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Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 6 of 2016

[L.S.]

AN ACT to make jurisdiction for all family matters
and children matters exercisable in a Division of
the High Court to be called the Family and
Children Division and to make provision for
matters connected therewith

[Assented to 5th July, 2016]

Preamble

WHEREAS in May, 2004 a Family Court was established as a pilot project which, through constant monitoring and evaluation and the resulting changes in systems and administration has proved successful and has produced the desired result:

And whereas it was intended that the experience of the pilot project would inform the preparation of the legislation to establish a special Court exercising jurisdiction for all family matters and criminal offences with which children under fourteen years of age are charged:

And whereas the Family Court pilot project heard family matters including matters in which a parent or guardian sought the order of the Court to have his child deemed beyond control:

And whereas on account of the success of the pilot project and lessons learnt, it is now intended to establish the Family Court, and to make its services available at several locations in Trinidad and Tobago:

And whereas jurisdiction for all family matters exercisable by the High Court and the Magistrates' Court will be exercisable in the Family Court and all the essential elements and resources appropriate to the operation of a Family Court will be combined into one entity including a social service unit, a mediation unit and such other units and services as are critical to the resolution of a family's problems:

And whereas it is intended that such a Court should provide the highest quality service to its customers and to the community through—

- (a) a strong focus on customer service;
- (b) the employment of dedicated judicial, administrative, professional and support staff specifically trained and having the suitable temperament for family matters and children at risk;
- (c) the simplification of the process of accessing the appropriate court or agency in which to obtain family justice, by establishing a single intake system; and

- (d) providing an environment conducive to the resolution of family matters:

And whereas the Children Act, 2012 was premised, *inter alia*, on a rehabilitative approach to be used for child offenders with benefits for the child and the wider society:

And whereas such a rehabilitative approach necessitates a Court that is well resourced so that it can provide the highest quality service to its customers and to the community through—

- (a) a strong focus on customer service;
- (b) the employment of dedicated judicial, administrative, professional and support staff specifically trained and having the suitable temperament for dealing with children;
- (c) the simplification of the process of hearing children matters;
- (d) a strong emphasis on diversionary programmes and rehabilitative programmes to assist in the rehabilitation of children who are in conflict with the law;
- (e) early and credible assessment of the risk level of children who come before the Court;
- (f) a strong emphasis on programmes, policies and procedures which may divert children away from conflict with the law;
- (g) a focus on trauma-informed child justice;
- (h) a solutions-based approach to children's matters;
- (i) an evidence-based approach to options for solution; and

- (j) providing an environment conducive to the resolution of children matters and appropriate services and programmes:

And whereas section 81 of the Children Act, 2012 has provided that a Juvenile Court—

- (a) when hearing charges against children; or
 (b) when hearing applications relating to a child at which the attendance of the child is required,

shall sit—

- (i) in a different building;
 (ii) in a different room;
 (iii) on different days; or
 (iv) at different times,

from those at which the ordinary sittings are held, unless the child is charged jointly with any other person not being a child:

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

PART I

PRELIMINARY

Short title **1.** This Act may be cited as the Family and Children Division Act, 2016.

Commencement **2.** This Act comes into operation on such date as is fixed by the President by Proclamation.

Interpretation **3.** (1) In this Act—
 “auxiliary programmes” means programmes which assist a child who has come before the Court;
 “child” means a person under the age of eighteen years;

“Children’s Attorney” has the meaning assigned to it under section 88 of the Children Act, 2012;

Act No. 12 of 2012

“children care matter” includes—

- (a) matters in which a child is deemed by the Court to be in need of care and protection under section 59(2)(j) of the Children Act, 2012;
- (b) matters in which an application is made to the Children Court to have a child deemed in need of care and protection;
- (c) matters in which an application is made under section 61 of the Children Act, 2012;
- (d) matters in which an application is made under section 34 of the Children Act, 2012;
- (e) matters in which applications are made for wardship, other than those made to the Family Court; and
- (f) applications made to the Children Court for an order under section 25 of the Children’s Authority Act;

Chap. 46:10

“children charge matter” means any matter in which a child is charged with an offence;

“Children Court” means the Children Court Subdivision of the Family and Children Division of the High Court established under section 4(1);

“Children Court Judge” means a Puisne Judge when sitting in the Children Court;

“Children Court Master” means a Master when sitting in the Children Court;

“children drug matter” includes any matter in relation to a child who is the subject of a drug-related matter in the Court or who has a history of alcohol or substance abuse;

“Children Drug Treatment Court Process” means a process where a child is referred by a Master or Judge to an intensive treatment programme and other services that require the child to be monitored by the Judge or Master and to successfully abandon the use of the drug or alcohol and to be held accountable by the Judge or Master for meeting his obligations to the Court, society, himself and his family;

“children matter” includes any—

- (a) children charge matter;
- (b) children care matter;
- (c) children drug matter;
- (d) children mental health matter;
- (e) matter which is not a family matter within the meaning of this Act, but the primary issue in the matter is the care and protection of a child;
- (f) matter, in relation to a child, where there is an application for and issuance of a Protection Order and its enforcement under the Domestic Violence Act, and where the child is a victim or an affected bystander; and
- (g) matter in which a child is required to appear in Court;

“children mental health matter” means any matter, in relation to a child, who is the subject of a mental health matter in Court, including mental disorder, mental illness or a child who is mentally subnormal as defined in the Mental Health Act; Chap. 28:02

“Children’s Probation Officer” has the meaning assigned to it under section 18(1)(aa) of the Probation of Offenders Act; Chap. 13:51

“Court Executive Administrator” means the person who, subject to the Chief Justice, is charged with responsibility for the administration of the Judiciary and heads the Department of Court Administration;

“Department of Court Administration” means the administrative arm of the Judiciary of Trinidad and Tobago which is headed by the Court Executive Administrator of the Judiciary and comprises various administrative units;

“Deputy Court Executive Administrator” means the Deputy Court Executive Administrator, Family and Children Division with responsibility for the Family and Children Court Administration Department of the Division;

“Division” means the Family and Children Division of the High Court established under section 4;

“DNA” means Deoxyribonucleic Acid;

“Family Court” means the Family Court Subdivision of the Division established under section 4(1) in which family matters are heard and addressed;

“Family Court Judge” means a Puisne Judge when sitting in the Family Court;

“Family Court Master” means a Master when sitting in the Family Court;

“family matter” means any cause, matter or legal proceeding—

(a) concerning—

(i) any applications under the Matrimonial Proceedings and Property Act;

(ii) maintenance;

(iii) guardianship;

(iv) wardship;

(v) custody and access;

(vi) applications for orders made to the Family Court under section 25 of the Children’s Authority Act;

(vii) adoption;

(viii) civil child abduction;

(ix) succession and inheritance, excluding probate and the administration of estates; and

(x) any matter in relation to the application for and issuance of a Protection Order and its enforcement under the Domestic Violence Act other than those which are children matters; and

(b) arising out of the written laws listed in Schedule 1 or any other written law and which is connected with, or arises out of a matrimonial, familial or other domestic relationship and is not a matter in which a child is charged or arrested;

“family mediation” means mediation conducted by a person certified as a family mediator in accordance with the Mediation Act;

Chap. 5:32

“Peer Resolution” means a voluntary restorative practices process in which children participate in a Court-like process of assessment to recommend measures or sanctions appropriate to the offence committed by a child offender with a view to raising civic awareness among all participants through education and participation;

“referring Court” means the Court from which a child has been referred to another Court or to an auxiliary programme;

“Registrar” means the Registrar and Marshal of the Supreme Court, the Deputy Registrar and Marshals of the Division and the Assistant Registrar and Deputy Marshals of the Division;

“social worker” means—

(a) a public officer experienced or qualified in social work; or

(b) an officer employed on contract by the Government, statutory authority or the Judiciary for the purpose of performing social work;

Chap. 11:25

“substance” means any dangerous drug as defined in the Dangerous Drugs Act and alcohol;

“treatment provider” means a suitably qualified individual or health facility which provides for the treatment, rehabilitation and care of persons with drug or alcohol related problems.

(2) In any proceedings under any written law listed in Schedule 1, a reference to—

(a) the “High Court”, or a “Court of Summary Jurisdiction” shall, in relation to a family matter, be read and construed as a reference to the “Family Court”;

(b) a “Judge”, a “Magistrate” or the “Court” shall, in relation to a family matter, be read and construed as a reference to a “Family Court Judge”, a “Family Court Master” or the “Family Court”, respectively; and

(c) a “Clerk of the Peace” or “Clerk of the Court” shall, in relation to a family matter, be read and construed as a reference to the “Registrar”.

(3) In any proceedings under any written law a reference to—

(a) the “High Court”, or a “Court of Summary Jurisdiction”, or a “Juvenile Court” shall, in relation to a children matter, be read and construed as a reference to the “Children Court”;

(b) a “Judge”, a “Magistrate” or the “Court” shall, in relation to a children matter, be read and construed as a reference to a “Children Court Judge”, a “Children Court Master” or the “Children Court”, respectively; and

- (c) a “Clerk of the Peace” or “Clerk of the Court” shall, in relation to a children matter, be read and construed as a reference to the “Registrar”.

PART II

THE FAMILY AND CHILDREN DIVISION OF THE HIGH COURT

4. (1) There shall be a Division of the High Court to be known as the “Family and Children Division” which shall comprise the Family Court Subdivision known as the “Family Court” and the Children Court Subdivision known as the “Children Court”.

Establishment of
Family and Children
Division

(2) The Family Court shall have jurisdiction in all family matters.

(3) The Division shall comprise up to twenty-two Puisne Judges and up to twenty-eight Masters.

(4) The Children Court shall exercise jurisdiction in—

- (a) all children matters; and
- (b) any other children matters which the Chief Justice may, by Order, assign to that Court.

(5) The Family Court shall be separate from the Children Court and the operations of each shall be separately housed with separate resources, and Court offices.

(6) Notwithstanding subsection (5), the Family Court and the Children Court may be housed in the same building provided that each maintains separate Court offices and waiting areas.

(7) The Family Court and the Children Court shall be housed, managed and staffed in accordance with Parts IV and V of this Act.

Sittings of Family
Court and Children
Court and matters in
progress

Chap. 4:01

5. (1) Sittings of the Family Court shall be held at such locations and at such times as the Chief Justice, in consultation with a Family Court Judge, may appoint, in accordance with the Supreme Court of Judicature Act.

(2) Notwithstanding subsection (1), the Family Court may, when required and appropriate, sit at any time, and may conduct hearings by telephone, video conference or other appropriate electronic means.

(3) Sittings of the Children Court shall be held at such locations and at such times as the Chief Justice, in consultation with a Children Court Judge, may appoint, in accordance with the Supreme Court of Judicature Act and the Children Act, 2012.

(4) Notwithstanding subsection (3) and subject to any written law or any rules made hereunder, the Children Court may, when required and appropriate, sit at any time, and may conduct hearings by telephone, video conference or other appropriate electronic means.

(5) Without prejudice to the foregoing, upon commencement of this Act, the jurisdiction in family matters previously exercised in Courts of Summary Jurisdiction, save the Magisterial District of St. George West, shall continue to be exercised in those Courts until the Chief Justice directs otherwise.

(6) Without prejudice to the foregoing, upon commencement of this Act, the jurisdiction in family matters previously exercised in the High Court shall continue to be exercised in those Courts until the Chief Justice directs otherwise.

PART III

ADMINISTRATION OF THE FAMILY AND CHILDREN
DIVISION*Deputy Registrar and Marshals and Assistant
Registrar and Deputy Marshals*

6. (1) There shall be assigned to the Family and Children Division—

- (a) a complement of up to three Deputy Registrar and Marshals of the Supreme Court, who, when assigned to the Family and Children Division, shall be known as “Deputy Registrar and Marshals of the Family and Children Division”; and
- (b) a complement of up to ten Assistant Registrar and Deputy Marshals who, when assigned to the Family and Children Division, shall be known as “Assistant Registrar and Deputy Marshals of the Family and Children Division”.

Assignment of
Deputy Registrar
and Marshals,
Assistant Registrar
and Deputy
Marshals

(2) The Deputy Registrar and Marshals of the Family and Children Division and Assistant Registrar and Deputy Marshals of the Family and Children Division under subsection (1) shall possess the requisite special training, experience and temperament suitable for appointment to the Division.

(3) Where under this Act, a Deputy Registrar and Marshal of the Family and Children Division or Assistant Registrar and Deputy Marshal of the Family and Children Division exercises jurisdiction in relation to any family matter or any children matter, he shall, in relation to that matter, have all the rights, powers and immunities of a Deputy Marshal of Trinidad and Tobago.

Court Administration

Establishment of the
Family and Children
Court Administration
Department

7. (1) There is established an administration department for the Division which shall be known as the “Family and Children Court Administration Department” and which shall be a subdepartment of the Department of Court Administration.

(2) The Family and Children Court Administration Department shall comprise the—

- (a) Central Coordinating Office;
- (b) Family Court Administrative Office; and
- (c) Children Court Administrative Office.

(3) The Central Coordinating Office shall comprise—

- (a) the Social Services Unit;
- (b) the Human Resource Management Unit;
- (c) the Finance, Accounts and Investment Unit;
- (d) the Communications and Information Unit;
- (e) the Records Management, Court and Law Reporting Unit;
- (f) the Children’s Authority Liaison Unit;
- (g) the Statistical and Evaluation Unit; and
- (h) such other units as may be determined by the Chief Justice.

(4) The Family Court Administrative Office shall comprise—

- (a) the Family Court Office;
- (b) the Family Mediation Unit;
- (c) subunits of the Central Coordinating Office Units; and
- (d) such other units and subunits as may be determined by the Chief Justice.

(5) The Children Court Administrative Office shall comprise—

- (a) the Children Court Office;
- (b) the following units:
 - (i) the Peer Resolution Centre Coordination Unit;
 - (ii) the Children Drug Treatment Process Unit;
 - (iii) the Auxiliary Programmes Coordination and Monitoring Unit;
 - (iv) the Children Court Information Technology Unit; and
 - (v) the Children Court Witness Support Unit;
- (c) subunits of the Central Coordinating Office; and
- (d) such other units and subunits as may be determined by the Chief Justice.

8. (1) The Family and Children Court Administration Deputy Court Executive Administrator, Family Court Administrator, Children Court Administrator and staff Department shall be headed by the Deputy Court Executive Administrator, Family and Children Division and be assisted by a Family Court Administrator and a Children Court Administrator.

(2) The Family Court Administrative Office shall be headed by a Family Court Administrator while the Children Court Administrative Office shall be headed by a Children Court Administrator.

(3) The Deputy Court Executive Administrator shall report to the Court Executive Administrator and the Family Court Administrator and the Children Court Administrator shall report to the Deputy Court Executive Administrator.

(4) The Deputy Court Administrator has overall responsibility for the administration of the Division,

and the Family Court Administrator and the Children Court Administrator are responsible for the Family Court Administrative Office and the Children Court Administrative Office, respectively.

(5) The Deputy Court Executive Administrator, Family Court Administrator and Children Court Administrator shall possess the appropriate training and experience as required by the Judiciary.

(6) The Family and Children Court Administration Department shall be staffed with an appropriate number of suitably qualified persons as determined from time to time by the Court Executive Administrator.

(7) The Deputy Court Executive Administrator may assign staff at the Family and Children Court Administration Department to the Family Court or the Children Court.

PART IV

THE FAMILY COURT

Authority and jurisdiction in all family matters exercisable by the Family Court

9. (1) On the commencement of this Act, authority and jurisdiction in all family matters exercisable by the High Court and Courts of Summary Jurisdiction, shall be exercisable by the Family Court.

(2) The question whether any cause, matter or proceeding is a family matter within the jurisdiction of the Family Court under this section shall be decided by the Family Court.

(3) Where there is a question of jurisdiction, the Family Court shall be guided by its view as to whether the cause, matter or proceeding is appropriate to be determined by the Family Court by reason of the matrimonial, familial or domestic relationship between the parties or any of them.

Family Court Judges

10. (1) The Chief Justice may assign to the Family Court, such Puisne Judges, who by reason of their special training, experience and temperament, are suitable to adjudicate in family matters. Assignment of Family Court Judges

(2) A Puisne Judge when sitting in the Family Court shall be known as a “Family Court Judge”.

(3) A person assigned under subsection (1) may apply to the Chief Justice for reassignment to any other Court within the High Court.

11. When sitting in the Family Court, a Judge or Master shall, in addition to the powers conferred under the Supreme Court of Judicature Act, have all the powers exercisable by a Magistrate in family matters under— Judge or Master in Family Court to have the powers of a Magistrate

(a) the Summary Courts Act; and

Chap. 4:20

(b) any other legislation,

including the power to—

(c) hear and determine matters related to default in the payment of maintenance when such payment was ordered by a Court, including ordering the committal of a person who has defaulted;

(d) hear an application for and issue and enforce a Protection Order under the Domestic Violence Act; and

Chap. 45:56

(e) grant any other relief as is applicable in the circumstances.

Family Court Masters

12. (1) The Chief Justice may also assign to the Family Court, such Masters who, by reason of their special training, experience and temperament, are suitable to adjudicate family matters. Assignment of Family Court Masters

(2) A Master, when sitting in the Family Court, shall be known as a “Family Court Master”.

(3) A Master appointed under subsection (1) may apply to the Chief Justice for reassignment to any other Court to which a Master may be assigned.

Powers of Family Court Master

13. A Family Court Master shall exercise all the powers and jurisdiction of a Judge as conferred to Masters under the Supreme Court of Judicature Act and rules made thereunder.

Powers of a Family Court Master the same as a Family Court or Family Court Judge

14. (1) Where under this Act, a Family Court Master has jurisdiction in relation to any matter, then, subject to this Act, he shall have and may exercise, in relation to that matter, all the powers of the Family Court or of a Family Court Judge to make an order in the matter, and such an order may include—

- (a) provision for costs; or
- (b) other consequential matters.

(2) Any order made by a Family Court Master under subsection (1) shall have the same effect as if it had been made by the Family Court or by a Family Court Judge.

(3) Where under this Act, a Family Court Master exercises jurisdiction in relation to any family matter, then—

- (a) in relation to that family matter, the Master shall have all the rights, powers, immunities and privileges of a Judge; and
- (b) any party to the proceedings may appear by an Attorney-at-law.

Enforcement of certain Orders

Chap. 46:08

Chap. 45:51

Chap. 45:53

15. (1) Where an order for maintenance is issued by a Family Court Judge or a Family Court Master under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, the Order may be enforced as if it were a Maintenance Order to which the Matrimonial Proceedings and Property Act applies and shall be a Maintenance Order within the meaning of the Maintenance Orders (Facilities for Enforcement) Act.

(2) Where an order is made by a Family Court Judge or a Family Court Master under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, the provisions of sections 26 and 27 of the Act shall apply as if the Order were made by a Magistrate under that Act.

(3) When a Court makes an order for the transfer of matrimonial property, the Court may further order that in default of compliance with the order within a stipulated time, that upon the filing of the prescribed form by the person in favour of whom the order for transfer is made, the Registrar shall issue a notice to show cause returnable within seventy-two hours of service why—

- (a) an order should not be made directing the Registrar to effect the transfer of said property; and
- (b) an order shall not be made for committal for contempt.

(4) At the hearing of the notice to show cause under subsection (3), if the party who is called upon to show cause fails to show good and sufficient cause, the Court may make an order to effect transfer of the property and an order for committal for contempt.

(5) At the hearing of the notice to show cause under subsection (3), if the party who is called upon to show cause has good and sufficient reasons for non-compliance with the order of the Court, the Court may extend the time for compliance to a specific date after which the Registrar may be directed to effect the transfer of the said property.

(6) In this section, “maintenance order” means an order (whether final or provisional) (however described in any other law), for the payment of a lump sum or the periodical payment of money towards the maintenance of any person, being a person whom the person liable to

make payments under the order, is according to the law applied in the place where the order was made, liable to maintain and shall include all such orders made pursuant to any of the statutory provisions as prescribed in Schedule 2.

Schedule 2

Administration and Staff of the Family Court

Staff of the Family Court

16. (1) The Family Court shall, in addition to judicial officers, be staffed with—

- (a) public officers; and
- (b) an appropriate number of other persons engaged on contract by the Court Executive Administrator and who shall hold office for five years, but may be eligible for re-engagement.

(2) The persons referred to in subsection (1)(a) and (b) shall be dedicated to the Family Court, and shall possess the requisite special training, experience and temperament suitable for appointment to the Family Court, in accordance with the Court's performance standards.

Manager of Family Court

17. (1) The Family Court shall have in each location, a Family Court Manager who shall be responsible for the management of the particular location.

(2) The Family Court Manager shall report to the Family Court Administrator.

Oath of Secrecy

18. A member of staff of the Family Court shall, prior to the assumption of duty, make an oath or affirmation of secrecy before a Judge or Justice of the Peace in the form set out in Schedule 3.

Schedule 3

Proceedings in the Family Court

Family Proceedings Rules to apply

19. In any family matter before the Family Court, the Family Proceedings Rules, 1998 and all other relevant Rules of Court shall apply.

20. (1) In any proceeding, the Family Court may, at its own instance or on the application of a party, restrict the publication of the names of the parties or of any proceedings before the Family Court. Restrictions on publication of proceedings

(2) Any publication of a judgment and ruling of the Family Court shall be done in such a manner that the parties to a family matter, or the children to whom the matter may relate, cannot be identified.

(3) The Family Court may, in proceedings before it, order that the proceedings—

- (a) be held *in camera*; and
- (b) not be published.

(4) In order to protect the identity of any child, the Family Court may, in proceedings before it, order copies of any proceedings, judgment or ruling to be redacted by the Family Court Records Management, Court and Law Reporting Subunit, before it may be published.

(5) The Family Court, a Family Court Judge or Family Court Master may seal the copies of the transcript of any proceedings involving a child and any documents relevant to such proceedings.

(6) Where the Family Court, a Family Court Judge or Family Court Master seals the copies of the transcript of any proceedings and relevant documents, pursuant to subsection (5) or any other written law, they shall remain sealed until a further order is made.

21. In any family matter, the Court may—

- (a) appoint a guardian *ad litem* for a child;
- (b) request that the Solicitor General or the Senior Children's Attorney assign a Children's Attorney to represent and safeguard the voice of a child and perform such other functions as the Court may think necessary, pursuant to section 88(5) of the Children Act, 2012 or any other written law;

Family Court to appoint guardian *ad litem* and request Children's Attorney

- (c) refer the matter to family mediation; and
- (d) order DNA testing of the alleged parent and child in order to assist the Court in determining paternity of a child.

Court to adjourn for application for legal aid
Chap. 7:07

22. In any family matter, the Court may adjourn the matter for an application to be made under the Legal Aid and Advice Act.

Transfer of matters

23. Where in proceedings before any other Court, the Court is of the view that the elements of the matter make it desirable that the matter be dealt with by the Family Court, it may be transferred to be adjudicated upon by the Family Court.

Appeals

24. An appeal shall lie from any judgment or order of a Family Court Master or a Family Court Judge to the Court of Appeal in like manner and to like extent as an appeal from any judgment or order of a Judge.

PART V

THE CHILDREN COURT

Authority and jurisdiction in all children matters exercisable by the Children Court

25. (1) On the commencement of this Act, the authority and jurisdiction in children matters exercisable by the High Court and Courts of Summary Jurisdiction shall be exercisable by the Children Court.

(2) The question whether any cause, matter or proceeding is a children matter within the jurisdiction of the Children Court under this section, shall be decided by the Children Court.

(3) Where there is a question of jurisdiction, the Children Court shall be guided by its view as to whether the cause, matter or proceeding is appropriate to be determined by the Children Court by reason of it being a matter in which—

- (a) a child is charged;
- (b) an application is being or has been made that a child is in need of care and protection;

- (c) an application is being made for an order under section 61 of the Children Act, 2012;
- (d) it is not a family matter within the meaning of this Act, but the primary issue in the matter is the care and protection of the child; or
- (e) the Children Court is to hear an application relating to a child at which the attendance of the child is required.

Children Court Judges

26. (1) The Chief Justice may assign to the Children Court, such Puisne Judges who by reason of their special training, experience and temperament are suitable to adjudicate in children matters. Assignment of Children Court Judges

(2) A Puisne Judge when sitting in the Children Court shall be known as a “Children Court Judge”.

(3) A person assigned under subsection (1) may apply to the Chief Justice for reassignment to any other Court within the High Court.

27. When sitting in the Children Court, a Judge or Master shall, in addition to the powers conferred under the Supreme Court of Judicature Act, have all the powers exercisable by a Magistrate in children matters under— Powers of a Children Court Judge or Master

- (a) the Summary Courts Act; and
- (b) any other written law,

including the power to—

- (c) hear and determine matters related to default in the payment of maintenance when such payment was ordered by a Court including ordering the committal of a person who has defaulted;
- (d) hear an application for and issue and enforce a protection order under the Domestic Violence Act; and

- (e) grant any other relief as is applicable in the circumstances.

Children Court Masters

Assignment of
Children Court
Masters

28. (1) The Chief Justice may also assign to the Children Court, such Masters as are suitable by reason of their special training, experience and temperament to adjudicate in children matters.

(2) A Master when sitting in the Children Court shall be known as a “Children Court Master”.

(3) A person assigned under subsection (1) as a Children Court Master may apply to the Chief Justice for reassignment to the Children Court or to any other Court within the High Court.

Powers of Children
Court Masters

29. A Children Court Master shall exercise all the powers and authority of a Judge as conferred to Masters under the Supreme Court of Judicature Act and Rules made thereunder.

Powers of Children
Court Master the
same as a Children
Court or Children
Court Judge

30. (1) Where under this Act, a Children Court Master has jurisdiction in relation to any matter, he shall have and may exercise in relation to that matter, all the powers of the Children Court or of a Children Court Judge to make an order in the matter and such an order may include—

- (a) provision for costs; and
(b) other consequential matters.

(2) Any order made by a Children Court Master under subsection (1) shall have the same effect as if it had been made by the Children Court or by a Children Court Judge.

(3) Where under this Act, a Children Court Master exercises jurisdiction in relation to any children matter—

- (a) the Master shall have all the rights, powers, immunities and privileges of a Judge, in relation to such a matter;

- (b) any party to the proceedings may appear by an Attorney-at-law; and
- (c) in any hearing of a charge against a child charged with a criminal offence, the Court shall ensure that the child is represented by an Attorney-at-law.

Administration and Staff of the Children Court

31. (1) The Children Court shall, in addition to Staff of the Children Court judicial officers, be staffed with—

- (a) public officers; and
- (b) an appropriate number of other persons engaged on contract by the Court Executive Administrator.

(2) The persons referred to in subsection (1)(b) shall be engaged on contract for a period of up to five years but may be eligible for re-engagement.

(3) The persons referred to in subsection (1)(a) and (b) shall be dedicated to the Children Court, and shall possess the requisite special training, experience and temperament suitable for appointment to the Children Court, in accordance with the Court's performance standards.

32. (1) The Children Court shall have in each Manager of the Children Court location, a Children Court Manager who shall be responsible for the management of the particular location.

(2) The Children Court Manager shall report to the Children Court Administrator.

33. A member of staff of the Children Court shall, Oath of Secrecy prior to assumption of duty, make oath or affirmation of secrecy before a Judge or Justice of the Peace in the form set out in Schedule 3.

Proceedings in the Children Court

Restrictions on
publication of
proceedings

34. (1) In order to protect the identity of any child, the Children Court may, in proceedings before it, order copies of any proceedings, judgment or ruling to be redacted by the Children Court Records Management, Court and Law Reporting Subunit, before it may be published.

(2) The Children Court, a Children Court Judge or Children Court Master may seal the copies of the transcript of any proceedings involving a child and any documents relevant to such proceedings.

(3) Where the Children Court or a Children Court Judge or Children Court Master seals the copies of the transcript of any proceedings and relevant documents, pursuant to subsection (2) or any other written law, they shall remain sealed until a further order is made.

Children Court to
appoint guardian *ad
litem* or Children's
Attorney and other
orders

35. (1) In any children matter, the Court may—

- (a) appoint a guardian *ad litem* for a child; and
- (b) request that the Solicitor General or the Senior Children's Attorney assign a Children's Attorney to represent and safeguard the voice of a child and perform such other functions as the Court may think necessary, pursuant to section 88(5) of the Children Act, 2012 or any other written law.

(2) During the course of any criminal investigation or interrogation in which—

- (a) a child is a suspect or is being interrogated;
- (b) the actions of a child are being investigated; or
- (c) a child is a witness,

the Children's Authority, the Police or the Duty Counsel, appointed pursuant to section 4A(1) of the Legal Aid and Advice Act, may apply to the Court to have a Children's Attorney appointed for the child, and where the Court is of the view that appointing a Children's Attorney is in the best interest of the child, the Court may so order. Chap. 7:07

(3) In any children matter the Court may order—

(a) that a particular social service be provided to a child; and

(b) subject to subsection (4), that probation services be provided for—

(i) pre-hearing assessments of a child and the submission of relevant reports;

(ii) investigations and reports about the child's circumstances; and

(iii) supervision of a child.

(4) Where probation services are required pursuant to subsection (3)(b), the Court may, nonetheless, utilize the services of any person whose qualifications are at least equivalent to those of a probation officer and who either—

(a) is a public officer; or

(b) is employed on contract by the Government or a statutory authority.

36. In any family matter or children matter, the Court may, where necessary, adjourn the matter for an application to be made under the Legal Aid and Advice Act. Court to adjourn for application for legal aid

37.(1) Where in any children matter, the Children Court deems it necessary to continue judicial supervision of a child by conducting monitoring hearings with the child and his family, the management of the Community Residence, or other systems of support, the Court may make the relevant order. Court to continue judicial supervision

(2) In this section, “monitoring hearings” means hearings conducted by a Court to monitor the progress of a child before the Court.

Court to assign
Children’s Probation
Officer

38. Where in any matter, the Children Court orders either a non-custodial sentence or a custodial sentence either of which is combined with orders for the child to participate in an auxiliary programme, a Children’s Probation Officer shall be assigned to monitor the child’s compliance with the sentence and sanction and to ensure that the child is assessed for risk at the appropriate periods.

Probation Officer to
report to the Court

39. The probation officer assigned under section 38 shall report to the Children Court periodically, as ordered by the Court, with respect to—

- (a) the progress of the child;
- (b) the child’s compliance with the sentence and sanction;
- (c) the care of the child;
- (d) the child’s education;
- (e) the child’s health and general welfare;
- (f) the child’s interaction with his family;
- (g) the most recent assessments of the child;
and
- (h) any other issue which the Court deems necessary.

Peer Resolution

Referral to Peer
Resolution

Schedule 4

40. (1) Where in any children matter in which a child who is charged with an offence, other than those prescribed in Schedule 4, and enters a plea of guilty, the Children Court may, with the agreement of the child and the consent of the parent, guardian or person with responsibility for the child, refer the matter to Court-annexed Peer Resolution to seek a recommendation as to the appropriate measures or sanctions to be employed for the offence.

(2) Notwithstanding subsection (1), where the offence does not fall within the list of offences set out in Schedule 4, and the offence is in respect of a crime—

(a) in which the child has been accused of using extreme violence; or

(b) which the Court is of the view—

(i) is too serious or heinous in nature to be suitable to Peer Resolution; or

(ii) has been committed in—

(A) such a manner;

(B) such circumstances; or

(C) with such intention,

as to make it unsuitable for Peer Resolution,

the Court shall not refer the child to Peer Resolution.

(3) Where a child is referred to Peer Resolution, the Children Court may impose additional measures to ensure the welfare of the child.

(4) The Attorney General may, by Order, amend Schedule 4, by deleting or adding an offence, subject to negative resolution of Parliament.

41. Notwithstanding section 40, if the parent, guardian or person with responsibility for the child Where the parent withholds consent but the child consents withholds consent to referral to Peer Resolution but the child agrees to the matter being so referred, the Court may only refer the child to Peer Resolution where it considers it to be in the best interest of the child.

41A. Notwithstanding section 40, the Court may refer “Court may refer child to Peer Resolution in best interest of child a child to Peer Resolution where it considers it to be in the best interest of the child.

42. Before seeking the agreement of the child and parental consent under section 40, the Children Court Court to explain Peer Resolution shall explain the Peer Resolution process to the child and to the child’s parent, guardian or person with responsibility for the child in language and in a manner that they understand.

Deliberations and
questionings during
Peer Resolution to be
in camera

43. (1) During Peer Resolution, the child shall be questioned *in camera*.

(2) Deliberations of peer assessors during Peer Resolution shall be *in camera*.

(3) “Peer assessors” means children who during the Peer Resolution process, determine the recommended sanction for a child in accordance with the rules relating to Peer Resolution.

When a child denies
guilt

44. (1) Where the Court refers a child to Peer Resolution and the child subsequently denies guilt, the Court shall order that the child be brought to the Court for the hearing.

(2) Where the Court refers a child to Peer Resolution and a recommendation is received by the Court as to the sanctions for the child, the Court may—

- (a) review the recommended sanctions and agree with the sanctions;
- (b) refuse the sanctions and give reasons for the refusal; or
- (c) amend the recommended sanctions,

and make an order, accordingly.

When the child fails
to comply with an
order

45. (1) If at any time while a Peer Resolution order is in force against a child under this section, it appears to the Court on information provided by the Children Authority or the Children’s Probation Officer, that the offender has failed to comply with any of the requirements of the order, the Court may—

- (a) issue a summons requiring the offender to appear at the place and time specified in the summons; or
- (b) if the information is on oath, issue a warrant for his arrest.

(2) Any summons or warrant issued under this section shall direct the child offender to appear or be brought before the Court.

46. If it is proved to the satisfaction of the Court before which an offender appears or is brought under section 44(2), that the offender had failed, without reasonable excuse, to comply with any of the requirements of the Peer Resolution Order, the Court may make a further order under sections 59(2) and 60(2) and any other relevant section of the Children Act, 2012.

Children Drug Treatment Court Process

47. Where a Court has received reports about a child, the Court may adjourn the matter to be heard before the Judge or Master adjudicating in Children Drug Treatment Process matters where the Court is satisfied that—

- (a) the child is—
 - (i) pleading guilty and is the subject of a pending drug-related matter before the Court; or
 - (ii) the subject of an application under section 61 of the Children Act; and
 - (iii) before the Court in any other matter and it is brought to the Court's attention that the child has a history of alcohol or substance abuse;
- (b) the child is not charged with a violent or other serious offence;
- (c) the child has a history of alcohol or substance abuse;
- (d) the assessment of the child indicates that the child may be suited to Children Drug Treatment Court Process;
- (e) the assessment of the child indicates that the child has a good chance of benefitting from referral to the Children Drug Treatment Court Process;

- (f) the child is able to physically and psychologically participate in drug intervention activities;
- (g) the child is deemed suitable for drug rehabilitation;
- (h) the child agrees to participate in the Children Drug Court and is prepared to apply for referral to the Children Drug Treatment Court Process;
- (i) the child's parent, guardian, or person with responsibility for the child agree that the child should be referred to Children Drug Treatment Court Process; and
- (j) the Children Drug Treatment Court Process and consequences have been clearly explained to the child and the parent, guardian or person with responsibility for the child.

Non-application of section 47(h)

48. Section 47(h) shall not apply in matters in which a child pleads guilty and is the subject of a pending drug-related matter before the Court.

Court to make order referring child to Children Drug Treatment Court Process

49. Notwithstanding section 47(i), the Court may make an order referring a child to the Children Drug Treatment Court Process without the consent of the child's parent, guardian or person with responsibility for the child if the Court is of the view that—

- (a) the parent, guardian, or person with responsibility for the child is unreasonably withholding consent for the child to be referred to Children Drug Treatment Court Process;
- (b) the child is committed to participating in the Children Drug Treatment Court Process;

- (c) referral to the Children Drug Treatment Court Process will be in the best interest of the child;
- (d) the Children Drug Treatment Court Process and consequences have been explained clearly to the parents and the child; and
- (e) the other conditions in section 47 are met.

50. (1) If the Court makes an order referring a child to the Children Drug Treatment Court Process, the Court shall—

Procedure where Court makes order for Children Drug Treatment Court Process

- (a) inform the Children Drug Treatment Court Process Manager immediately;
- (b) forward a summary of the case file including medical, psychosocial and risk assessment reports to the Children Drug Treatment Court Process Manager;
- (c) adjourn the sentencing hearing to a date to be determined following the graduation report or failure report being submitted by the Children Drug Treatment Court Process to the referring Court; and
- (d) notify the parent, guardian or person with responsibility for the child.

51. An order of the Court referring a child to the Children Drug Treatment Court Process suspends the passing of a sentence on the child for the offence.

Effect of order referring child to Children Drug Treatment Court Process

52. (1) The Children Drug Treatment Court Process shall be presided over by a Judge or Master who shall be the decision maker.

Children Drug Treatment Court Process Team

(2) The Judge or Master shall be assisted by professionals who are already interfacing with the child, and any other professional who may be recommended by any professional dealing with the child and agreed upon by the Judge or Master and the members of a Children Drug Treatment Team, in the best interest of the child.

(3) The Registrar shall maintain a list of professionals which shall be known as the “Children Drug Treatment Team Pool” comprising three persons appointed by the Registrar in each of the following categories of professionals:

- (a) Children’s Attorneys nominated by the Solicitor General;
- (b) Children’s Probation Officers nominated by the Chief Probation Officer;
- (c) suitably qualified representatives of the Student Support Services Division of the Ministry of Education nominated by the Director of Student Support Services of the Ministry of Education;
- (d) youth development specialists who are qualified and experienced in the fields of youth development and social work;
- (e) child psychologists nominated by the Children’s Authority;
- (f) Police officers nominated by the Commissioner of Police;
- (g) representatives of the treatment provider; and
- (h) any other professional as the Registrar deems appropriate.

(4) In each matter, a group comprising the following professionals:

- (a) persons selected from the Children Drug Treatment Team Pool;
- (b) a state counsel or legal officer nominated by the Director of Public Prosecutions;
- (c) the child’s social worker or the child’s social worker’s alternate; and
- (d) a representative of the Children’s Authority nominated by the Director of the Children’s Authority,

shall assist the Judge or Master as members of a Children Drug Treatment Team headed by the Judge or Master.

(5) The failure to appoint or the lack of input by any member of the Children Drug Treatment Team shall not prevent a Judge or Master from making a determination.

53. The child psychologists nominated by the Children's Authority under section 52(3)(e) shall be persons who are qualified to—

- (a) design programmes to meet the psycho-evaluative needs of participants of the Children Drug Treatment Court Process;
- (b) assist in determining the participant's eligibility for the Children Drug Treatment Court Process; and
- (c) provide ancillary support such as testing, and crisis counselling.

54. Where a child is referred to the Children Drug Treatment Court Process the Court may impose additional requirements for the successful completion of the child's treatment programme, as the Court deems necessary.

55. (1) Where the Court refers a child to the Children Drug Treatment Court Process and the child fails to pursue or complete the programme or measures recommended, the Registrar shall cause to be filed, where appropriate, a notice of failure.

(2) Where the Registrar, in accordance with subsection (1), files a notice of failure, the matter which was heard before the Judge or Master in the Court from which the child was initially referred to the Children Drug Treatment Court Process shall then continue in that Court and the Court shall consider whether—

- (a) the child shall be referred again to the Children Drug Treatment Court Process;

- (b) in cases in which the child had appeared in Court charged with a criminal offence, the child should be sentenced; or
- (c) another solution is suited to a case in which the child appeared in Court not having been charged with a criminal offence.

Court causes to be filed a graduation notice

56. Where the Court refers a child to the Children Drug Treatment Court Process and the child graduates from the programme, the Court shall cause to be filed a graduation notice with the Court and the referring Court may order that no conviction be recorded.

Appeals and Transfer of Matters to the Children Court

Transfer of matters

57. Where in proceedings before any other Court, that Court is of the view that the elements of the matter make it desirable that the matter be dealt with by the Children Court, it may transfer the matter to the Children Court and the Children Court may adjudicate on the matter.

Appeals

58. An appeal shall lie from any judgment or order of a Children Court Master or a Children Court Judge to the Court of Appeal in like manner and to like extent as an appeal from any judgment or order of a Judge.

PART VI

MISCELLANEOUS

Magistrate may hear applications for and issuance of a Protection Order or its enforcement

59. Notwithstanding sections 11(d), 27(d) and any other written law, applications for, and the issuance of a Protection Order or its enforcement under the Domestic Violence Act may also be heard by a Magistrate in the Magistrate's Court.

Rules

60. (1) The Rules Committee established under section 77 of the Supreme Court of Judicature Act may make Rules with respect to the—

- (a) exercise of the functions and powers of the Family Court Masters, when sitting in the Family Court;

- (b) the initiation of matters in each of the subdivisions of the Division and the transfer of matters between the subdivisions;
- (c) exercise of the functions of the Children Court Masters when sitting in the Children Court;
- (d) duties of the officers attached to the Family Court and Children Court;
- (e) forms, applications, complaints, notices, particulars, summonses, warrants and other processes necessary for the purposes of the Family Court and Children Court and any matters relating to the foregoing;
- (f) regulation of the practice and procedure of the Family Court and Children Court;
- (g) fees to be paid under this Act;
- (h) accounts to be rendered of moneys received by any person under this Act;
- (i) method of issue of process under this Act, and the manner of receipt of, and accounting for, fees in respect of such process; and
- (j) things that are incidental or necessary for giving effect to the purposes of this Act.

(2) The Rules made under this Act shall be subject to negative resolution of Parliament.

(3) The Chief Justice may, by Practice Direction, determine the case types and categories of applications to be heard by each subdivision.

61. The President may, by Order, amend Schedules 1 and 3 and such Order shall be subject to negative resolution of Parliament.

Power to amend
Schedules 1 and 3

Transitional
provisions

62. (1) Where before the commencement of this Act—

- (a) subject to section 46 of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, any family proceedings have been instituted in the High Court or in the Magistrates' Court, the High Court or the Magistrates' Court, as the case may be, shall have jurisdiction to continue to hear and determine the proceedings notwithstanding any provisions to the contrary in this Act; and
- (b) the High Court or a Magistrate's Court was vested with jurisdiction to enforce, renew, vary, suspend, revive, cancel or discharge an Order in respect of a children matter and, by virtue of this Act such jurisdiction vests in the Family Court, the jurisdiction shall be exercisable by the Family Court.

(2) Where before the commencement of this Act—

- (a) a child has been charged with an offence and proceedings have commenced with respect to that charge in the High Court or in a Magistrate's Court in which that Court had jurisdiction, the High Court or the Magistrate's Court, as the case may be, shall have jurisdiction to continue to hear and determine the proceedings notwithstanding any provisions to the contrary in this Act; and
- (b) the High Court or a Magistrate's Court was vested with jurisdiction to enforce, renew, vary, suspend, revive, cancel or discharge an Order in respect of a children matter and, by virtue of this Act, such jurisdiction vests in the Juvenile Court, jurisdiction shall be exercisable by the Children Court.

Consequential
amendments
Schedule 5

63. The written laws specified in the First Column of Schedule 5 are amended to the extent specified in the Second Column of that Schedule.

SCHEDULE 1

[Section 3(1)]

WRITTEN LAWS IN RELATION TO FAMILY MATTERS

Administration of Estates Act ...	...	...	...	Chap. 9:01
Succession Act (Part VIII) ...	...	...	...	Chap. 9:02
Emigration (Children) Act ...	...	...	...	Chap. 18:02
Marriage Act ...	...	...	...	Chap. 45:01
Muslim Marriage and Divorce Act ...	...	...	...	Chap. 45:02
Hindu Marriage Act ...	...	...	...	Chap. 45:03
Orisa Marriage Act ...	...	...	...	Chap. 45:04
Married Persons Act ...	...	...	...	Chap. 45:50
Matrimonial Proceedings and Property Act ...	...	...	...	Chap. 45:51
Attachment of Earnings (Maintenance) Act ...	...	...	...	Chap. 45:52
Maintenance Orders (Facilities for Enforcement) Act	...	...	...	Chap. 45:53
Cohabital Relationships Act ...	...	...	...	Chap. 45:55
Domestic Violence Act ...	...	...	...	Chap. 45:56
Children Act ...	...	...	...	Act No. 12 of 2012
Infants Act ...	...	...	...	Chap. 46:02
Adoption of Children Act ...	...	...	...	Act No. 67 of 2000
Age of Majority Act ...	...	...	...	Chap. 46:06
Status of Children Act ...	...	...	...	Chap. 46:07
Family Law (Guardianship of Minors, Domicile and Maintenance) Act	...	...	...	Chap. 46:08
Children's Authority Act ...	...	...	...	Chap. 46:10
Children's Community Residences, Foster Care and Nurseries Act	...	...	...	Act No. 65 of 2000
Occupational Safety and Health Act (Part IX)	...	...	...	Chap. 88:08
International Child Abduction Act ...	...	...	...	Chap. 12:08

SCHEDULE 2

[Section 15(6)]

MAINTENANCE ORDERS TO WHICH THIS ACT APPLIES

1. An order for maintenance pending suit, maintenance, periodical payments, financial relief or other payments made, or having effect as if made under the Matrimonial Proceedings and Property Act, Chap. 45:51.
2. An order for payments to, or in respect of a child, being an order made, or having effect as if made, under Part III of the said Matrimonial Proceedings and Property Act, Chap. 45:51.
3. An order for maintenance made under section 41 of the Matrimonial Proceedings and Property Act, Chap. 45:51.
4. An order under sections 13(2), 13(5), 13(6)(a), 13(6)(b), 14(1)(b) and 15(b) of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08.
5. An order for maintenance made pursuant to a paternity order under section 22 of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08.
6. An order for maintenance or other periodical payments to, or in respect of a spouse or a child, being an order made, or having effect as if made under section 25 of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08.
7. An order under section 48 of the Children Act, 2012.
8. An order for maintenance under section 5 of the Age of Majority Act, Chap. 46:06.
9. An order for maintenance under Part VIII of the Succession Act, Chap. 9:02.
10. A maintenance order within the meaning of the Maintenance Orders (Facilities for Enforcement) Act, 2000 (United Kingdom, and certain Commonwealth Maintenance Orders enforceable in Trinidad and Tobago) registered in, or confirmed by, a Court in Trinidad and Tobago under the said Act.
11. A maintenance order under section 15 or 16 of the Cohabitation Relationships Act, Chap. 45:55.
12. A Protection Order with provision for maintenance or other financial relief under section 6 of the Domestic Violence Act, Chap. 45:56.

SCHEDULE 3

(Sections 18 and 33)

OATH (OR AFFIRMATION) OF SECRECY

I, (A.B.), do swear (solemnly affirm) that I will not, without due authority in that behalf, in any manner whatsoever, publish or communicate any facts or information being facts or expressions of opinion based on such facts that came to my knowledge by reason of my employment.

SCHEDULE 4

(Section 40)

OFFENCES FOR WHICH PEER RESOLUTION IS NOT AVAILABLE

1. Treason.
2. Offences against the person, namely—
 - (a) Murder;
 - (b) Conspiring or soliciting to commit murder;
 - (c) Manslaughter;
 - (d) Shooting or wounding with intent to do grievous bodily harm or unlawful wounding;
 - (e) Assault occasioning bodily harm.
3. Offences involving kidnapping, namely—
 - (a) Kidnapping;
 - (b) Kidnapping for ransom;
 - (c) Knowingly negotiating to obtain a ransom.
4. Any sexual offence.
5. Offences under the Trafficking in Persons Act, 2011.
6. Unlawful possession of a firearm or ammunition.
7. Possession or use of firearms or ammunition with intent to endanger life.
8. Possession of imitation firearms in pursuance of any criminal offence.
9. Robbery, Robbery with Aggravation, Robbery with Violence.
10. Sedition.
11. Piracy or Hijacking.
12. An offence under the Anti-gang Act, 2011.
13. Inciting any of the offences in this Schedule.

SCHEDULE 5

(Section 63)

CONSEQUENTIAL AND OTHER AMENDMENTS TO VARIOUS ACTS

First Column

Second Column

*Written Laws**Extent of Amendments*

1. S u p r e m e Court of Judicature Act, Chap. 4:01 The Supreme Court of Judicature Act is amended—
 - (a) in section 5(1), by deleting the word “thirty-six” and substituting the word “forty-nine”;
 - (b) by deleting the words “Judge in Chambers” wherever they occur and substituting the word “Judge”;
 - (c) in section 65B(1), by deleting the words “sitting in Chambers”; and
 - (d) in section 65D(a), by deleting the words “in Chambers”.

2. Bail Act, Chap. 4:60 The Bail Act is amended—
 - (a) in section 3—
 - (i) by deleting the definitions of “child” and “young person”;
 - (ii) by inserting in the appropriate alphabetical sequence the following definition:

“child” means a person under the age of eighteen years;”;
 - (b) by deleting the words “child or young person” and “young person” wherever they occur and substituting the word “child”;
 - (c) in section 6(1)—
 - (i) in paragraph (c), by deleting the words “Children Act” and substituting the words “Children Act, 2012”; and
 - (ii) in paragraph (d), by deleting the word “young” and substituting the word “child”; and

SCHEDULE 5—CONTINUED

First Column

Second Column

Written Laws

Extent of Amendments

(d) in section 15(6), by deleting the words “section 52 of the Children Act” and substituting the words “section 54 of the Children Act, 2012”.

3. **S u m m a r y Courts Act, Chap. 4:20** The Summary Courts Act is amended in section 63A(2), by deleting the words “section 76 of the Children Act” and substituting the words “section 98 of the Children Act, 2012”.

4. **The Administration of Justice (Deoxyribonucleic Acid) Act, Chap. 5:34** The Administration of Justice (Deoxyribonucleic Acid) Act is amended by inserting after section 29 the following section:

“Use of DNA data and information with respect to non-intimate and intimate samples 29A. DNA data or information with respect to non-intimate or intimate samples taken in accordance with this Act shall be used or disclosed only for purposes—

- (a) related to the detection of crime;
- (b) the investigation of offences; or
- (c) the conduct of prosecutions by, or on behalf of, police or other law enforcement and prosecuting authorities.”.

5. **Legal Aid and Advice Act, Chap. 7:07** The Legal Aid and Advice Act is amended—
 (a) in section 2, by inserting in the appropriate alphabetical sequence the following definition:

“Children Court” has the meaning assigned to it under section 3 of the Family and Children Division Act, 2016;”;

(b) in section 16(3)(a), by inserting after the words “Court of summary jurisdiction” the words “or Children Court”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(c) in section 16(5B), by deleting the word “juvenile” and substituting the word “Children”; and

(d) in section 16(5c)—

(i) by deleting the words “section 74 of the Children Act” and substituting the words “section 54 of the Children Act, 2012”; and

(ii) by deleting the words “Part IV” and substituting the words “Part X”.

6. Probation of Offenders Act, Chap. 13:51 The Probation of Offenders Act is amended—

(a) in section 2—

(i) by inserting in the appropriate alphabetical sequence the following definitions:

“child” has the meaning assigned to it under the Children Act, 2012;

“Children’s Probation Officer” means a person appointed to be a Children’s Probation Officer under section 18; and

(ii) in the definition of “probation order”, by inserting after the words “under this Act” the words “, the Children Act, 2012 or the Family and Children Division Act, 2016.”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- (b) by inserting after section 8, the following new section:

“Court may order a probation officer to conduct assessments, investigation and reports 8A. Where a Court requires an assessment, investigation and report on a child or person associated with a child to determine what provisions shall be made for the care of that child pending hearing, during hearing or post hearing, the Court may order that a suitably qualified probation officer conduct such assessment, investigation and report on the child or the person.”;

- (c) in section 16, by inserting after subsection (2), the following new subsection:

“(3) Where—
 (a) a child is placed by the Court under the supervision of a welfare officer (probation); or
 (b) the Chief Probation Officer assigns a welfare officer (probation) to a child,
 the welfare officer (probation) shall be known as a “Children’s Probation Officer.”; and

- (d) in section 18(1), by inserting after paragraph (a), the following new paragraph:

“(aa) a Children’s Probation Officer who shall be a person who has been trained and is qualified as a specialist in the welfare of children.”.

SCHEDULE 5—CONTINUED

First Column	Second Column
<i>Written Laws</i>	<i>Extent of Amendments</i>
7. Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01	<p>The Indictable Offences (Preliminary Enquiry) Act is amended—</p> <p>(a) in section 16C, in subsection (2)—</p> <p style="padding-left: 2em;">(i) by inserting after the word “child”, the words “who is under ten years of age”; and</p> <p style="padding-left: 2em;">(ii) by deleting the words “section 19 of the Children Act” and substituting the words “section 98 of the Children Act, 2012”; and</p> <p>(b) by inserting after subsection (2), the following new subsection:</p> <p style="padding-left: 4em;">“ (2A) Where a child, ten years of age and over, is a witness in a preliminary enquiry, the child shall first swear on oath and then this section shall be applied to any written statement made by such a witness.”.</p>
8. Prisons Act, Chap. 13:01	<p>The Prisons Act is amended—</p> <p>(a) in section 2—</p> <p style="padding-left: 2em;">(i) by deleting the definition of “Industrial Institution” and substituting in the appropriate alphabetical sequence the following definition:</p> <p style="padding-left: 4em;">“ “Rehabilitation Centre” has the meaning assigned to it under section 2 of the Children’s Community Residences, Foster Care and Nurseries Act; and;”</p> <p style="padding-left: 2em;">(ii) in the definition of “prisoner”, by inserting after the words “charge of any offence” the words “but does not include a child charged nor a child offender”;</p>

Act No. 65 of
2000

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- Chap. 13:05
- (iii) by deleting the definition of “young offender” and inserting in the appropriate alphabetical sequence the following definitions:
- “ “child charged” has the meaning assigned to it under section 1A of the Child Rehabilitation Centre Act;
- “child offender” has the meaning assigned to it under section 1A of the Child Rehabilitation Centre Act;”;
- (b) in section 22(a), by deleting subparagraph (ii);
- (c) in section 22(b)—
- (i) in subparagraphs (i) and (ii), by deleting the words “and young offenders”;
- (ii) in subparagraph (iv), by deleting the words “or a young offender”; and
- (iii) in subparagraph (v), by deleting the words “or Industrial Institution”;
- (d) in section 22(c)—
- (i) by deleting the words “, Industrial Institution” and substituting the word “or”; and
- (ii) by deleting the words “or young offender”;
- (e) in section 23(1)—
- (i) in paragraph (a), by deleting the words “or Industrial Institution” wherever they occur; and
- (ii) in paragraph (c), by deleting all the words after the words “a prison” and substituting the words “or prisoner”;

SCHEDULE 5—CONTINUED

First Column	Second Column
<i>Written Laws</i>	<i>Extent of Amendments</i>
	(f) in section 24(3)—
	(i) in the chapeau, by deleting the words “and Industrial Institution”;
	(ii) in paragraph (a), by deleting the words “or Industrial Institution”;
	(iii) in paragraph (b), by deleting all the words after the word “prisoners”;
	(iv) in paragraph (d), by deleting the words “or young offenders”; and
	(v) in paragraph (e), by deleting the words “and young offenders”.
9. <i>Y o u n g O f f e n d e r s Detention Act, Chap. 13:05</i>	The Young Offenders Detention Act is amended—
	(a) in the long title, by deleting all the words from “Reformation” to the end and substituting the words “detention of child offenders and children charged with criminal offences.”;
	(b) in section 1, by deleting the words “Young Offenders Detention” and substituting the words “Child Rehabilitation Centre”;
	(c) by inserting after section 1, the following new sections:
	“Interpretation 1A. In this Act—
	“A u t h o r i t y”
	means the
	Children’s
	Authority
	established
	u n d e r
	section 4 of
	t h e
	Children’s
	Authority
	Act;
	Chap. 46:10

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

	<p>“child” has the meaning assigned to it under section 3 of the Children Act, 2012;</p>
Act No. 12 of 2012	<p>“child charged” means a child who has been charged with an offence and is awaiting the outcome of a hearing or trial;</p> <p>“child offender” means a child who has been convicted of a criminal offence;</p> <p>“Commissioner of Prisons” has the meaning assigned to it under section 2 of the Prisons Act;</p> <p>“Minister” means the Minister to whom responsibility for national security has been assigned;</p>
Chap. 13:01	

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

“prison officer”
has the
m e a n i n g
assigned to it
u n d e r
section 2 of
the Prisons
Act;

“Rehabilitation
Centre” has
the meaning
assigned to it
u n d e r
section 2 of
t h e
Children’s
Community
Residences,
Foster Care
a n d
Nurseries
Act.

Act No. 65 of 2000

Act binds the
State1B. This Act binds
the State.”;

(d) by deleting the word “Institution”
wherever it occurs and substituting
the words “Rehabilitation Centre”;

(e) by repealing section 2 and
substituting the following new
section:

“Designation
of
Rehabilitation
Centres 2. (1) The Minister
may, by Order, after
consultation with the
Commissioner of
Prisons and the
Authority, designate
premises to be a Child
Rehabilitation Centre
(hereinafter referred to
as “a Rehabilitation
Centre”).

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(2) P r e m i s e s designated under subsection (1) shall be deemed to be licensed as a Rehabilitation Centre under the Children's Community Residences, Foster Care and Nurseries Act and subject to subsection (3), the provisions of that Act shall apply.

(3) The following provisions shall not apply to a Rehabilitation Centre designated under subsection (1):

(a) sections 11(1) and (3), 11A, 12 to 17, 19(1), 20, 24 and 26 of the Children's Community Residences, Foster Care and Nurseries Act; and

(b) Part II and regulation 22 of the Children's Community Residences Regulations, 2014.

(4) The Commissioner of Prisons shall be deemed to be the manager or licensee of a Rehabilitation Centre.

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(5) The expense attendant upon the designation, conduct and maintenance of a Rehabilitation Centre shall be a charge on the Consolidated Fund.

(6) The Minister may, by Order, on the recommendation of the Authority, revoke an Order made under subsection (1).”;

(f) by repealing section 3 and substituting the following sections:

“Management and control of Rehabilitation Centres 3. (1) A Rehabilitation Centre shall be under the management and control of the Commissioner of Prisons, subject to—

(a) the powers and functions of the Authority under—

(i) the Children’s Authority Act and in particular, sections 5(1)(c) and (f), 6 and 22; and

(ii) the Children’s Community Residences, Foster Care and Nurseries Act and in particular, sections 9(1), 23 and 27(1); and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(b) the standards for
C o m m u n i t y
R e s i d e n c e s
prescribed in the
C h i l d r e n ' s
C o m m u n i t y
R e s i d e n c e s
Regulations, 2014,
including those
applicable to
Rehabilitation
Centres.

(2) There shall be an
Advisory Board to be
known as the Child
Advisory Board (here-
inafter referred to as “the
Board”) which shall advise
the Commissioner of
Prisons with respect to the
management and control of
the Rehabilitation Centre.

(3) The Board shall
comprise a Chairman and
four other members
including an appropriately
qualified—

(a) youth development
specialist;

(b) Attorney-at-law
with not less than
seven years’
experience in the
area of family law
or children law;

(c) social worker with
at least five years’
experience in
matters relating to
children; and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(d) psychologist with expertise in child behaviour and adolescent behaviour,

appointed by the Minister and who shall hold office for three years or for a lesser period as determined by the Minister.

(4) There shall be appointed at each Rehabilitation Centre, a Superintendent, who shall be under the direction of the Commissioner of Prisons, and who shall be—

(a) responsible for the day to day administration of the Rehabilitation Centre;

(b) in immediate charge of each Rehabilitation Centre and of the staff appointed to the Rehabilitation Centre;

(c) responsible for the proper management of the Rehabilitation Centre; and

(d) responsible for the maintenance of good order and discipline of the staff and children therein.

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(5) The Superintendent referred to in subsection (4), shall be assisted by an Assistant Superintendent.

(6) The Chief Welfare Officer shall *ex officio* be a non-voting member of the Board.

Functions of
the Board

3A. Subject to subsection (5), the Board shall advise the Commissioner of Prisons with respect to—

- (a) strategies for rehabilitation and the reduction of recidivism of child residents;
- (b) training programmes for officers and residents of Rehabilitation Centres;
- (c) the fitness for discharge of any resident of a Rehabilitation Centre;
- (d) the making of applications to the Court for permission for a resident over the age of sixteen years to engage in on-the-job training outside of the Rehabilitation Centre; and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(e) other matters relating to the management, maintenance or operations of the Rehabilitation Centres.

Duty of
Commissioner
of Prisons 3B. The Commissioner of Prisons shall be responsible for ensuring that each resident of a Rehabilitation Centre is adequately clothed, fed, and educated, and is encouraged to engage in appropriate character building and personal development activities.”;

(g) by repealing section 5 and substituting the following section:

“Regulations 5. The Minister may, after consultation with the Commissioner of Prisons and the Authority, make Regulations for—

- (a) the security, management and security operations of Rehabilitation Centres;
- (b) the establishment of a system of marks and of rewards for good conduct;
- (c) the awarding of gratuities on discharge; and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(d) a n y t h i n g
necessary for
giving effect to the
provisions of this
Act.”;

(h) in section 7—

(i) by repealing subsections (1)
and (2) and substituting the
following subsections:

“ (1) Where a child is
convicted before the High
Court on indictment of
any offence or before a
Court of Summary
Jurisdiction of any
offence to which a
custodial sentence may
apply, the Court may
commit such a child to a
Rehabilitation Centre
appropriate to his age,
in accordance with
sections 59(1)(e) and (3);
60(2)(b)(i), (3) and (5);
64(1) and 76 of the
Children Act, 2012.

(2) Where a child
charged, who is between
the ages of ten years and
eighteen years, and who
is not released on bail,
appears before the Court
and the matter is being
adjourned or trial is
pending, the Court may
commit the child to a
Rehabilitation Centre
appropriate to his age,
in accordance with
section 54(1)(a) of the
Children Act, 2012.

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- (ii) in subsection (4)—
- (A) by deleting the word “person” wherever it occurs and substituting the word “child”;
 - (B) by deleting the words “sentence of detention” wherever they occur and substituting the words “custodial sentence”; and
 - (C) by deleting the words “prison or to such other safe custody” and substituting the words “a Rehabilitation Centre”;
- (iii) by inserting after subsection (4), the following new subsections:
- “ (4A) Where a child charged is in custody pending trial or pending sentence, he shall not be housed with child offenders who are serving custodial sentences.
 - (4B) Notwithstanding subsection (4A), the children charged and child offenders serving custodial sentences may be housed in the same Rehabilitation Centre but they shall be separated.”; and
- (iv) in subsection (5), by deleting the word “person” wherever it occurs and substituting the word “child”;
- (i) by repealing sections 8, 11, 14 and 15;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(j) in sections 9 and 10, by deleting the word “person” wherever it occurs and substituting the word “child”; and

(k) by repealing section 12 and substituting the following new section:

“Application for non-custodial sentences under Act No. 12 of 2012 12. (1) The Commissioner of Prisons may, after six months from the commencement of the term of detention of a child offender, make an application to the Children Court for any of the non-custodial sentences available under section 59(2) and section 60(2) of the Children Act, 2012.

(2) An application made pursuant to subsection (1) shall be served on the Authority.

(3) The Court may hear and take into consideration submissions on behalf of the Authority, with respect to the appropriate non-custodial sentence.”.

10. Police Service Act,
Chap. 15:01

The Police Service Act is amended by inserting after section 50L the following new sections:

“Use and disclosure of measurements, photographs, etc. 50M. All measurements, photographs, and fingerprint impressions taken and recorded for the purpose of identification under this Act or any other written law shall be used or disclosed only for purposes—

(a) related to the detection of crime;

SCHEDULE 5—CONTINUED

First Column	Second Column
<i>Written Laws</i>	<i>Extent of Amendments</i>
	(b) the investigation of offences; or
	(c) the conduct of prosecutions by, or on behalf of police or other law enforcement and prosecuting authorities.
Sharing or disclosing measurements, photographs, or fingerprint impressions	<p>50N. A person who negligently or wilfully—</p> <p>(a) shares measurements, photographs or fingerprint impressions, taken and recorded under this Act or any other written law, with another person; or</p> <p>(b) discloses measurements, photographs or fingerprint impressions, taken and recorded under this Act or any other written law, to another person,</p> <p>without authorisation, commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for two years.”.</p>
11. Matrimonial Proceedings and Property Act, Chap. 45:51	The Matrimonial Proceedings and Property Act is amended in section 37, by deleting the words “or 28” and substituting the words “, 28 or 30”.
12. Adoption of Children Act, 2000	<p>The Adoption of Children Act is amended—</p> <p>(a) in section 2, by inserting in the appropriate alphabetical sequence, the following definition:</p> <p>“ “the Authority” means the Children’s Authority established under section 4 of the Children’s Authority Act;”;</p>

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(b) in section 15—

(i) in subsection (2), by inserting after the word “residence” the words “or with a prospective adopter or adopters approved by the Authority and assessed by the Authority as a match with a child”; and

(ii) by inserting after subsection (5), the following new subsections:

“ (5A) Where—

(a) a pregnant woman has made an application to the Authority to place her child for adoption when the child is born; or

(b) a mother who has given birth within the previous six weeks makes an application to the Authority to place her child for adoption,

the Authority may receive that child into its care.

(5B) Where the Authority receives the child referred to in subsection (5A) into its care within six weeks of the birth of the child, the Authority may place the child—

(a) with a foster parent;

(b) in a Community Residence; or

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(c) with a prospective adopter who has been assessed by the Authority as a good match with the child and approved by the Authority.

(5C) An application made in the circumstances described in subsection (5A) shall not constitute a consent to adoption by the mother, which consent may only be given in accordance with subsection (5).;

(c) in section 18—

(i) in subsection (1)—

(A) by deleting the words “any person” and substituting the words “the Authority for the adoption of a child by any person,”;

(B) by deleting the word “court” and substituting the word “Court”;

(C) by deleting the words “the applicant” and substituting the words “that person”; and

(D) by deleting the word “a” the final time it appears and substituting the word “the”; and

(ii) in subsection (2)—

(A) by inserting after the word “by” the words “the Authority in respect of”; and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(B) by deleting the word
“court” and
substituting the word
“Court”;

(d) in section 35(1)—

- (i) by deleting the word
“possession” and substituting
the word “control”; and
- (ii) by deleting all the words after
the word “unless” and
substituting the words “an
order has been made in respect
of that child under
section 36.”;

(e) in section 36—

(i) in subsection (2)—

- (A) in paragraph (a), by
deleting the word
“and”;
- (B) in paragraph (b), by
deleting the full-stop
after the word “child”
and substituting the
words “; and”; and
- (C) by inserting after
paragraph (b), the
following paragraph:

“(c) notifies the
A u t h o r i t y
before a trans-
fer order is
granted.”; and

(ii) by repealing subsection (4).

The Status of Children Act is amended—

13. Status of
Children Act,
Chap. 46:07

(a) in section 2(1), in the definition of
“Minister”, by deleting all the words
after the word “for” and substituting
the words “the registration of births
and deaths is assigned”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(b) in section 2(2)—

(i) by deleting the definitions of “blood samples”, “blood tests” and “tester”;

(ii) by inserting in the appropriate alphabetical sequence, the following definitions:

“DNA” means deoxyribonucleic acid;

“DNA analysis” means the analysis of genetic material performed by a tester;

“non-invasive tissue sample” means—

(a) a sample of hair plucked with the root, other than pubic hair;

(b) a sample taken from or under a fingernail or toenail;

(c) a swab taken from any part of a person’s buccal cavity or any part of his body other than any part of his genitalia, anus or rectum;

(d) a skin impression taken without breaking the skin;

“qualified person” means a person designated by the Registrar and Marshal of the Supreme Court under section 14;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

“tissue sample” includes a sample of blood, saliva, hair or epithelial cells;

“tester” means a laboratory listed in the Schedule;”;

(c) by deleting the heading “BLOOD TESTS” occurring after section 12 and substituting the heading “DNA ANALYSIS”;

(d) in section 13—

(i) by repealing subsections (1), (2) and (3), and substituting the following new subsections:

“Power of Court to require DNA analysis (1) Where, in any civil proceedings, the question of whether a person is the parent or sibling of another person (hereinafter referred to as “the subject”) falls to be determined, the Court may give directions for—

(a) the use of DNA analysis, to ascertain whether or not the analysis shows that a party to the proceedings is the parent or sibling of the subject; and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(b) the taking of a non-invasive tissue sample from—

(i) the subject;
and

(ii) any person alleged to be the parent or sibling of the subject, within a period specified in the direction,

and the Court may, at any time, revoke or vary a direction previously given by it under this section.

(2) The Court shall, in giving directions for the taking of the non-invasive tissue sample, assign to each person from whom a non-invasive tissue sample is being taken, an identifying number

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

which shall be used by the tester with the name of the person whom that number identifies being known only by the Registrar.

(3) A tester performing an analysis referred to in subsection (1) shall submit to the Court which gave the direction for the analysis, a report which shall include—

(a) the results of the analysis by reference to the identifying numbers attached to each non-invasive tissue sample; and

(b) a statement of the findings from the analysis, with respect to the relationship, if any between the parties from whom the non-invasive tissue samples were taken.

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(3A) A report submitted under subsection (3), shall be received by any Court as evidence of the matters stated therein.”;

(ii) in subsection (5)—

(a) by deleting the words “tests taken” and substituting the words “DNA analysis”; and

(b) by deleting the words “those tests” and substituting the words “the analysis”;

(iii) by repealing subsection (6) and substituting the following new subsection:

“ (6) Where a direction is given under this section, the Court may order that the cost of taking and analysing non-invasive tissue sample, for the purpose of giving effect to the direction, shall be borne in whole or in part by—

(a) any party to the proceedings;

(b) any other person as the Court thinks fit; or

(c) the Court,

and may make such other order as it thinks fit.”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(e) by inserting after subsection (6) the following new subsection:

“Court to give directions as to identification (6A) In relation to any party to proceedings under this section, the Court shall give directions with respect to—

(a) the nature of identification to be provided to the person taking a non-invasive tissue sample;

(b) the time and place for giving of the non-invasive tissue sample;

(c) the persons in whose presence the non-invasive tissue sample shall be given; and

(d) any other direction as the Court sees fit.”;

(f) by inserting after section 13 the following new section:

“Use of DNA analysis services of parties’ own choice 13A. Nothing in this Act shall be construed as preventing parties interested in the determination of parental relationship from consenting to the use of DNA analysis using services of their choice unless the Court directs otherwise.”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(g) by repealing section 14 and substituting the following new section:

“Designation of qualified persons 14. The Registrar and Marshal of the Supreme Court may designate a qualified person to take non-invasive tissue samples in respect of which DNA analysis is required.”;

(h) in section 15, by repealing subsections (2) and (3);

(i) by inserting after section 15 the following new sections:

“Personating a qualified person 15A. Any person who impersonates a qualified person, commits an offence and is liable—

(a) on summary conviction, to a fine of fifty thousand dollars and to imprisonment for two years; or

(b) on conviction on indictment, to imprisonment for three years.

DNA analysis between consenting parties 15B. A person who wilfully and without authorisation—

(a) tampers with or destroys a tissue sample or the container or package containing a tissue sample;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(b) falsifies information required under this Act;

(c) falsifies results of a DNA test; or

(d) gains or gives access to a tissue sample,

commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for seven years.”;

(j) in section 16—

(i) in the chapeau, by—

(A) deleting the word “blood” and substituting the words “non-invasive tissue”;

(B) deleting the words “a test” and substituting the words “DNA analysis”;

(ii) by deleting paragraphs (a) and (b) and substituting the following new paragraphs:

“(a) on summary conviction, to a fine of fifty thousand dollars and to imprisonment for three years; or

(b) on conviction on indictment, to imprisonment for five years.”; and

(iii) by repealing subsection (2);

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(k) by repealing section 17 and substituting the following new sections:

“Tissue
samples
from
deceased

17. (1) For the purposes of this Act, a tissue sample may be taken from a deceased person on the direction of the Court.

(2) A tissue sample referred to in subsection (1) may be taken from any part of the body or from blood or bodily fluid of the deceased person.

(3) Where a sample has been taken from a person prior to death, the Court may direct that tissue samples having been obtained during any medical procedures may be used for DNA testing subsequent to death.

(4) A tissue sample may be accepted into evidence provided that it can be proved to the satisfaction of the Court that—

(a) the tissue sample can be identified as having been taken from the person who is the subject of the proceedings; and

(b) the sample has not been contaminated.”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(l) by inserting after section 18, the following new sections:

“Minister
may
designate a
laboratory

18A. The Minister may, by Order, for the purposes of DNA analysis, designate a laboratory that is accredited by an international accrediting body.

Rules
Committee
to make
rules

18B. (1) The Rules Committee may make rules—

(a) with respect to any direction given by the Court pursuant to section 13; and

(b) to regulate the taking, identification and transport of tissue samples referred to in section 17.

(2) In this section, “the Rules Committee” means the Rules Committee of the Supreme Court established under section 77 of the Supreme Court Act.”; and

Chap. 4:01

14. The Family Proceedings Act,
Chap. 46:09

The Family Proceedings Act is amended—

(a) in the long title, by inserting after the word “Proceedings” the words “and Children Proceedings”;

(b) in section 1, by inserting after the word “Proceedings” the words “and Children Proceedings”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(c) in section 2, by inserting after the word “proceedings” the words “and children proceedings”;

(d) in section 3—

(i) by deleting all the words after the word “Act” and substituting a dash; and

(ii) by inserting the following definitions:

“ “Authority” has the meaning assigned to it under section 3 of the Children’s Authority Act;

“children proceedings” includes any proceedings in relation to children matters as defined under section 3 of the Family and Children Division Act, 2016 and other matters falling within the jurisdiction of the Family and Children Division of the High Court of Trinidad and Tobago;

“family proceedings” include any proceedings in relation to family matters as defined under section 3 of the Family and Children Division Act, 2016 and other matters falling within the jurisdiction of the Family and Children Division of the High Court of Trinidad and Tobago;”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- (e) in section 4(1)—
 - (i) in the chapeau, by inserting after the word “proceedings” the words “or children proceedings”; and
 - (ii) in paragraph (b), by deleting the word “Government” and substituting the words “State or the Authority”;
- (f) in section 5, by inserting after the word “proceedings” wherever it occurs, the words “or children proceedings”;
- (g) in section (7)—
 - (i) by deleting the number “(1)”; and
 - (ii) by inserting after the word “proceedings” the words “or children proceedings”; and
- (h) by repealing section 9 and the Schedule.”.

15. Children’s
Authority Act,
Chap. 46:10

The Children’s Authority Act is amended—

- (a) in section 3—
 - (i) by deleting the definition of “Community Residence” and substituting the following definition:
 - “ “Community Residence” has the meaning assigned to it under section 2 of the Children’s Community Residences, Foster Care and Nurseries Act;”;
 - (ii) in the definition of “Children’s Home”, by deleting the word “by” and substituting the words “under section 2 of”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(iii) by deleting the definition of “Rehabilitation Centre” and substituting the following definition:

“ “Rehabilitation Centre” has the meaning assigned to it under section 2 of the Children’s Community Residences, Foster Care and Nurseries Act;” and

(iv) by deleting the definition of “youthful offender”;

(b) in section 5(1)—

(i) in paragraph (g), by deleting the words “Community Residences” and substituting the words “Children’s Homes”;

(ii) by inserting after paragraph (g), the following new paragraph:

“(ga) issue, suspend and revoke temporary and conditional licences of Community Residences and nurseries as provided under the Children’s Community Residences, Foster Care and Nurseries Act, 2000;”;

(c) in section 25(g), by deleting the words “under the Children Act”;

(d) in section 25G, by deleting the words “under the Children Act”; and

(e) in section 34—

(i) by repealing subsection (1); and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- (ii) in subsection (2), by deleting the word “section” and substituting the word “Act”.

16. Children’s Community Residences, Foster Care and Nurseries Act No. 65 of 2000

The Children’s Community Residences, Foster Care and Nurseries Act is amended—

(a) in section 2—

- (i) by deleting the definition of “Children’s Home” and substituting the following new definition:

““Children’s Home” means a Community Residence for the care and nurturing of children;”;

- (ii) by inserting in the appropriate alphabetical sequence the following definition:

““child offender” has the meaning assigned to it under section 1A of the Child Rehabilitation Centre Act, 2016;”;

- (iii) by deleting the definition of “rehabilitation centre” and substituting the following definition:

““Rehabilitation Centre” means a Community Residence for the rehabilitation of—

(a) child offenders who—

- (i) have been convicted and committed to serve a custodial sentence; or

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- (ii) are remanded in custody pending sentence; or
- (b) children who have been charged with an offence and are in custody pending a hearing.”;
- (iv) in the definition of “relative”, by deleting the word “and”;
- (v) in the definition of “residence licence”, by deleting the full-stop and substituting the words “; and”;
- (vi) by inserting after the definition of “residence licence” the following definition:
 - “ “standards for Community Residences” means the standards that are set by the Authority for Community Residences including the Children’s Community Residences Regulations, 2014;”;
- (b) in section 4, by inserting after subsection (2), the following new subsection:
 - “ (3) Notwithstanding subsections (1) and (2), the Authority may extend the time for applying for a licence or meeting compliance requirements or recommendations, either on its own motion or on an application in writing to the Authority, of the person wishing to obtain a licence for defined premises, and stating reasons for so requesting an extension.”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- (c) in section 5(3), by inserting after the words “be prescribed” the words “by the standards for Community Residences”;
- (d) in section 8(2A), by inserting after the word “shall” the words “unless revoked by the Authority”;
- (e) by inserting after section 8, the following new sections:

<sup>“Temporary
licence</sup> 8A. (1) Notwithstanding section 8, where the Authority has been informed by the applicant that the facilities to be used will not continue as a Community Residence for a period in excess of three years, it may grant a temporary licence.

(2) Where the Authority grants a temporary licence under subsection (1), it may extend such a licence.

<sup>Conditional
licence</sup> 8B. (1) Where the Authority has brought to the attention of the applicant for a residence licence, that all the requirements for the issuance of a residence licence have not been met, it may nevertheless, issue a conditional licence, specifying the conditions which it requires the applicant to meet.

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(2) The conditional licence referred to in subsection (1) may also indicate the time frames for compliance in order for a licence to be issued.”;

(f) in section 11, by inserting after subsection (3), the following new subsections:

“ (4) Where, pursuant to subsection (2), a notice is served by the Authority on the Manager of a Rehabilitation Centre designated under section 2 of the Child Rehabilitation Centre Act, and the corrective measures are not taken, the Authority shall submit a report on the matter to the Minister, who shall lay the report in Parliament within one month of receiving such a report.

(5) When the Authority serves the notice on the Manager and submits the report to the Minister, pursuant to subsection (4), it shall cause to be sent to the Minister to whom responsibility for national security has been assigned, a copy of the notice and the report.”;

(g) in section 21(2), by inserting after the words “the Authority”, the words “in accordance with the standards for Community Residences”;

(h) by inserting after section 27, the following new section:

“Power of entry and inspection of State owned Community Residences 27A. (1) The Authority may authorise one of its officers at any time to enter any Community Residence owned or

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

occupied by the State to inspect the premises and the children so received therein, the arrangements for their welfare, and any records relating to them kept in pursuance of this Part.

(2) Any person who obstructs an officer authorised to make such entry in the exercise of his powers under the Act commits an offence and is liable on summary conviction to a fine of five thousand dollars.”;

(i) in section 41—

(i) by repealing section 41(a);

(ii) in paragraph (b), by deleting the words “Children Act” and substituting the words “Children Act, 2012”; and

(iii) in paragraph (c), by deleting the words “Children Act” wherever they occur and substituting the words “Children Act, 2012”;

(j) by inserting after section 41 the following new section:

“Authority may place a child with a relative other than a parent as a foster parent 41A. Nothing in this Part prohibits the Authority from placing a child with a relative other than a parent as a foster parent, if it is of the view that it is in the best interest of the child.”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(k) in section 44, by inserting after subsection (3), the following subsections:

“ (4) A Nursery licence issued under subsection (3) shall be valid for three years.

(5) Notwithstanding subsection (4), when an application is made for the renewal of a Nursery licence, the existing licence shall, unless revoked by the Authority, remain valid until the determination of the licence by the Authority.”; and

(l) in section 52, by inserting after subsection (2), the following subsection:

“ (3) Any person who obstructs an officer authorised to make such entry in the exercise of his powers under the Act commits an offence and is liable on summary conviction to a fine of five thousand dollars.”;

The Children Act, 2012 is amended—

17. Children Act
No. 12 of 2012

(a) in section 3—

(i) in the definition of “penetration of a child” by inserting in the closing words of the definition before the words “and penetrates”, the words “but does not include mouth to mouth kissing which involves penetration with the tongue”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(ii) by inserting in the appropriate alphabetical sequence the following new definitions:

“child charged” has the meaning assigned to it under section 1A of the Child Rehabilitation Centre Act;

“Children Court” means the Children Court Subdivision of the Family and Children Division of the High Court established under section 4(1) of the Family and Children Division Act, 2016;

“child offender” has the meaning assigned to it under section 1A of the Child Rehabilitation Centre Act;

“Family and Children Division of the High Court” means the Family and Children Division of the High Court established under section 4 of the Family and Children Division Act, 2016;

(b) by deleting the word “Juvenile” wherever it occurs and substituting the word “Children”;

(c) in section 20(1) in the chapeau, by deleting the words “section 18” and substituting the words “section 18 or 19”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- (d) in section 46, by deleting the words “the Court with Jurisdiction in family matters” and the words “a Court with jurisdiction in family matters” wherever they occur and substituting the words “the Family and Children Division of the High Court”;
- (e) in section 50(9), by deleting the words “a Court with jurisdiction in family matters” and substituting the words “the Family and Children Division of the High Court”;
- (f) by renumbering section 51 as section 51(1);
- (g) in section 51(1)(c), as renumbered, by deleting the word “if” and substituting the word “unless”;
- (h) by inserting after section 51(1), the following subsections:
- “ (2) Where a child has been charged under subsection (1), the officer in charge of the police station shall give a unique identifier to the—
- (a) case; and
- (b) child,
- identifying the case and child, respectively.
- (3) The officer in charge of the police station shall maintain, in soft and hardcopy, a record of the unique identifier assigned to each case and to each child.
- (4) The format of unique identifiers given to children and to cases shall be determined by the Commissioner of Police.”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(i) by inserting after section 51, the following new sections:

“Officer in charge to inform the Legal Aid and Advice Authority when child apprehended

51A. Where a child is apprehended under section 51, the officer in charge of the police station shall forthwith inform the Legal Aid and Advice Authority in accordance with section 15B of the Legal Aid and Advice Act.

Chap. 7:07

Interviewing of children by a police officer through an intermediary

51B. (1) Whenever a police officer is interviewing a child suspect, the following persons shall be present:

(a) the parent, guardian or person with responsibility for the child; and

(b) Duty Counsel or a private attorney for the child.

(2) Whenever a police officer is interviewing a child who is a suspect, victim, witness or otherwise, and it appears to the police officer that the child’s ability to follow the interview or to communicate should be facilitated through an intermediary, the police officer may make an application to the Authority to appoint a competent and qualified person to act as an intermediary.

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(3) Notwithstanding subsection (2), any of the following persons may request that the police make an application to the Authority to appoint a competent and qualified person to act as an intermediary:

- (a) the parent, guardian or person with responsibility for the child; and
- (b) Duty Counsel or a private attorney for the child.

(4) On receipt of an application from the police officer under subsection (2) or (3), the Authority may, if it is of the view that such appointment is desirable, appoint an intermediary.

(5) The functions of the intermediary under this section are—

- (a) to communicate—
 - (i) to the child suspect, questions put to him; and
 - (ii) to any person asking such questions, the answers given by the child suspect in reply to them; and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(b) to advise the police officer who is conducting the interview as to—

(i) the most appropriate way to ask the child questions in order to elicit accurate and clear responses; and

(ii) the meaning of a child's response having regard to the child's age and stage of development.

(6) A person shall not be eligible to act as an intermediary under this section, unless he makes a declaration before a Justice of the Peace, in the form set out in Schedule 1A.

(7) A child intermediary shall not obstruct the officer in the conduct of an interview.

(8) For the purposes of this section, "child suspect" means a child whom a police officer has reasonable cause to believe has committed a criminal offence.;

SCHEDULE 5—CONTINUED

First Column
Written Laws

Second Column

Extent of Amendments

(j) by repealing section 54 and substituting the following new section:

“Power of
the Court
where a
child charged
appears
before it

54. (1) Where a child charged, who is not released on bail, appears before the Court, and the matter is being adjourned, or a hearing or trial is pending, the Court may—

(a) remand the child in custody pending the hearing or trial;

(b) grant the child bail on such conditions as may be required; or

(c) release the child into the custody of a parent, guardian, person with responsibility for the child, or fit person.

(2) The Court, in exercising its discretion under subsection (1), may take into account—

(a) the risk assessment report of the child;

(b) where the child is to be remanded in custody under subsection (1), hear submissions from the Authority as to the Community Residence best suited to the placement of the child;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(c) where the child is to be released under subsection (1), hear the submissions and recommendations of the Authority for the most suitable placement for the child; and

(d) any report of the Children’s Probation Officer.

(3) In this section, “risk assessment report” means a report prepared as a result of the use of a specialised and approved risk assessment tool by a professional trained in the use of that tool, to determine the risk of future offending of a child offender or child charged.”;

(k) by inserting after section 55, the following new section:

“Child charged to apply for legal aid and advice 55A. Where a child is charged with an offence before the Children Court, he may apply to the Court for legal aid and advice in accordance with section 16 or 17 of the Legal Aid and Advice Act, as applicable.”;

(l) in section 59(1)(b), by deleting the words “the Court with jurisdiction in family matters” and substituting the words “the Family and Children Division of the High Court”;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(m) in section 59(2)—

- (i) by deleting the chapeau and substituting the following new chapeau:

“Where a child is convicted of an offence, the Court shall take into account the provisions of any written law enabling the Court to deal with the case and the Court may—”; and

(ii) in paragraph (j)—

- (A) by deleting the word “referred” and substituting the words “refer him”; and

- (B) by deleting the words “the Court with jurisdiction in family matters or the Juvenile Court” and substituting the words “the Family and Children Division of the High Court”;

(n) in section 60(2)(b)—

(i) in subparagraph (ii)—

- (A) by deleting the word “referred” and substituting the words “refer him”; and

- (B) by deleting the words “the Court with jurisdiction in family matters” and substituting the words “the Family and Children Division of the High Court”; and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- (ii) in subparagraph (vi), by deleting the word “or” after the semicolon and substituting the word “and”.
- (o) in section 60(4), by deleting the words “and is charged before the Court”;
- (p) by repealing section 61 and substituting the following new section:
- “Inability of
parent to
control child 61. (1) Where a
parent, guardian or
person with responsibility
for a child proves to the
Children Court that he is
unable to control the child
and he desires alternative
placement for the child,
the Court shall order that
the child be brought to
the attention of the
Authority.
- (2) Where sub-
section (1) applies, the
child shall be termed “a
child in need of
supervision.”;
- (q) in section 62, by deleting the words “the Court with jurisdiction in family matters” and substituting the words “the Family and Children Division of the High Court”;
- (r) in section 64—
- (i) in subsection (1), by inserting after the word “years” the second time it occurs, the words “or for such lesser period as the Court determines”; and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

- (ii) in subsection (2), by inserting after the word “years” the words “or for such lesser period as the Court determines”;
- (ra) in section 82(1), insert after the word “offender” the words “or child charged”;
- (s) by repealing section 83 and substituting the following section:

83. (1) Where a child offender or child charged who is placed at a Community Residence escapes from the Community Residence, he may, at any time before the expiration of his period of placement, be apprehended without a warrant and brought back before the Court, and shall be liable on summary conviction to any of the sanctions and measures referred to in subsection (3).

(2) Before the Court proceeds to make a determination with respect to the offence for which the child charged or child offender has been charged or convicted, respectively, it shall—

- (a) cause an investigation to be conducted into the circumstances surrounding the escape, and order that a report of the findings of the investigation be submitted to the Court;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(b) order that the Manager of the Community Residence files with the Court, a report on the circumstances of the escape; and

(c) hear submissions from or on behalf of the child.

(3) Upon consideration of the reports and submissions referred to in subsection (2), in making a determination with respect to the child offender or child charged, the Court may—

(a) where there is no finding of guilt, dismiss the charge of escaping;

(b) order that the child return to the Community Residence from which he escaped;

(c) order that the child be sent to a different Community Residence;

(d) where the child has been convicted, increase the period of placement by a period not exceeding six months;

(e) make an order for counselling, any other rehabilitative intervention or treatment, or for psychological evaluation and the resultant assistance;

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(f) order that the child be deemed in need of care and protection and refer him to the Authority, who shall review the care plan for the child; and

(g) make any other order as the Court deems fit.

(4) The Court shall cause copies of the reports prepared pursuant to sub-section (2), to be sent to the Authority.

(5) For the purposes of this section, “care plan” means a plan which is based on the assessed needs of a child and addresses the rehabilitative, social, emotional and therapeutic psycho-social needs of the child.”;

(t) in section 88—

(i) in subsection (2), by deleting the words “Parts I and II” and substituting the words “Part I”;

(ii) by repealing subsection (5) and substituting the following subsection:

“ (5) In any Court proceedings, the Court may request that the Solicitor General assign a Children’s Attorney to represent and safeguard the interest and voice of a child so that the child’s right to be heard is preserved.”; and

SCHEDULE 5—CONTINUED

First Column

Second Column

*Written Laws**Extent of Amendments*

(iii) by repealing subsection (6) and substituting the following new subsections:

“ (6) A Children’s Attorney shall not act as the private attorney for the child, defence counsel nor Duty Counsel.

(7) The assignment of a Children’s Attorney does not preclude provision of legal representation for a child either privately or under the Legal Aid and Advice Act, as the case may be.

(8) Where a Children’s Attorney has been assigned under this Act and legal representation, either privately or under the Legal Aid and Advice Act, has been retained or provided, respectively, both the Children’s Attorney and the legal representative may be present at any proceedings in relation to a child.”;

(u) in section 98—

(a) by inserting after subsection (6) the following new subsection:

“ (6A) A child ten years of age and over shall give sworn evidence in criminal proceedings.”; and

SCHEDULE 5—CONTINUED

First Column

Second Column

Written Laws

Extent of Amendments

(b) by repealing subsection (7) and substituting the following subsection:

“ (7) A child ten years of age and over, whose evidence is received under subsection (6A) and who wilfully gives false evidence on oath commits an offence and is liable on summary conviction to such punishment as may be imposed had he been charged with perjury and the case dealt with summarily under section 99 of the Summary Courts Act.”;

(v) by inserting after section 117, the following new section:

“Rules 117A. The Rules Committee established under section 77 of the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make rules for the practice and procedure of all Courts with regard to the operation of this Act.”; and

(w) by inserting after Schedule 1 the following new Schedule:

“SCHEDULE 1A

[Section 51B(3)]

OATH OR AFFIRMATION TO BE TAKEN WHEN PERSON IS ACTING AS AN INTERMEDIARY FOR A CHILD BEING INTERVIEWED BY A POLICE OFFICER

I, AB.... do solemnly *affirm/swear by the that I will faithfully, impartially, accurately and to the best of my ability, discharge the duties of intermediary.

*delete whichever is inapplicable”.

SCHEDULE 5—CONTINUED

First Column	Second Column
<i>Written Laws</i>	<i>Extent of Amendments</i>
18. Indictable Offences (Committal Proceedings) Act No. 14 of 2014	<p>The Indictable Offences (Committal Proceedings) Act is amended in section 19—</p> <p>(a) in subsection (2)(b), by deleting the word “fourteen” and substituting the word “ten”; and</p> <p>(b) in subsection (4), by—</p> <p style="padding-left: 2em;">(i) deleting the words “section 19 of the Children Act” and substituting the words “section 98 of the Children Act, 2012”; and</p> <p style="padding-left: 2em;">(ii) by deleting the word “fourteen” and substituting the word “ten”.</p>

Passed in the House of Representatives this 10th day of June, 2016.

J. SAMPSON-MEIGUEL

Clerk of the House

Passed in the Senate this 21st day of June, 2016.

B. CAESAR

Clerk of the Senate (Ag.)

Senate amendments were agreed to by the House of Representatives on the 24th day of June, 2016.

J. SAMPSON-MEIGUEL

Clerk of the House