

JUVENILE ACT

# JUVENILE ACT

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Amended by Act No. 4057, Dec. 31, 1988  
Act No. 4929, Jan 5, 1995  
Act No. 8439, May 17, 2007  
Act No. 8722, Dec. 21, 2007

## CHAPTER I GENERAL PROVISIONS

### Article 1 (Purpose)

The purpose of this Act is to ensure sound fostering of juveniles by carrying out necessary measures, such as protective dispositions, etc. for the environmental adjustment and character correction of juveniles demonstrating anti-social behavior, and by providing special measures regarding criminal dispositions.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 2 (Juveniles and Guardians)

The term "juveniles" as used in this Act means persons under 19 years of age, and the term "guardian" means any person who has the legal obligation to take care of, supervise and protect, and educate juveniles, or any person who is presently supervising and protecting juveniles.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

## CHAPTER II PROTECTION CASES

### SECTION 1 Common Provisions

#### Article 3 (Jurisdiction and Functions)

- (1) Legal jurisdiction in juvenile protection cases shall be determined by the place of offense, the place of residence, or the place where the juvenile is present.
- (2) Juvenile protection cases shall be under the jurisdiction of the Juvenile Department of the Family Court or the Juvenile Department of a district court (hereinafter referred to as the "Juvenile Department").
- (3) The trial and ruling on the disposition of the juvenile protection cases shall be handled by a single judge of the Juvenile Department.

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*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 4 (Objects of Protection, Transfer, and Notification)

(1) Juvenile cases falling under any of the following subparagraphs shall be tried as protection cases by the Juvenile Department:

1. Juveniles who have committed crimes;
2. Juveniles who are 10 years of age or more but under 14 years of age who have committed acts in violation of Acts and subordinate statutes relating to criminal punishment; and
3. Juveniles who are 10 years of age or more, fall under any of the following items and in view of their character or environment, may be prone to commit acts in violation of Acts and subordinate statutes:
  - (a) Juveniles who have inclinations to cause uneasy feeling for people around them by roaming in groups;
  - (b) Juveniles who stay away from home without any justifiable reason; and
  - (c) Juveniles who have inclinations to drink alcohol, raise a disturbance or be exposed to harmful environment influences.

(2) When there is a juvenile falling under paragraph (1) 2 and 3, the chief of a police station shall transfer such a juvenile directly to the competent Juvenile Department.

(3) Any guardian or the head of a school, a social welfare organization, and a probation office (including a branch probation office; hereinafter the same shall apply), who finds a juvenile falling under any of the subparagraphs of paragraph (1), may notify the competent Juvenile Department thereof.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 5 (Warrant of Transfer)

In cases where a juvenile protection case is to be transferred to the Juvenile Department, the juvenile's domicile, name, date of birth, outline of offenses, and family conditions shall be recorded in the warrant of transfer, and any other pertinent reference data shall be appended thereto.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 6 (Transfer)

(1) When the Juvenile Department which receives a protection case, deems it necessary for proper protection to transfer the case, the Juvenile Department may, by means of a ruling, transfer the case to another Juvenile

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Department having jurisdiction over the case.

(2) When the Juvenile Department deems that the case does not fall under its jurisdiction, the Juvenile Department shall, by means of a ruling, transfer the case to a Juvenile Department which has jurisdiction over the case.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

Article 7 (Transfer to Competent Public Prosecutor's Office for Criminal Dispositions, etc.)

(1) In cases where the Juvenile Department has found criminal facts which deserve imprisonment without prison labor or heavier punishment as a result of an investigation or a trial, and if the Juvenile Department deems it necessary in view of the motive of the accused and the nature of the crime committed to impose criminal punishment upon the juvenile concerned, the Department shall, by means of a ruling, transfer the case to a public prosecutor of a public prosecutor's office having jurisdiction corresponding to that of the competent district court.

(2) In cases where it is found that a juvenile is 19 years of age or older as a result of investigation or trial, the Juvenile Department shall, by means of a ruling, transfer the case to a public prosecutor of a public prosecutor's office having jurisdiction corresponding to that of the competent district court: *Provided*, That this shall not apply to cases which shall be transferred to the court under Article 51.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

Article 8 (Notice)

Where the Juvenile Department has made a decision under the provisions of Articles 6 and 7, the Department shall, without delay, notify the juvenile concerned and his/her guardian of the reason.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

## SECTION 2 Investigation and Trial

Article 9 (Guidelines on Investigation)

In order to thoroughly examine the character, personal records, family conditions, and other circumstances of the juvenile concerned, his/her guardian or reference witness, investigation of the juvenile case shall utilize medical science, psychology, pedagogy, sociology, and other expert knowledge.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

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### Article 10 (Notice of Right to Remain Silent)

In cases where the Juvenile Department or juvenile investigator investigates the juvenile with regard to the criminal facts, the Juvenile Department or juvenile investigator shall notify the juvenile in advance that the juvenile shall not be compelled to testify against himself.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 11 (Order of Investigation)

(1) A judge of the Juvenile Department may order an investigator of juvenile cases to investigate or examine the juvenile concerned, his/her guardian or reference witness, and other necessary matters.

(2) In cases where the Juvenile Department deems it necessary to try the juvenile concerned who has been notified of under Article 4 (3), it shall conduct an investigation of such case.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 12 (Diagnosis by Experts)

The Juvenile Department shall, in its investigation or trial, take into consideration diagnosis by psychiatrists, psychologists, social workers, educators, and other experts; classification review results and opinions by the Juvenile Classification Review Board; and research results and opinions by the probation office.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 13 (Summons and Warrant of Accompanying)

(1) When it is deemed necessary for the investigation or the trial of a case, any judge of the Juvenile Department may summon the juvenile, his/her guardian, or reference witness on a designated date.

(2) When the juvenile concerned or his/her guardian fails to comply with the summons without any justifiable reason, the judge of the Juvenile Department may issue a warrant of accompanying to compel appearance at the Department.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 14 (Emergency Warrant of Accompanying)

When it is deemed necessary to take emergency measures to protect the juvenile concerned, any judge of the Juvenile Department may issue a warrant of accompanying without issuing a summons under Article 13 (1).

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 15 (Forms of Warrant of Accompanying)

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In the warrant of accompanying, matters of the following subparagraphs shall be stated and then a judge of the Juvenile Department shall affix his/her sign and seal:

1. Name of a juvenile or his/her guardian;
2. Age;
3. Domicile;
4. Outline of actions;
5. Designated place where the juvenile concerned will be detained or interned;
6. Term of validity and the purport that the expiration of such period shall prevent an attempt to execute the warrant and that the warrant must be returned at the expiration of the valid date; and
7. Date of issuance of the warrant.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 16 (Execution of Warrant of Accompanying)

- (1) A warrant of accompanying shall be executed by an investigator of the juvenile case.
- (2) Any judge of the Juvenile Department may have court administrative officers, junior administrative officers, chief clerks, senior clerks, supervisors for protection, or judicial police officers execute the warrant of accompanying.
- (3) When the warrant of accompanying is executed, the guardian or his/her assistant shall be notified of it, without delay.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2008]*

### Article 17 (Appointment of Assistants)

- (1) The juvenile concerned or his/her guardian may, with the permission of a judge of the Juvenile Department, appoint assistants.
- (2) In cases where any guardian or lawyer is appointed as assistant, the permission as referred to in paragraph (1) shall not be necessary.
- (3) For the appointment of an assistant, a document on which seal and sign have been affixed jointly with an assistant shall be submitted. In such cases, in cases where a person who is not a lawyer is appointed as assistant, the relationship between the juvenile and an assistant shall be stated in the document.
- (4) In cases where a judge of the Juvenile Department judges that an assistant is apt to obstruct trial proceedings or to commit any act contrary

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to the juvenile's interest, such as his/her intentional delay of trial proceedings or such, he/she may cancel permission on the appointment of an assistant.

(5) An assistant shall be appointed to every trial.

(6) The provisions on the rights and duties of a counsel of the Criminal Procedure Act shall apply *mutatis mutandis* to an assistant unless they are in violation of the main features of a juvenile protection case

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 17-2 (Court-Appointed Assistant)

(1) In cases where a juvenile has been entrusted to the Juvenile Classification Review Board, when he/she has no assistant, a court shall appoint an appropriate person, such as a lawyer or such as an assistant.

(2) Even though a juvenile has not been entrusted to the Juvenile Classification Review Board, a court may appoint an assistant *ex officio* or at the request of a juvenile or his/her guardian in the following cases:

1. In cases where a juvenile is suspected to be a physically or mentally disabled person;
2. In cases where a juvenile cannot appoint an assistant because of poverty or for other reasons; and
3. In cases where a judge of the Juvenile Department deems an assistant necessary.

(3) The Criminal Procedure Costs Act shall apply *mutatis mutandis* to expenses paid to an assistant appointed pursuant to paragraphs (1) and (2).

*[This Article Newly Inserted by Act No. 8722, Dec. 21, 2007]*

### Article 18 (Temporary Measures)

(1) In cases where it is deemed necessary for the investigation or trial of a case, judges of the Juvenile Department may, by means of a ruling, take the measures for care and custody of a juvenile as stipulated in any of the following subparagraphs:

1. To consign a juvenile for custody, to his/her guardian, individuals or institutions that are deemed proper for protection of the juvenile;
2. To consign a juvenile for custody to a hospital or other sanatorium;  
and
3. To consign a juvenile for custody to the Juvenile Classification Review Board.

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(2) The measures as referred to in paragraph (1) shall be imposed upon a juvenile who has been taken to the Juvenile Department or upon a juvenile delivered in accordance with the provisions of Article 52 (1), within 24 hours after his/her arrival at the Juvenile Department.

(3) The period of consignment under paragraph (1) 1 and 2 shall not exceed three months and the period of consignment under paragraph (1) 3 shall not exceed one month: *Provided*, That in cases where further custody is required, the period of time may, by means of a ruling, be extended for one additional period only.

(4) When the measures under paragraph (1) 1 and 2 are taken, any judge of the Juvenile Department may inform the guardian or trustee as to matters necessary for care and custody of the juvenile.

(5) When judges of the Juvenile Department have issued a ruling under paragraph (1), they may have court administrative officers, junior administrative officers, chief clerks, senior clerks of the Juvenile Department, public officials of the Juvenile Classification Review Board, public officials of a correctional institution or detention house, probation officers, or judicial police officers execute the ruling.

(6) Measures as referred to in paragraph (1) may be cancelled or changed by means of a ruling at any time.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 19 (Decision not to Commence Trial)

(1) When the trial of a case may not be commenced or it is deemed unnecessary to commence a trial of a case after considering the warrant of transfer and the trial report of the juvenile investigator of the case, a judge of the Juvenile Department shall make a decision not to commence a trial of the case. Such a decision shall be notified to the juvenile concerned and his/her guardian.

(2) In cases where a decision not to commence a trial of the case is made because of the trivial nature of the case, a judge of the Juvenile Department may admonish the juvenile, or may notify the guardian to control or provide strict educational guidelines for the juvenile.

(3) In case a decision under paragraph (1) has been made, the temporary measures under Article 18 shall be deemed cancelled.

(4) When the case has not been commenced because the juvenile is missing and the juvenile is later discovered, a judge of the Juvenile Department

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shall cancel a decision not to commence a trial of the case.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 20 (Decision to Commence Trial)

(1) In cases where it is deemed necessary after considering the warrant of transfer and the trial report of the investigator of the juvenile case to commence a trial, a judge of the Juvenile Department shall decide to commence a trial.

(2) The decision under paragraph (1) shall be notified to the juvenile concerned and his/her guardian. In such cases, the substance of a reason to commence a trial and the purport that an assistant may be appointed shall also be notified.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 21 (Designation of Trial Date)

(1) Judges of the Juvenile Department shall designate the trial date and summon the juvenile and his/her guardian: *Provided*, That the judge may not summon the guardian, if he/she deems the guardian's presence unnecessary.

(2) In cases where an assistant is appointed, the assistant shall be notified of the trial date.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 22 (Change of Date)

A judge of the Juvenile Department may, *ex officio* or at the request of the juvenile concerned, his/her guardian, or assistant, change the trial date. In cases where the trial date is changed, the juvenile concerned, his/her guardian, or assistant shall be so notified.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 23 (Commencement of Trial)

(1) The judge and clerks of the Juvenile Department shall be present on the date set for trial.

(2) The juvenile investigator, guardian of the juvenile concerned and assistant may attend at the court on the date set for trial.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 24 (Methods of Trial)

(1) The trial shall be conducted in a spirit of humane feeling and gentle attitude toward the juvenile.

(2) Trial shall not be made public: *Provided*, That if deemed appropriate, the judge may permit certain persons to attend the trial.



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*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 25 (Statement of Opinion)

(1) The juvenile investigator, guardian and assistant may state their opinions concerning the case being tried.

(2) In case of paragraph (1), the judge of the Juvenile Department may, if deemed necessary, order the juvenile concerned to leave the courtroom.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 25-2 (Right to Make Statement of Victim)

A judge of the Juvenile Department shall, when a victim or his/her legal representative, a counsel, a spouse, a lineal relative, brothers and sisters (hereafter referred to as "representative, etc." in this Article) apply for a statement of opinion, give an opportunity to state his/her opinion to a victim or his/her representative, etc. on the date of a trial: *Provided*, That this shall not apply in cases where he/she falls under any of the following subparagraphs:

1. In cases where an additional statement is deemed unnecessary because an applicant has already stated sufficiently in the trial proceedings; and
2. In cases where a trial is apt to be delayed remarkably due to a statement of an applicant.

*[This Article Newly Inserted by Act No. 8722, Dec. 21, 2007]*

### Article 25-3 (Recommendation of Compromise)

(1) A judge of the Juvenile Department may, if deemed necessary for character correction of a juvenile and protection for a victim, recommend a juvenile to compromise with a victim, such as compensation for loss or so.

(2) A judge of the Juvenile Department may, if deemed necessary for compromise under paragraph (1), summon a juvenile, his/her guardian or a person for reference on a designated date.

(3) In cases where a juvenile has compromised with a victim according to the recommendation under paragraph (1), a judge of the Juvenile Department may take this into consideration when deciding the protective disposition.

*[This Article Newly Inserted by Act No. 8722, Dec. 21, 2007]*

### Article 26 (Examination of Witnesses, Expert Evidence, Interpretation and Translation)

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(1) The judge of the Juvenile Department may examine witnesses and order the presentation of expert evidence, interpretation and translation.

(2) The provisions of the Criminal Procedure Act concerning examination of witnesses, expert evidence, interpretation and translation by the court shall apply *mutatis mutandis* to the case under paragraph (1) unless they conflict with the nature of the protection case.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 27 (Evidence by Inspection, Seizure and Search)

(1) The judge of the Juvenile Department may make an inspection of evidence, seize any articles and search persons.

(2) The provisions of the Criminal Procedure Act concerning evidence by inspection, seizure or search by the court shall apply *mutatis mutandis* to the case under paragraph (1) unless the provisions conflict with the nature of the protection case.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 28 (Assistance and Cooperation)

(1) The judge of the Juvenile Department may, in the performance of his/her duties, request necessary assistance and cooperation of all relevant administrative agencies, schools, hospitals and other public or private organizations.

(2) In cases where the request under paragraph (1) is denied, the proper reasons therefore shall be presented.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 29 (Decision Not to Take Protective Detention of Juvenile)

(1) When a protective detention of a juvenile cannot be made or it is deemed unnecessary as a result of a trial, the judge of the Juvenile Department shall make a ruling to that effect. This decision shall be notified to the juvenile concerned and his/her guardian.

(2) The provisions of Article 19 (2) and (3) shall apply *mutatis mutandis* to the decision under paragraph (1).

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 30 (Record)

(1) To clarify the contents of the investigation and trial and all decisions, court administrative officers, junior administrative officers, chief clerks, or senior clerks of the Juvenile Department shall make a record of the investigation and trial of the protection case, and other necessary matters

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shall be stated therein.

(2) The juvenile investigator and court administrative officers, junior administrative officers, chief clerks, or senior clerks of the Juvenile Department shall affix their signatures and seals on the investigation records, and the judge and court administrative officers, junior administrative officers, chief clerks, or senior clerks of the Juvenile Department shall affix their signatures and seals on the trial records.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 30-2 (Perusal and Reproduction of Record)

Records and evidence materials of a juvenile protection case may be perused or reproduced only when permission from a judge of the Juvenile Department has been obtained: *Provided*, That in cases where an assistant peruses records and evidence materials of a juvenile protection case after the commencement of the trial has been decided, he/she does not need to obtain permission from a judge of the Juvenile Department.

*[This Article Wholly Amended by Act No. 8722, Dec. 27, 2007]*

### Article 31 (Delegation Provisions)

The matters necessary for governing trial of the juvenile protection cases shall be provided for by the Supreme Court Regulations.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

## SECTION 3 Protective Detention of a Juvenile

### Article 32 (Decision of Protective Detention of a Juvenile)

(1) In cases where it is deemed necessary to order protective detention of a juvenile as a result of a trial, the judge of the competent Juvenile Department shall, by means of a ruling, make disposition falling under any of the following subparagraphs:

1. To consign a juvenile concerned of the care and custody of his/her guardian or any person who can provide protection for the juvenile in substitution for the guardian;
2. To issue an order to attend a lecture;
3. To issue a community service order;
4. To place a juvenile concerned under the short-term probation of a probation officer;
5. To place a juvenile concerned under the long-term probation of a probation officer;

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6. To entrust a juvenile concerned for the care and custody to a child welfare institution under the Child Welfare Act or other juvenile protection institution;
  7. To entrust a juvenile concerned to a hospital, a sanatorium or a juvenile medical care and protection institution under the Treatment of Protected Juveniles, etc. Act;
  8. To transfer a juvenile to the Juvenile Reformatory within one month;
  9. To transfer a juvenile to the Juvenile Reformatory for a short-term; and
  10. To transfer a juvenile to the Juvenile Reformatory for a long-term.
- (2) Dispositions under the provisions of the following subparagraphs may be merged with each other in whole or in part:
1. A disposition under paragraph (1) 1, 2, 3 and 4;
  2. A disposition under paragraph (1) 1, 2, 3 and 5;
  3. A disposition under paragraph (1) 4 and 6;
  4. A disposition under paragraph (1) 5 and 6; and
  5. A disposition under paragraph (1) 5 and 8.
- (3) A disposition under paragraph (1) 3 may be imposed on juveniles of 14 years of age or over only.
- (4) A disposition under paragraph (1) 2 and 10 may be imposed on juveniles of 12 years of age or over only.
- (5) In cases where a disposition falling under any of the subparagraphs of paragraph (1) has been ordered, the competent Juvenile Department shall, at the same time the juvenile is transferred, transmit to a trustee or a person executing the protective detention, reference materials necessary for reforming the juvenile concerned.
- (6) A protective disposition on a juvenile shall not in any aspect affect the juvenile's future status.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 32-2 (Additional Disposition pursuant to Probation Disposition)

- (1) In cases where a disposition under Article 32 (1) 4 or 5 is ordered, a judge may issue an order to receive alternative education, or counselling or education in an organization or institution related to counselling, proper guidance and education for juveniles under the Treatment of Protected Juveniles, etc. Act with a three month period at the same time.
- (2) In cases where a disposition under Article 32 (1) 4 or 5 is ordered, a judge may issue an order restricting going out in a specific time zone,

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such as night or such, as matters to be observed by a person under probation within a one-year period.

(3) A judge of the Juvenile Department may, if judged necessary in consideration of family circumstances or such, order a guardian to receive a special education program for the protection of juveniles conducted at the Juvenile Reformatory, Juvenile Classification Review Board or Probation Office or such.

*[This Article Newly Inserted by Act No. 8722, Dec. 21, 2007]*

### Article 33 (Period of Protective Detention of a Juvenile)

(1) The period of trust under Article 32 (1) 1, 6 and 7 shall be six months, but a judge of the Juvenile Department may, by means of a ruling, extend the period by only one additional period within the extent of six months: *Provided*, That whenever necessary, a judge of the Juvenile Department may terminate the trust by means of a ruling.

(2) The period of short-term probation under Article 32 (1) 4 shall be one year.

(3) The period of probation under Article 32 (1) 5 shall be two years: *Provided*, That a judge of the Juvenile Department may, by means of a ruling, extend the period by only one additional period within the scope of one year upon application by the probation officer.

(4) An order to attend a lecture under Article 32 (1) 2 shall not exceed 100 hours and an order of community service under Article 32 (1) 3 shall not exceed 200 hours, and when the probation officer executes such order, he/she shall not disturb the normal life of the juvenile concerned.

(5) The protection period of a juvenile who has been transferred to the Juvenile Reformatory for a short-term under Article 32 (1) 9 shall not exceed six months.

(6) The protection period of a juvenile who has been transferred to the Juvenile Reformatory for a long-term under Article 32 (1) 10 shall not exceed two years.

(7) In cases where a juvenile who has been ordered a disposition falling under any of Article 32 (1) 6 through 10 has broken away from the institution after he/she was entrusted to or interned at the institution, the period of disposition is suspended and the period will resume from when he/she has been entrusted or interned again.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

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### Article 34 (Objects of Confiscation)

(1) In cases where a protective detention under Article 32 has been taken toward a juvenile as stated in Article 4 (1) 1 and 2, a judge of the Juvenile Department may, by means of a ruling, confiscate the following items:

1. A thing which has been used or was sought to be used in a crime or in other acts violating Acts and subordinate statutes relating to criminal punishment;
2. A thing produced by or acquired by means of a crime or by violation of Acts and subordinate statutes relating to criminal punishment; and
3. A thing received in exchange for a thing stated in subparagraphs 1 and 2 above.

(2) The confiscation under paragraph (1) shall be made only if the things to be confiscated do not belong to persons other than the juvenile concerned: *Provided*, That the foregoing shall not apply in cases where after the juvenile concerned has committed a crime any person has knowingly acquired said things.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 35 (Execution of Ruling)

In cases where a judge of the Juvenile Department decides to impose a disposition under Article 32 (1) or 32-2, he/she may have the juvenile investigators of the juvenile case, court administrative officers, junior administrative officers, chief clerks, senior clerks or the probation officer of the Juvenile Department, officers of the Juvenile Reformatory or Juvenile Classification Review Board or other employees of institutions where the juvenile is to be consigned for care and custody or transferred, execute the ruling.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 36 (Submission of Report and Opinion)

(1) In cases where a judge of the Juvenile Department has made a protective detention under Article 32 (1) 1, 6 or 7, he/she may ask the trustees to present a report or an opinion concerning the juvenile.

(2) A judge of the Juvenile Department may have the juvenile investigators report on the situations as to the execution of the disposition under Article 32 (1) 1, 6 or 7 and if deemed necessary, he/she may instruct the trustee about the matters related to the execution.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

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### Article 37 (Change of Dispositions)

(1) A judge of the Juvenile Department may, by means of a ruling, change the protective detention under Article 32 and the additional disposition under Article 32-2 upon application by a trustee or a person executing the protective disposition: *Provided*, That the protective detention under Article 32 (1) 1, 6 or 7 and the additional disposition under Article 32-2 (1) may be changed *ex officio*.

(2) The provisions of Article 35 shall apply *mutatis mutandis* to the execution of a ruling under paragraph (1).

(3) The ruling under paragraph (1) shall be notified to the juvenile concerned and his/her guardian without delay, and its purport shall be notified to the trustee or the person executing the protective detention.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 38 (Cancellation of Protective Detention)

(1) In cases where a protective disposition is underway, if the juvenile concerned has been revealed to be 19 years of age or over at the time of the protective detention, a judge of the Juvenile Department shall cancel the protective detention by means of a ruling and shall take care of the case as follows:

1. Cases transferred by a public prosecutor or the chief of police, or by notice as referred to in Article 4 (3), shall be transferred to a public prosecutor of the Public Prosecutor's Office corresponding to the competent district court concerned; and
2. Cases transferred by the court under Article 50, shall be transferred to the transferring court.

(2) When a juvenile under Article 4 (1) 1 and 2 is under a protective disposition, in cases where the juvenile concerned has been revealed to be under 10 years of age at the time of the act, or when a juvenile under Article 4 (1) 3 is under a protective disposition, in cases where the juvenile concerned has been revealed to be under 10 years of age at the time of the protective disposition, a judge of the Juvenile Department shall cancel the protective detention by means of a ruling.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 39 (Protective Detention and Judgement of Conviction)

In cases where a judgment of conviction has become final as to the juvenile concerned under a protective detention, a judge of the Juvenile Department

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who has made the protective detention may cancel the protective detention by means of a ruling when he/she finds the continuance of the protective detention unnecessary.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 40 (Concurrence of Protective Detention)

In cases where a new protective detention has been imposed upon a juvenile concerned under a protective detention, a judge of the Juvenile Department who made the new protective detention shall make an inquiry to the Juvenile Department which made the previous protective detention, and shall cancel either one of the two protective detentions.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 41 (Subsidies of Expenses)

Guardians of juveniles upon whom the ruling of measures as stated in Article 18 (1) 1 or 2 or protective detention under Article 32 (1) 1, 6 or 7 (excluding the entrusted disposition in a juvenile medical care protection institution under the Treatment of Protected Juveniles, etc. Act) are imposed, shall pay to the trustee wholly or partly amount of expenses necessary for the care and custody of the juvenile concerned: *Provided*, That in case where the guardians concerned are not able to pay such amount, the competent Juvenile Department may pay such amount.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 42 (Expenses for Witness, etc.)

(1) The provisions concerning expenses as stipulated in the Criminal Procedure Act shall apply *mutatis mutandis* to the expenses, lodging charges incurred by witnesses, expert witnesses, interpreters and translators, and to other expenses.

(2) The provisions of paragraph (1) above shall apply *mutatis mutandis* to the expenses payable to the reference person.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

## SECTION 4 Appeal against a Ruling

### Article 43 (Appeal)

(1) In cases where a ruling regarding protective disposition under Article 32 and a ruling regarding additional disposition etc. under Article 32-2 or a ruling to change protective disposition and additional disposition under Article 37 falls under any of the following subparagraphs, the juvenile



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concerned, his/her guardian, assistant or legal representative may file an appeal against the ruling with the competent Family Court or the collegiate division of the district court:

1. In cases where there is a violation of Acts and subordinate statutes that may affect the relevant decision or there is a serious misunderstanding in determining relevant facts; and
  2. In cases where the disposition is deeply unjust.
- (2) The period allowed for an appeal shall be seven days.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 44 (Presentation of Petition of Appeal)

- (1) In making the appeal, a petition of appeal shall be presented to the Juvenile Department which has made the ruling in question.
- (2) The Juvenile Department which has received a petition of appeal shall, within three days, transmit the petition with a statement of opinion attached to the court of appeal.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 45 (Judgement of Appeal)

- (1) In cases where the procedure of an appeal violates the provisions of Acts or the appeal is deemed groundless, the court of appeal shall reject the appeal by means of a ruling.
- (2) In cases where the court of appeal finds the appeal to have merits, it shall cancel the original ruling and return the case to the original Juvenile Department or transfer it to another Juvenile Department: *Provided*, That in cases where it is too urgent to return or transfer, or it is deemed necessary otherwise, the court of appeal may quash the original ruling and decide to impose a non-disposition or protective disposition.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 46 (Suspension of Execution)

The execution of ruling shall not be suspended by the appeal.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 47 (Reappeal)

- (1) Against a ruling rejecting an appeal, a reappeal may be made to the Supreme Court but only if the ruling violates Acts and subordinate statutes.
- (2) The provisions of Article 43 (2) shall apply *mutatis mutandis* to the reappeal under paragraph (1).

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

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CHAPTER III CRIMINAL CASES

SECTION 1 Common Provisions

Article 48 (Application of Acts)

Criminal cases of juveniles shall be in accordance with the practices of general criminal cases unless otherwise provided in this Act.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

Article 49 (Transfer by Public Prosecutor)

(1) In cases where it is deemed, as a result of investigation of juvenile cases, that there is a cause for protective detention, the public prosecutor who has investigated the case shall transfer the case to the competent Juvenile Department.

(2) In cases where it is deemed, as a result of investigation or trial of the case transferred in accordance with paragraph (1), that it is necessary to impose a criminal disposition of imprisonment without prison labor or more severe punishment upon the juveniles concerned due to the motive and the nature of the crime concerned, the competent Juvenile Department may, by means of a ruling, transfer the case to a public prosecutor of the competent Public Prosecutor's Office.

(3) Cases transferred under paragraph (2) shall not be returned to the Juvenile Department.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

Article 49-2 (Investigation Prior to Prosecutor)

(1) If it is deemed necessary to decide to impose a disposition, such as transfer to the Juvenile Department, prosecution, suspension of prosecution, etc. for a case involving suspected juvenile offenders, a public prosecutor may require the head of a probation office, the head of a juvenile classification review board or the head of a juvenile reformatory (hereinafter referred to as the "head of a probation office, etc.") having jurisdiction over a place of domicile of a suspected person or the seat of a public prosecutors office to investigate morals, career, living environment of a suspected person or other necessary matters.

(2) The head of a probation office, etc. who has been requested under paragraph (1) shall investigate these without delay and notify the relevant public prosecutor, if necessary for investigation, he/she may have a probation officer or classification reviewer or such under his/her control investigate necessary matters in a way that lets a suspected person or

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the person concerned attend to express his/her views or such.

(3) When investigating under paragraph (2), he/she shall explain the purport of the investigation to a suspected person or the person concerned in advance, respect the human rights of a suspected person or the person concerned, and keep strictly secret acquired in the course of carrying out his/her duties.

(4) A public prosecutor shall decide to impose a disposition most suitable for education and improvement of a juvenile suspect by referring to the results of the investigation notified by the head of a probation office, etc.

*[This Article Newly Inserted by Act No. 8722, Dec. 21, 2008]*

### Article 49-3 (Conditional Suspension of Prosecution)

A public prosecutor may order a suspect to receive proper guidance falling under the provisions of the following subparagraphs and may not institute a public action against a suspected case. In such cases, he/she shall obtain consent from a legal representative such as a person in parental authority or guardian, etc. of a boy and a girl:

1. Proper guidance of a volunteer in crime prevention programs; and
2. Counselling, education and activities, etc. in an organization or institution related to proper guidance and education for juveniles.

*[This Article Newly Inserted by Act No. 8722, Dec. 21, 2007]*

### Article 50 (Transfer by Court)

In cases where it is deemed, as a result of trial of a juvenile case, that there is a cause for protective detention, the court which has conducted the trial shall transfer the case, by means of a ruling, to the competent Juvenile Department.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 51 (Transfer of Case)

When the juvenile concerned is revealed to be 19 years of age or over as a result of investigation and trial of a juvenile case transferred under Article 50, the Juvenile Department shall, by means of a ruling, return the case to the court which transferred the case.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 52 (Physical Transfer to Juvenile Department)

(1) In cases where there is a ruling to transfer the case to the Juvenile Department pursuant to the provisions of Article 49 (1) or 50, the head of the institution holding the juvenile in custody shall deliver the juvenile

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to the Juvenile Department within 24 hours in case where the Juvenile Department of court is located in the same *Si* or *Gun* as the institution, and otherwise within 48 hours to other Juvenile Departments, from the time the public prosecutor issues the transfer order. In this case, the effect of a warrant of detention shall become lost when the judge of the Juvenile Department has rendered a decision on the care and custody of the juvenile pursuant to the provisions of Article 18 (1).

(2) The delivery and ruling under paragraph (1) shall be made while the warrant of detention remains effective.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 53 (Effect of Protective Detention)

No indictment shall be instituted against a juvenile who has received protective detention under Article 32 for the same case, nor shall the case be transferred to the Juvenile Department: *Provided*, That in case of Article 38 (1) 1, an indictment may be instituted.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 54 (Suspension of Prescription for Prosecution)

The prescription for prosecution shall suspend to run during the period, from the date on which a ruling to commence the trial in accordance with Article 20 is made, to the date on which a ruling of protective detention has become final.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 55 (Restrictions on Warrant of Detention)

(1) A juvenile warrant of detention shall not be issued unless the circumstances unavoidably necessitate it.

(2) In cases where any juvenile is to be detained, he/she shall be accommodated separately from other suspects or defendants if not any exceptional circumstances..

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

## SECTION 2 Adjudication

### Article 56 (Request for Investigation)

The court may consign that the investigator of the juvenile case investigate necessary matters related to criminal cases involving a juvenile.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 57 (Separation of Trials)

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In the event a criminal case involving a juvenile is related to other criminal cases, the trial procedures of the juvenile case shall be conducted separately from the other case if such treatment does not obstruct the trial.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 58 (Principles for Trial)

(1) Trials of juvenile criminal cases shall be conducted in a spirit of kindness and gentleness toward the juvenile.

(2) In the case of trials as referred to in paragraph (1), particular emphasis should be placed on evaluation of the juvenile's physical and mental condition, character, career, family conditions and other circumstances.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 59 (Mitigation of Death Penalty and Life Sentence)

Death penalty or life sentence to a juvenile who was less than 18 years old when the crime was committed, shall be reduced to 15 years of imprisonment.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 60 (Indeterminate Sentence)

(1) In case where a juvenile commits a crime punishable by imprisonment of a limited term of two or more years, a sentence shall specify the maximum and minimum terms within the scope of such term of punishment: *Provided*, That the maximum term shall not exceed ten years, and the minimum term shall not exceed five years.

(2) The sentence may be reduced when, considering the special character of the juvenile, such a reduction is deemed reasonable.

(3) In case of a sentence where the execution is suspended or the sentence has its adjudication reserved, the provisions of paragraph (1) shall not be applied.

(4) The head of an agency executing an indeterminate sentence imposed on a juvenile may, if it is deemed that performance of criminal administration of a juvenile whose short-term has passed is good and that the purpose of correction has been attained, terminate the execution of such punishment under the direction of the competent public prosecutor.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 61 (Inclusion of Number of Days of Detention in Pendency)

Where measures referred to in Article 18 (1) 3 have been taken, the period

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of consignment shall be regarded as days of detention prior to sentencing under Article 57 (1) of the Criminal Act.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 62 (Prohibition of Detention in Labor House)

A sentence of detention in a labor house under the provisions of Article 70 of the Criminal Act shall not be rendered against a juvenile who is less than 18 years old: *Provided*, That when the detention is served prior to sentencing the judgement or measures as stated in Article 18 (1) 3 have been taken, the period corresponding to the period of detention or consignment shall be regarded as days of detention in a labor house at a workhouse and the provisions of Article 57 of the Criminal Act may be applied thereto.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 63 (Execution of or Imprisonment or Imprisonment without Prison Labor)

A juvenile who has been sentenced to imprisonment or imprisonment without prison labor shall be accommodated into a prison particularly established for him/her or into partitioned places particularly established for him/her in an ordinary correctional institution: *Provided*, That in cases where a juvenile, while serving his/her term, reaches 23 years of age, he/she may be transferred to an ordinary correctional institution.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 64 (Protective Detention and Execution of Punishment)

In cases where a juvenile who is under a protective detention has been sentenced to imprisonment, imprisonment without prison labor or detention, he/she shall first serve such sentence.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 65 (Parole)

A juvenile who has been sentenced to imprisonment or imprisonment without prison labor and who has served the following periods may be provisionally released:

1. Five years in case of life sentence;
2. Three years in case of imprisonment for a limited term of 15 years;
- and
3. One third of the minimum term of an indeterminate sentence.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 66 (Completion of Period of Parole)

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In cases where a juvenile who has been sentenced to imprisonment or imprisonment without prison labor has been granted parole, and a period of time equal to the period he/she served prior to parole has elapsed without cancellation of parole, the execution of punishment shall be deemed completed: *Provided*, That notwithstanding the foregoing provisions, when a term of sentence under Article 59 or a maximum period in accordance with the provisions of Article 60 (1) has elapsed, the execution of punishment shall be deemed completed at that time.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

Article 67 (Application of Acts and Subordinate Statutes on Qualifications)

When Acts and subordinate statutes on qualification are applicable to juveniles, if their sentence has been executed or discharged, it shall in the future be presumed that no sentence has been rendered.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

## CHAPTER III-2 PREVENTION OF MISCONDUCTS

Article 67-2 (Policies Preventing Misconducts)

The Minister of Justice shall take necessary measures for matters under the following subparagraphs to help persons falling under Article 4 (1) (hereinafter referred to as "juvenile delinquents") to grow up soundly:

1. Research, study, education, publicity and formulation and execution of the relevant policies to help juvenile delinquent to grow up soundly; and
2. Establishment and operation of a collaborative system with central administrative agencies, public institutions and social organizations related to proper guidance and education for juvenile delinquents.

*[This Article Newly Inserted by Act No. 8722, Dec. 21, 2007]*

## CHAPTER IV PENAL PROVISIONS

Article 68 (Prohibition of Report)

(1) Regarding protection cases or criminal cases under investigation or trial in accordance with this Act, facts or photographs which may identify the juvenile concerned in the above protection or criminal cases concerned,

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by means of their names, ages, occupations, appearance, and other things, shall neither be published in newspapers or other publications nor be broadcasted.

(2) Persons under the following subparagraphs who have violated the provisions of paragraph (1) shall be punished by imprisonment for not more than one year or to payment of a fine not exceeding ten million won:

1. Newspapers : editors and publishers;
2. Other publications: authors and publishers; and
3. Broadcasting : editors and broadcasters.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 69 (False Statement of Age)

In cases where an adult has intentionally made a false statement of age and received thereby a protective detention or juvenile penal disposition, he/she shall be punished by imprisonment for not more than one year.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 70 (Response to Inquiry)

(1) Any agency related to juvenile protection cases shall not answer any inquiry concerning the cases other than those required for trial, investigation, or military purposes.

(2) Any person who has violated the provisions of paragraph (1) shall be punished by imprisonment for not more than one year or by a fine not exceeding ten million won.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

### Article 71 (Noncompliance with Summons and Noncompliance with Order of Special Education for Guardian)

A fine for negligence not exceeding one million won shall be imposed on a person falling under any of the following subparagraphs:

1. Any person who has failed to comply with summons under Article 13 (1) without justifiable grounds; and
2. Any person who has failed to comply with an order of special education under Article 32-2 (3) without justifiable grounds.

*[This Article Wholly Amended by Act No. 8722, Dec. 21, 2007]*

## ADDENDA

### Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 1989.



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### Article 2 (Transitional Measure)

This Act shall apply to protection cases or criminal cases which are under investigation or in the course of trial in the courts at the time when this Act enters into force: *Provided*, That this Act shall not affect any procedural acts undertaken with regard to protection or criminal cases under the previous provisions prior to the enforcement of this Act.

### ADDENDA <Act No. 4929, Jan. 5, 1995>

#### Article 1 (Enforcement Date)

This Act shall enter into force on the date of its proclamation.

#### Article 2 Omitted.

### ADDENDUM <Act No. 8439, May 17, 2007>

This Act shall enter into force on January 1, 2008.

### ADDENDA <Act No. 8722, Dec. 21, 2007>

#### Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

#### Article 2 (General Transitional Measures)

This Act shall also apply to protection cases or criminal cases under investigation or trial at the time that this Act enters into force: *Provided*, That this Act shall have no influence on the effect of protection procedure or criminal procedure taken according to the previous provisions before this Act enters into force.

#### Article 3 (Transitional Measures pursuant to Adjustment of Age of Juvenile)

Notwithstanding the amended provisions of Articles 7 (2), 38 (1) and 51, the previous provisions shall apply to a person falling under any of the requirements of the subparagraphs of Article 4 (1) before this Act enters into force.

#### Article 4 (Transitional Measures concerning Penalty Provisions)

When applying penalty provisions to any offense committed before this Act enters into force, the previous provisions shall apply to such offenses.

#### Article 5 Omitted.

#### Article 6 (Relation with Other Acts and Subordinate Statutes)

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In cases where the provisions of the previous Juvenile Act have been cited in other Acts and subordinate statutes at the time that this Act enters into force, if the corresponding provisions are included in this Act, the corresponding provisions of this Act shall be considered to have been cited in lieu of such previous provisions.