b. The child voluntarily acknowledges responsibility for the offence.
c. There is insufficient evidence to prosecute.

Article 70. Selection of a Diversion

70.1 In selection of specified diversion option for a particular child at preliminary hearing consideration must be given to:

a. Health and behavior of the child
b. Education level, cognitive ability and domestic and environmental circumstances.
c. The proportionality of the option recommended or selected to the circumstance of the child, the nature of the offence.
d. The age and developmental needs of the child.

Article 71.Diversion Options

71.1 For the purposes of this law diversion options are:

a. An oral or written apology to a specified person or persons or institution.

b. A formal caution in the proscribed manner with conditions in accordance with this law..

c. The issue of a family time order in the prescribed manner for a certain period.

d. The issue of a positive peer association order in the prescribed manner in respect of a specified person or persons or a specified place for a period.

e. Referral to counseling or therapy for a period.

f. Compulsory attendance at a specified center of place for a specified vocational or educational purpose and for a period of time.

g. Symbolic restitution to a specified person, persons, group or institution.

h. Restitution of a specified object to a specified victim or victims of the alleged offence where the object in question can be returned or restored.

i. To be sent back to his/her home or to the district where he/she was born at local government's expense.

j. To be handed over to the care of a suitable person or institution named in the order, such person or institution being ready to undertake such care.

71.2 Upon the selection of a diversion option, Children Judge must identify a Probation Officer to monitor the child's compliance with the selected diversion option.

71.3 In the event of a child failing to comply with any condition of the selected diversion, the Probation Officer must notify the Children Judge in writing of such failure.

Article 72. Decision Regarding Diversion Order

72.1 The Children Judge must ascertain whether the child can be diverted after consideration of:

75.1 The proposal of the Attorney General.

75.2 The assessment report by the Probation Officer unless assessment has been dispensed with.

75.3 The views of all persons present at preliminary hearing who have relation with the child such as parents.

72.2 The Children Judge after consultation with above persons must decide on the most appropriated diversion option..

72.3 Diversion mechanism may be applied anytime before the decision of the case.

Article 73 Failure to Comply with Diversion Order

73.1 If a child fails to comply with any order relating to diversion, the Children Judge may, upon being notified of such failure, issue a warrant of arrest of the child in accordance with this law.

73.2 When a child appears before the Children Judge pursuant to a warrant of arrest or a summon, the Children Judge must hear into the reasons for the child's failure to comply with the diversion order.

73,3 When the Children Judge hears the reasons for the child's failure to comply with the diversion, may decide to:

a Apply the same option with altered conditions

b. Apply any other diversion option.

c. Make an appropriate order, to comply with the diversion option initially applied.

CHAPTER FOUR

Court Proceedings

PART I.

Children Court

Article 74. Powers of the Children Court

Notwithstanding the provisions of any other law the Children Court shall have exclusive jurisdiction to hear and determine cases relating to children.

Article 75.The Court Room

75.1 Court proceeding shall not be open hearing, however, it is admissible for his/her relatives, representative, civil societies who are engaged in children issues,the committees described in this Law and any other persons permitted by the court.

75.2 In any courtroom where proceedings are taking place no person may be present unless he has permission by the judge.

Article 76. Parental Assistance

76.1 A parent or guardian must assist a child at proceedings in a Children Court trial and every other occasion.

76.2 If a parent or guardian cannot be traced after reasonable efforts any further delay would not be to the best interest of the child, an appropriate adult nominated by the judge must be present at such procedure.

Article 77.Proceedings at the Opening of the Trial

77.1 At the start of proceedings Children Judge must:

a. Explain to the child the substance of the alleged offence

b. Inform the child his/her right

c. Explain to the child the substance of the alleged offence.

After explaining the substance of the alleged offence, the court shall ask the child what he/she has to say in accordance with the criminal procedure code

Article 78.Evidence

Unless this law otherwise provides, all proceedings relating evidence should be applied in line with the Criminal Procedure.

Article 79. Cross – Examination

It is not admissible to ask a child hostile cross – examination where the cross-examination is prejudicial to the well being of the child and against the fairness of the proceedings, a child may be cross-examination relevant to the case .

Article 80.Admissibility of Certain Evidence

80.1 Children court may take as an evidence obtained as a result of a confession or an admission rendered admissible under Criminal Procedure Code, is admissible as evidence in Children Court only if the parent or guardian or legal representative

80.2 No evidence relating to an identification parade is admissible in a Children Court without the aforementioned representation on behalf of the child.

80.3 Court may participate in eliciting evidence from any person involved in the proceedings if it would be in the interest of the child.

Article 81. Hearing of Trials Involving Children and Adults

81.1 Where a child and adult are alleged to have committed the same offence, they are to be tried separately unless it is in the interest of justice.

81.2 The Children Court may upon request of the prosecution or the defense council or on its own motion order for joint trials.

81.3 The joint trial shall be held at the Children Court.

Article 82. Time Limit of Trials

82.1 Children Court must conclude all trials of accused children as speedily as possible and must ensure that postponements are limited in number and in duration.

82.2 Children court must conclude the trial of the child within a period of six months from the date upon which the child has been charged.

82.3 If the child in under detention and the trial can not be concluded in the specified time, the case of the child will be heard in suspension sentence.

82.4 Where there is no charge, a child shall not be kept more than three months and can be diverted to other mechanism preferred by the judge.

PART II.

Article 83.

Sentence

83.1 Children Court must, after convicting a child, impose any sentence only in accordance with this Law.

83.2 it is admissible for the court to be assisted by any person deemed as an expert. It is also admissible to examine the general health of the child before the decision of the court and the child shall be kept in an appropriate place.

83.3 Determination of the judgment shall be in accordance with the criminal procedure code unless stated in this law.

Article 84. Imprisonment

Imprisonment shall be where children are rehabilitated

Article 85. Community Based Sentence

Children Court Judge may pass sentences, subject to any diversion options provided under article 68a.

Article 86. Commitment to Children Rehabilitation Center

86.1 The Children Court may pass sentence if the child commits one of the following offencs.

a. A crime punishable with death sentence

b. Life imprisonment

c. Imprisonment for a period not less than ten years

d. The child is recidivist.

e. The child is of a dangerous character to the community.

CHAPTER FIVE

Miscellaneous Provisions

Art 87. Appeal

87.1 The sentence of any kind from Children court is subject to appeal.
87.2 Appeals shall be applied according to the provisions of the criminal procedure code.

Article 88. Repeal

88.1 Children Court and Children Rehabilitation Center law number 13 of March 1970 article 177 of the penal code and any other law or provisions contrary to or inconsistent with this law, is hereby repealed.

88.2 Articles 59 and 60 of the Penal Code are hereby amended.

All praise be to Allah (s.w)

Abdirahman Mohamed Abdillahi — Speaker of the House of Representatives

Mohamed Hassan Kahin (Keyse) — Secretary General, HoR