



**KINGDOM OF CAMBODIA**

**NATION RELIGION KING**

**6**

**Law**  
**On**  
**Juvenile Justice**



Ministry of Social Affairs, Veterans and Youth Rehabilitation

**2016**

**Notice:**

This is an unofficial translation of the Law on Juvenile Justice. Thus, in case of discrepancy between the English version and the Khmer version, the exact meaning shall be interpreted according to the text of Law in Khmer.



## **PREAH REACH KRAM**

*NS/RKM/0716/009*

**We**

**Preah Bat Samdech Bormniet Norodom Sihamoni**

**Samanphoum Cheatsasna Rakhatkateya Khemrarotheas**

**Puthinthreathoreamohaksat Khemreachnea Somohopheas**

**Kampuchetkreachroathboranaksanti Sopheakmonglea Sereivibolea**

**Khemarasreypireas Preah Chao Krong Kampuchea Thipdey**

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Preah Reach Kret No. NS/RKT/0913/903 of 24 September 2013 on the appointment of the Royal Government of the Kingdom of Cambodia
- Having seen the Preah Reach Kram No. 02/NS/94 of 20 July 1994 on promulgating the Law on the Organization and Functioning of the Council of Ministers
- Having seen the Preah Reach Kram No. NS/RKM/0105/001 of 17 January 2005 on promulgating the Law on the Establishment of the Ministry of Social Affairs, Veterans and Youth Rehabilitation
- Having seen the proposals of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia

### **HEREBY PROMULGATE**

The Law on Juvenile Justice adopted by the National Assembly on 30<sup>th</sup> of May 2016 at the sixth parliamentary session of the fifth legislature and entirely approved by the Senate on its form and legality on 29<sup>th</sup> of June 2016 at the extraordinary session of the third legislature, and the whole text of which appears as follow:

# **Law**

## **On**

# **Juvenile Justice**

# CHAPTER I

## General Provisions

### Article 1.- Objectives

The objectives of this law are to:

- safeguard the rights and best interests of minor
- support the rehabilitation and their reintegration into society and the community
- protect the interest of society and community.

### Article 2.- Goals

This law aims to establish norms and procedures, which shall be complied with and strictly applied, to deal with minors who committed criminal offences.

Provisions in Criminal Procedure Code, Penal Code and other relevant laws shall be applied except otherwise stipulated in this law.

### Article 3.- Scope

This law applies to any minor.

### Article 4.- Definitions

The terms used in this law have the following definitions:

1. **“Juvenile justice”** refers to the protection of the rights of minor via mechanisms, norms, procedures and sentencing which shall be complied with and strictly applied in the case of minor.
2. **“Competent authority”** refers to any individual or institution legitimately implement their mandate in concerning with the minor’s case.
3. **“Minor”** refers to any person whose age is less than 18 (eighteen) years old when having committed an offense.
4. **“Minor in need of care and protection”** refers to a minor who is in need of care and protection due to the absence of designated representative or of proper or guardian care and supervision, and is at risk or being abused or harmed or poses a threat to the safety and security of the public or themselves.
5. **“Designated representative”** refers to those who have parental authority, guardian and general guardian on minor.
6. **“Support person”** means a natural person or legal entity chosen by the minor, or by competent authority and agreed by the minor, to support him/her during proceedings under this law.
7. **“Child-friendly procedure”** refers to processes and procedure that encourage the full participation of minors via the use of language, attitude appropriate to the level of minors understands and in the environment that provide the minor safety, security, rights and basic needs.
8. **“Social welfare assessment report”** refers to the report on the general conditions of the minor and includes a comprehensive assessment and recommendations by social agents.
9. **“Social agent”** refers to any officer of the ministry, office in charge of Social affair at city, provincial and district level or other individual who has completed training in minor and law concerning to minor and appointed or accredited by ministry in charge of social affairs.

- 10. “Rehabilitation centre”** refers to the centre, which under the supervision of ministry in charge of social affairs, aims to provide protection, care, education, rehabilitation and reintegration services to minor.

## **CHAPTER II**

### **Principals and Basic Rights of Minor**

#### **Article 5.- Basic principles**

All persons performing any function concerning to minor shall ensure the observance of the following principles:

- Consider primarily on actions concerning to the best interest of minors and particular to ensure the minors’ right to life and maximum survival and development
- shall be accorded humane treatment and dignity
- shall be given an opportunity to express their views freely, and their views shall be given weight according to their age, physical development, intelligence, and cognitive development toward their action
- shall be complied with child friendly manner
- shall be a measure of last resort and in a shortest period of time when arresting, detention and sentencing of a minor
- shall not discriminate against minor such as race, colour, sex, language, belief, religion, class, resource, origin, political affiliation, or other circumstances
- shall not handcuffed, shackled or used other devices, which can harm the physical of minor unless it is absolutely necessary and all other alternative measures have been exhausted
- shall prohibited torture, corporal punishment, or other treatment which is cruel, inhumane, or degrading in all forms on physical and mental of minors
- shall not release or broadcast the image and information that relevant to minor’s activities and could reveal the identification of minor and effect the minor rehabilitating in education, labour, accommodation or safety. For the public interest, the release of the minor case shall be possible only with permission from the prosecutor and the minor identification shall not be revealed
- presumed innocent until proven guilty by the court.

#### **Article 6.- Procedural rights of minor**

Every minor suspected or accused of having committed an offence shall has the following basic procedural rights:

- the right to refuse to answer questions with or without the presence of a lawyer
- the right not to be forced to give testimony against him/herself
- the right to privacy
- the right to have medical care and treatment
- the right to be informed of the charge
- the right to be informed of the arrest to designated representative
- the right to be assisted by a lawyer and to be assigned pro bono lawyer in accordance with the condition stipulated in Law on the Status of Lawyers from the earliest possible time of procedure
- the right to have designated representative participate in the case, unless it is contrary to the best interest of the minor
- the right to be assisted by pro bono interpreter, if necessary

- the right to present evidence
- the right to request to call and pose question to witnesses
- the right to request bail
- the right to ask for revision of the court supervision
- the right to contact his/her embassy, consulate if a minor is a foreigner
- Other rights which stipulated in other legal instruments that are currently in force.

## **CHAPTER III**

### **Criminal and Civil Liability of Minor**

#### **Article 7.- Criminal liability of minor**

The age of criminal liability is more than 18 years old. However, the court may announce that a minor from the age of 14 up have criminal liability if the circumstance of the offence or personality required unless otherwise written in other special law.

#### **Article 8.- Civil liability of minor**

Provision in paragraph 1 of Article 745 (Lack of Competence to Assume Liability) and Article 746 (Liability of Persons Having a Duty to Supervise) of Chapter 16 (Tort) of Book 5 (Particular Types of Torts) of Civil Code shall be applied in civil liability of minor.

#### **Article 9.- Age determination**

Age of minor's criminal liability is determined at the time at which the alleged offence was committed.

The proof of age of a minor shall be furnished by a birth certificate or a document certifying birth. In the absence of such documents or in case the authenticity of such documents is in question; the proof of age shall be furnished by other reliable means which are accepted by the court.

Competent authorities shall seek evidence to determine the age of a minor as soon as possible. Any doubt as to the age of a minor, shall be resolved in the minor's favour.

## **CHAPTER IV**

### **Social Services Support**

#### **Article 10.- The appointment and accreditation of social agents**

The appointment, accreditation, and supervision of social agents is the competent of ministry in charge of social affairs.

The procedure of appointment and accreditation of social agents shall be governed by Prakas of minister in charge of social affairs.

#### **Article 11.- Social agents**

Social Agents have duties as follows:

- Meet with the minor at all stages of procedure particularly at the earliest judicial police procedure and in prison to make an initial assessment; and provide immediate services to the minor
- To seek information on the minor's family situation, character, educational history; education level, conditions in which the minor has lived, developed and other relevant information with respect to the minor's cognitive, emotional, psychological and social development for preparing, reporting and making recommendations on the minor's social welfare and conditions to the judge, prosecutor and the court
- Provide psycho-social support to the minors throughout all stages of proceeding
- Prepare and provide diversion plan to diversion authority to exam and decide
- Provide rehabilitation and reintegration services for minors
- Do other duties as set out by Prakas of the minister in charge of social affairs.

## **CHAPTER V**

### **Judicial Police and Investigation**

#### **Article 12.- Competency of Judicial Police to examine felonies and misdemeanours**

Judicial police specialized in minor is mandated to examine felonies, misdemeanours, minor's identification, arrest and collect evidence.

Police, who arrest or judicial police officer who apprehend, shall submit a detailed report and record of the arrest or apprehension, and refer the minor to section or unit which consist of judicial police specialized in minor.

#### **Article 13.- Authority of Judicial police officer to examine and resolve petty offence.**

Minor, who is above 14 years to less than 18 years old, has committed a petty offense, Judicial police officer shall provide guidance, issue verbal or written warning and refer the minor to his/her designated representative promptly.

If the minor has admitted that he/she has committed an offence which is petty offence, the Judicial police may mediate between the parties to resolve the dispute.

In either of above paragraph 1 and 2, the Police shall write the report and refer the case file to prosecutor for further proceeding.

In case the minor is in need of care and protection, the Judicial police officer shall refer the minor to the municipal, provincial, district department or office in charge of Social Affairs at to take further action in accordance with the minor's social condition and welfare. Municipal, provincial, district Department or office in charge of Social Affairs shall submit the report to the prosecutor on the admission of minor from the judicial police.

In case the minor is deemed by the municipal, provincial, district Department or office in charge of Social Affairs to be a minor in need of care and protection, the officer of the department or office shall request the court to suspend or withdraw parental authority or remove minor's guardianship or general guardian in case the minor has his/her designated representative for the court to decide the suspension or withdrawal or removal of designated representative or the guardianship on the minor. In case the designated representative of minor does not exist, the department or office shall request the court to decide the guardianship on the minor.

#### **Article 14.- Procedure concerning to minor under 14 (fourteen) years of age**

Minor below 14 years old, who is suspected of committing an offence, shall not be apprehended and shall be referred to his/her designated representative by judicial police officer.

In case the minor is in need of care and protection, the judicial police officer shall refer the minor to the municipal, provincial, district department or office in charge of Social Affairs at to take further action in accordance with the minor's social condition and welfare. Municipal, provincial, district department or office in charge of social affairs shall submit the report to the prosecutor on the admission of minor from the judicial police.

In case the minor is deemed by the municipal, provincial, district Department or office in charge of Social Affairs to be a minor in need of care and protection, the officer of the department or office shall request the court to suspend or withdraw parental authority or remove minor's guardianship or general guardian in case the minor has his/her designated representative for the court to decide the suspension or withdrawal or removal of designated representative or the guardianship on the minor. In case the designated representative of minor does not exist, the department or office shall request the court to decide the guardianship on the minor.

All offences committed by minor under 14 years of age, the Judicial Police officer shall refer the case file to the Prosecutor.

In case of dispute as to the age of minor at the time of commission of the offence, the Judicial Police officer shall immediately forward the case to the prosecutor.

#### **Article 15.- Arrest**

A minor aged 14 to below 18 years of age may be arrested by Judicial Police officers only if the minor commits a misdemeanour or felony in flagrante delicto. However, minor aged 14 to below 16 years of age may be arrested in case the minor commits a misdemeanour offence intentionally.

When arresting a minor, judicial police officer shall report immediately to prosecutor.

When arresting a minor, judicial police officer shall avoid any humiliation and indignity of minor and shall be taken to the nearest police section or unit in charge of minor.

#### **Article 16.- The Search of minor**

A minor shall be searched by police officer.

The search of minor shall be done by individual who has the same sex and has not involved the offence, has not in a dispute with the minor, is not a minor family member, and has no close personal association with the minor except under an insurmountable circumstance.

Judicial police officer shall make a record and note the problem in the record.

#### **Article 17.- Apprehension of minor**

Judicial Police may keep a minor from 14 to below 18 years of age in its custody if he/she believed on reasonable grounds that the minor is very likely to abscond, discard evidence, endanger the safety of witnesses or victims, or pose a danger to public safety or in protection of minor's security. However, judicial police may only keep a minor from 14 to below 16 years of age in its custody only if the minor has an intend to commits a misdemeanour offence. Apprehension of minor shall be report immediately to the prosecutor. The apprehension is for only as a last resort.

Judicial police officer shall complete their investigation procedure as soon as possible.

#### **Article 18.- Notice following police apprehension or arrest of a minor**

Immediately following arrest or apprehension of a minor, the Judicial Police shall immediately inform the minor's designated representative. In case the notice could not be done immediately, the Judicial Police officer shall inform the minor's designated representative as soon as possible of:

- the reason for apprehension or arrest and the type of the offence
- the whereabouts of the minor
- the right of designated representative to attend at the police unit.

If the designated representative is not contactable, Judicial Police shall make reasonable efforts to contact a support person chosen by the minor or by judicial police officer as agreed by the minor.

Judicial police officer shall immediately notify a social agent after the minor is brought to the police unit/station to provide the necessary psycho-social support services for the minor.

Judicial police officer shall inform a minor's lawyer if the minor has his/her own lawyer. In case minor could not afford to have lawyer, judicial police officer, follow by the minor is brought to the police unit/station, shall provide pro bono lawyer as soon as possible.

Judicial police officer shall have a list of lawyers for minor to choose.

Judicial police officer shall provide a pro bono translator to the minor in case the minor does not has personal translator.

Judicial police officer shall note on the separated record regarding the notification or attempted to notify designated representative, support person, lawyer, and social agent and the act of seeking lawyer and guardian for minor even there is no result of notification.

#### **Article 19.- Physical or mental health examination**

If the minor is injured, or has a health problem and needs medical treatment, the Judicial Police shall immediately take him/her to the nearest health centre or hospital for a treatment.

The cost of medical examinations and treatments shall be borne by the state in case minor's parent could not afford medical treatments.

Record, or report concerning to the medical examination shall be included in the minor's case file.

#### **Article 20.- The record of apprehension or arresting of minor**

Copy of record on the arrest and a complete record on apprehension shall be given to minor's lawyer as requested.

Every judicial police unit shall have a separated book on apprehension of minors.

#### **Article 21.- Procedure prior to the interview**

The minor shall be given the opportunity to communicate or contact in private and confidential with his or her designated representative or support person, social agent and lawyer if there is a request except those who involved in the case. Time for communication or contact is 30 (thirty) minutes and shall be done prior to the interview if possible.

#### **Article 22.- Interview of minor**

Prior to the interview, judicial police officer shall inform the minor the basic rights, particularly, the right not to answer when there is a present or absence of a lawyer.

Interviewing the minor shall be conducted in private, confidential, child-friendly manner and in the present of minor's lawyer.

Designated representative or support person and duly authorized social agent who could provide support to the minor are entitled to participate in the interview.

Judicial police officer may exclude the minor's designated representative from the interview, if their presence is not in the minor's best interests. The exclusion shall be made in consultation with the

minor, the minor's lawyer and social agent. In case the minor's designated representative is not able to attend from the interview, a support person shall be present at the interview if available.

The reasons for any absence of the designated representative, support person, lawyer or social agent in the interview, judicial police officer shall note the reason of absence in the record and include in the minor's case file.

Immediately after the interview is completed, the minor is entitled to read the record of interview. If the minor is unable to read the record of interview, judicial police officer or translator shall read back the record of interview to the minor.

Judicial police officer shall allow minor's lawyer, designated representative, support person or social agent to read the record of interview.

The minor may correct or add any statement to the interview record before signing or fingerprinting the record with note.

Designated representative or support person or social agent who present at the interview shall be requested to sign or finger-print the record of interview. If the minor or any participant refuses to sign or finger-print the record, the judicial police officer shall note in the record.

These formalities which stipulated in this article must be strictly complied with or otherwise it shall be deemed as procedural null and void.

#### **Article 23.- Treatment of minor who is apprehended**

Judicial police officer shall not include a minor in an identification parade line-up unless consent has first been obtained from the minor, after consultation with the minor's lawyer and designated representative or support person. This consent shall be in writing and finger-printed.

Minor, who is apprehended, shall be segregated from adult and by sex.

Minor shall not be subjected to torture, force, threat, intimidation, or any act which is affect the minor's dignity or inhuman.

These formalities which stipulated in this article must be strictly complied with or otherwise it shall be deemed as procedural null and void.

## **CHAPTER VI**

### **Prosecution**

#### **Article 24.- Competency of the Prosecution Department**

Criminal actions are brought by prosecutors for the general interest. Prosecutors initiate criminal charges pertaining to minor.

The charge of any cases pertaining to minor shall be given to prosecutor who has appointed to take charge of minor even though the appointment is only for minor case or for other case. The prosecutor in charge of minor shall receive specialized training on child rights, law and other provisions relevant to juvenile justice.

#### **Article 25.- Verification of age of minor**

The prosecutor shall review the case file and complaint which he/she received in order to verify the minor's age.

In case of doubt as to the age of the minor, the prosecutor shall undertake a preliminary investigation as soon as possible in order to ascertain the real age of the minor.

If the preliminary investigation is inconclusive as to the real age of the minor, the prosecutor shall issue the introductory requisition to the investigating judge.

## **Article 26.- Interviewed by the prosecutor**

The prosecutor shall inform the minor and the attendee of the rights stipulated in Article 6 (the procedural right of minor) of this law in a language and manner that is appropriate to minor's cognitive development before conduct the interview. In case the minor cannot afford a lawyer, the prosecutor shall arrange a pro-bono lawyer for the minor.

The interview of the minor shall be conducted in a confidential, child-friendly manner. This interview shall be in the presence of lawyer, social agent, and designated representative or support person. But the prosecutor may not allow the minor's designated representative to attend the interview if their presence is contrary to the minor's best interest. This excluding shall have consultation with the lawyer or social agent and the minor.

In case of the absence of any individual mentioned above, the prosecutor shall note the reason of absence in the interview record.

Immediately after the interview is completed, the minor is entitled to read the interview record. If the minor is unable to read the record of interview, the court clerk or the translator shall read the record back to the minor. The minor may request to correct or add any statements to the record prior to signing or finger-printing the record.

The prosecutor may allow the minor's lawyer or designated representative, or support person, or social agent to read the interview record.

The minor's lawyer, designated representative or support person, or social agent, shall sign or finger-print on the record of interview. If the minor or any attendee refuses to sign or finger-print the record, the prosecutor shall note in the record.

These formalities which stipulated in this article must be strictly complied with or otherwise it shall be deemed as procedural null and void.

## **Article 27.- Filing case without processing for the minor below 14 years of age**

In case the minor is below 14 years of age at the time of commission of the alleged offense, the prosecutor shall file the case without processing and refer the minor to his or her designated representative.

In case the minor is in need of care and protection, the prosecutor shall refer the minor to the municipal or provincial department in charge of social affairs to take further action in accordance with the minor's social condition and welfare.

Once the minor is admitted, the minor is deemed by the municipal, provincial, district department in charge of social affairs to be a minor in need of care and protection, the officer of the department shall request the court to suspend or withdraw parental authority or remove minor's guardianship or general guardian in case the minor has his/her designated representative for the court to decide the suspension or withdrawal or removal of designated representative or the guardianship on the minor. In case the designated representative of minor does not exist, the department or office shall request the court to decide the guardianship on the minor.

Victim or designated representative may file a complaint for compensation to the civil court.

## **Article 28.- Authority of the prosecutor in diversion**

In case the minor from 14 (fourteen) to below 18 (eighteen) years old committed a petty crime or a misdemeanour, the prosecutor shall initially consider the diversion as stipulated in chapter 10 (diversion) of this law.

Whenever the prosecutor decides to divert the minor, provision stipulated in chapter 10 (Diversion) of this law shall be applied. In this case, the prosecutor shall suspend the procedure by issued diversion order.

If the formulation of diversion plan requires more time, the prosecutor shall suspend the charge and refer the minor to his/her designated representative or municipal or provincial department in charge

of social affair in order to be placed under the proper care and supervision while waiting for the preparation of diversion plan.

The prosecutor shall inform, the victim or victim's designated representative if the victim is juvenile, or to the victim's lawyer of the suspension. The victim or victim's designated representative may file complaint for compensation at civil court.

The prosecutor shall file the case without processing in case the diversion plan is successfully implemented base on the result of report which certified jointly by social agent and designated person in charge of diversion.

In case the minor is not fully complied with the diversion plan, the prosecutor shall reorder the diversion plan by consider the reasons that diversion has failed, minor opinion, designated representative and discuss with social agent or take further legal action.

#### **Article 29.- Notification on initial charge**

Whenever the prosecutor decides to issue the initial charge, s/he shall promptly and directly notify the minor and, if appropriate, the minor's designated representative or support person and minor's lawyer of the initial charge in order to prepare the defence.

#### **Article 30.- The separation of case file**

when the prosecutor reviews the case file and find that the co-perpetrators or instigator or accomplice who involved in the committed act are/is either a minor or adult, the prosecutor shall issue order to separate the minor case file and adult.

## **CHAPTER VII**

### **Investigations**

#### **Article 31.- Competency of investigation**

The investigation of any cases pertaining to the minor shall be the competency of investigating judge specialized in minor.

#### **Article 32.- Commencement of investigation**

After receiving the introductive requisition from the prosecutor, the investigating judge shall promptly lunch the investigation.

The accused minor shall be assisted by a lawyer during the interview before the Investigating Judge. In case the minor cannot afford a lawyer, the investigating judge shall appoint lawyer in accordance with the condition stipulated in Law on the Status of Lawyers.

#### **Article 33.- Notification of court supervision**

At the minor's first appearance, the investigating judge shall check the minor's identity; inform him/her the charged and the name of offense as defined by law as well as the procedural rights as stipulated in articles 6 of this law.

The investigating judge shall inform in writing the court supervision of minor's designated representative or support person and social agent.

These formalities which stipulated in this article must be strictly complied with or otherwise it shall be deemed as procedural null and void.

#### **Article 34.- Prioritization of minor case**

The Investigating Judge shall process the minor case as priority case particular the minor is in pre-trial detention.

#### **Article 35.- Interview of minor**

Interview shall be conducted in confidential and child-friendly procedure in the presence of the minor's lawyer, designated representative, support person and social agent.

Investigating judge may not allow designated representative to attend the interview if their presence contrary to the minor's best interest. This excluding shall have the consultation with the lawyer or social agent and the minor.

Investigating judge shall note in the record of the interview the reason for absence of minor's designated representative or support person and the social agent.

Immediately after the interview is completed, the minor is entitled to read the record of interview. If the minor is unable to read the record of interview, the court clerk shall read back to the minor. The minor may request to correct or add any statement to the record of the interview prior to signing or finger-printing.

Investigating judge may allow the minor's lawyer or designated representative or social agent to read the record of interview upon request. If the minor or any participant refuses to sign or finger-print the record, the Investigating Judge shall note this in the record.

These formalities which stipulated in this article must be strictly complied with or otherwise it shall be deemed as procedural null and void.

#### **Article 36.- The adjournment of interview**

In case the lawyer is absent, the investigating judge shall adjourn the interview and inform the lawyer to participate in the interview except in urgent case that cause the death or the lost in evidence. Such an urgent shall be noted in the record.

Present or absence of minor's lawyer could not deter the investigating judge to decide whether to pre-trial detain or not to detain the minor.

#### **Article 37.- Suspension from school and employment of minor**

Investigating Judge may order the concerned education establishment or employer not to suspend the minor's schooling or minor's employment if that minor is not in pre-trial detention.

In case the minor is in the pre-trial detention or implementing the diversion plan, the concerned education establishment or employer may suspend the minor's schooling or minor's employment until the court pronounce the final judgment. But if the court acquits the minor, the education establishment or the employer shall employ the minor to work as usual.

#### **Article 38.- The authority of investigating judge in diversion**

Minor who is accused of a misdemeanour, the Investigating Judge shall initially consider the diversion as stipulated in chapter 10 (Diversion) of this law. Any misdemeanour aggravated by the circumstances shall be considered for diversion either. In case the investigating judge decide to divert the minor, provision stipulated in chapter 10 (diversion) of this law shall applied.

Once the investigating judge decides to divert, he/she shall stay proceeding and issue order to pre-trial release of the minor immediately if the minor is in pre-trial detention. The investigating judge shall refer the minor to minor's designated representative or municipal, provincial department in charge

of Social Affairs in order to be placed under the proper care and supervision while waiting for the preparation of diversion plan.

The investigating judge shall inform the victim or victim's designated representative if the victim is juvenile, or to the victim's lawyer of the stay proceeding. The victim or victim's designated representative may file complaint to civil court for compensation.

In case the minor is successfully implementing the diversion plan as attested jointly by social agent and designated person, the investigating judge shall issue non-suit order.

In case the minor failed to implement diversion plan, investigating judge shall issue re-diversion order by consider the reason the diversion has failed, minor opinion, designated representative and discuss with social agent or take further procedure.

### **Article 39.- Pre-trial detention**

Pre-trial detention is a measure of last resort.

In addition to the provision on the conditions and reasons of pre-trial detention in criminal procedure code, the investigating judge shall consider either social condition or welfare assessment report if such a report exist prior to issue pre-trial detention order of minor.

The minor less than 14 years of age shall not be placed in pre-trial detention. If a detained minor is found to be less than 14 years old, the Investigating Judge shall issue the non-suit order and order the minor's immediate released even there is appeal by the prosecutor and refer the minor back to the custody of their designated representative.

If the minor is in need of care and protection, the investigating judge shall refer to the minor to municipal, district department in charge of social affairs to further proceed in accordance with condition and welfare of the minor.

In case the minor is deemed to be a minor in need of care and protection, the department or office shall request the court to suspend or withdraw parental authority or remove minor's guardianship or general guardian in case the minor has his/her designated representative for the court to decide the suspension or withdrawal or removal of designated representative or the guardianship on the minor.

In case the designated representative of minor does not exist, the department or office shall request the court to decide the guardianship on the minor.

Victim or designated representative may file a complaint for compensation to the civil court.

### **Article 40.- Court supervision**

As an alternative to an order of pre-trial detention, the investigating judge may place the accused minor, who is punishable by a sentence of imprisonment, under court supervision at any time.

In addition to the provision on the court supervision in criminal procedure code, investigating judge may order the minor to comply with one or more obligation as follows:

- submission of minor to direct supervision of his/her parents, guardian or general guardian or support person or any appropriate family.
- submission of minor to close supervision and care of any state centre or any designated NGO centre which is accredited to admit and care for minors
- prohibit the minor not to go outside exceed the limited time or drink alcohol
- any other measure the Court thinks fit.

### **Article 41.- Pre-trial release**

The investigating judge may order pre-trial release of minor at any time by his/her own initiative. The investigating judge who has the initiative to order the pre-trial release of minor shall inform the prosecutor of his/her own initiative. The prosecutor shall respond in a short period of time. In urgent case, investigating judge may order the minor's immediate released without consent from the

prosecutor or even there is appeal by the prosecutor. The investigating judge shall demonstrate the reasons of this immediate released in pre-trial released order.

The investigating judge shall refer the minor back to the custody of his/her designated representative.

If the minor is in need of care and protection, the investigating judge shall refer to the minor to municipal, provincial department in charge of social work to further proceed in accordance with condition and welfare of the minor.

In case the minor is deemed to be a minor in need of care and protection, the department or office shall request the court to suspend or withdraw parental authority or remove minor's guardianship or general guardian in case the minor has his/her designated representative for the court to decide the suspension or withdrawal or removal of designated representative or the guardianship on the minor.

In case the designated representative of minor does not exist, the department or office shall request the court to decide the guardianship on the minor.

The prosecutor, minor, designated representative, support person may request the minor's release at any time. The lawyer may request the minor's release with the minor's consent. Investigating judge shall decide within 5 days after receiving the request.

#### **Article 42.- Settlement warrant by investigating judge**

Investigating judge shall review and consider social condition and welfare assessment report of minor before issuing a settlement warrant. In case the social condition and welfare assessment report is sufficient, the investigating judge shall order the social agent to present such report as soon as possible within 10 (ten) working days of request.

A non-suit order has an effect to the release of minor, even there is an appeal by the Prosecutor.

Investigating judge shall refer the minor back to the custody of his/her designated representative.

If the minor is in need of care and protection, the investigating judge shall refer to the minor to municipal, provincial department in charge of social work to further proceed in accordance with condition and welfare of the minor.

In case the minor is deemed to be a minor in need of care and protection, the department or office shall request the court to suspend or withdraw parental authority or remove minor's guardianship or general guardian in case the minor has his/her designated representative for the court to decide the suspension or withdrawal or removal of designated representative or the guardianship on the minor.

In case the designated representative of minor does not exist, the department or office shall request the court to decide the guardianship on the minor.

#### **Article 43.- The appeal to Investigating Chamber of Appeals Court**

Prior to appeal to Investigating Chamber of Appeals court against non-suit order, detention order, not to detain order, pre-trial release order, and diversion order of investigating judge, the prosecutor shall give primary consideration to the best interests of the minor.

## **CHAPTER VIII**

### **Competency of Court of First Instance**

#### **Article 44.- The competent to trial**

The Court of first instance, that specialized in minor, shall has competent to trial the minor case involving felony, misdemeanour and petty offences.

The court of first instance shall make a collective judicial decision-making which consist of 3 (three) judges for felony, misdemeanour and petty offence that involve with the said felony and misdemeanour.

The court of first instance shall make judicial decision by single judge for petty offence.

#### **Article 45.- Prioritization of minors' cases**

Priority shall be given to the case that the minor is in pre-trial detention.

For the best interests of the child, the Judge shall consider release of detained minors whilst awaiting trial. During prolonged periods of adjournment, consideration should again be given to temporarily releasing the minor on bail.

#### **Article 46.- Pre-trial procedures**

Before starting a trial, the trial judge shall examine the social welfare assessment and social condition report prepared by social agent.

If a social welfare assessment and social condition report has not yet been prepared, and the trial judge requires additional information, the trial judge shall order the social agent to prepare or provide more information to the report as needed.

#### **Article 47.- Closed court**

The cross-examination and pronouncement of judgment shall be conducted in closed court.

Only those who have the rights, obligations, or interest in the case are entitled to participate in the hearing.

Designated representative, or support person shall attend the hearing except there is a suggestion not to allow from the minor or the court consider that their participations are not in the best interest of the minor.

#### **Article 48.- Trial**

During the trial, the court shall use child-friendly procedure.

Under special circumstances, the minor's lawyer, social agent or prosecutor may request the court to place the minor behind the screen or use other alternate means of providing testimony.

#### **Article 49.- Acquittal**

If the court finds that the minor is less than 14 years of age, at the time of commission of the offence, the court shall immediately acquit the minor and immediately release him/her to the custody of designated representative even there is appeal by the prosecutor.

If the court finds that the above minor is convincingly committed an offense, the court shall decide the civil compensation if there is a civil action.

If the court finds that the charge of the minor who is 14 to less than 18 years of age is not an offence or the minor is innocent, the court shall acquit and order the release of minor immediately even there is appeal by the prosecutor and refer the minor back to the custody of his/her designated representative if he/she has no other charges.

If the minor is in need of care and protection, the court shall refer to the minor to municipal, provincial department in charge of social work to further proceed in accordance with condition and welfare of the minor.

In case the minor is deemed to be a minor in need of care and protection, the department or office shall request the court to suspend or withdraw parental authority or remove minor's guardianship

or general guardian in case the minor has his/her designated representative for the court to decide the suspension or withdrawal or removal of designated representative or the guardianship on the minor.

In case the designated representative of minor does not exist, the department or office shall request the court to decide the guardianship on the minor.

#### **Article 50.- Assistance of lawyer**

The minor shall be assisted by a lawyer during trial. In case the minor cannot afford a lawyer, the president of the court, via his or her own initiative, shall assign a pro-bono lawyer in accordance with the conditions stipulated in the law on statutes of lawyer. The expense on the defence and copy of case files is the burden of state.

The court shall provide appropriate time, copied files, and case files to lawyer to review the case file and defence. The expense on copying of case files is the burden of lawyer chosen by the minor.

#### **Article 51.- The court to Advise minor of his/her rights**

At commencement of trial, the court shall advise the minor in a language that the minor can understand of the following rights:

- The rights at trial as stipulated in article 6 (procedural right of minor) of this law
- The right to be present at trial
- The right to be protected by the court from hostile or inappropriate cross-examination
- The right to ask for recusal of the trial judge
- The right to have the last word in the trial
- The right to appeal.

#### **Article 52.- Authority of the trial judge in diversion**

At trial, minor from 14 to below 18 years old is accused of a petty crime or a misdemeanour, the trial Judge shall consider the case for diversion as stated in chapter 10 (diversion) of this law. Any misdemeanour aggravated by the circumstances may be considered for diversion.

If the minimum conditions for diversion are met, the court shall order to stay the proceeding and:

- Consult with the minor, designated representative, support person, lawyer, social agent, victim, civil complainant and other relevant persons.
- Prepare the diversion plan
- Have the minor signed or finger-printed on diversion plan.

Once the court decides to divert, provisions stipulated in Chapter X (Diversion) of this law shall apply. Where there is a request, the court shall pronounce judgment on civil compensation.

If the minor is in detention, the court shall immediately release minor and refer his/her back to the custody of designated representative even there is appeal by the prosecutor.

If the minor is in need of care and protection, the court shall refer to the minor to municipal, provincial department in charge of social work to further proceed in accordance with condition and welfare of the minor.

In case the minor is deemed to be a minor in need of care and protection, the department or office shall request the court to suspend or withdraw parental authority or remove minor's guardianship or general guardian in case the minor has his/her designated representative for the court to decide the suspension or withdrawal or removal of designated representative or the guardianship on the minor.

In case the minor has no designated representative, the department or office shall request the court to decide the guardianship on the minor.

In case the minor successfully implement the diversion plan as attested jointly by the social agent and designated person, the court shall decide to acquit the minor.

In case the minor failed to implement diversion plan, trial judge shall issue re-diversion order by consider the reason the diversion has failed, minor opinion, designated representative and discuss with social agent or take further procedure.

#### **Article 53.- Admission of guilt at trial**

The court shall examine evaluate and certify that a minor's admission of guilt at trial is voluntary, made without threat or coercion and the minor understands the consequences of an admission of guilt. Any admission of guilt obtained by threat, coercion or without knowledge on the consequences of an admission of guilt shall be inadmissible evidence.

Admission of guilt for the purposes of diversion, is not admissible as evidence in any further criminal proceedings for the same offence.

Any admission of guilt at trial shall be supported with additional evidence of the offence.

#### **Article 54.- Pronouncement of Judgment**

Judgment shall be pronounced after the cross examination or at the next trial.

In principle, the judgment of the court shall be pronounced in closed Court, and in the presence of the minor, designated representative, support person, lawyer, social agent and relevant parties.

The judgment may be pronounced without the presence of the minor if it is detrimental to the best interest of the minor.

## **CHAPTER IX**

### **Competency of Higher Court**

#### **Article 55.- Composition of the trial council**

Trial council at appeals court and supreme court shall compose of judge specialized in minor at least one among them.

#### **Article 56.- Referring the case files to appeals court and supreme court**

Where there is appeal, the court clerk of the court of first instance shall prepare and forward the dossier to appeals court within 10 (ten) days upon receiving the appeal application except under an insurmountable circumstance.

Where there is appeal to supreme court, the court clerk of appeals court shall prepare and forward the dossier to Supreme Court within 10 days upon receiving the appeal application except under an insurmountable circumstance.

#### **Article 57.- Priority of minor case**

Appeals court and supreme court shall give highest priority to trial the case of minor particularly minor who is in detention. An appeal shall be heard within 3 months of it being lodged, unless there is an external obstacle outside the control of the Court.

For the best interest of minor, during awaiting trial, the appeals court or supreme court shall consider the release of minor. In case the trial is adjourned, the appeals or supreme court shall consider as well the release of minor.

### **Article 58.- Authority of the appeals court in diversion**

Provision stated in article 52 (Authority of the court in diversion) of this law shall apply regarding the authority to divert at appeals court.

### **Article 59.- The expansion of rules to higher court**

The rules applied at the court of first instance shall be applied at the appeals court and supreme court except there is a different rules apply at supreme court.

## **CHAPTER X**

### **Diversion**

### **Article 60.- Diversion**

Diversion is a measure dealing with minor who have admitted of guilt and have reasonably believed to have committed an offence at each step of the court procedure.

### **Article 61.- Authority in charge of diversion**

Authority in charge of diversion may include prosecutor, investigating judge and trial judge of court of first instance and trial council of appeals court.

### **Article 62.- The purposes of diversion**

Diversion of a minor has the following purposes:

- to encourage the minor to be accountable for the fault and harm caused by him/her;
- promote reconciliation between the minor and the victim
- to encourage restitution or compensation to the victim
- to educate and correct the minor's behaviour
- to meet the individual needs of the minor and reintegrate the minor into his/her family or community or society
- to prevent stigmatization and prevent the minor from acquiring a criminal experience during serving sentencing and re-offending.
- to prevent the discrimination on minor and prevent the minor from acquiring a criminal record.

### **Article 63.- Minimum conditions for diversion**

Diversion shall meet the following minimum conditions:

- a) there is sufficient evidence to charge the minor or his/her guilt is proven
- b) the minor freely and voluntarily admitted guilt and apologized to victim
- c) the offence is a petty offence or misdemeanour.
- d) the minor consent to diversion after consult with the lawyer, social agent on the minor's rights and consider either the effect and impact of diversion;

### **Article 64.- Diversion criteria**

If the case meets the minimum conditions for diversion as stated in Article 63 (minimum conditions for diversion) of this law, the diverting authority, and prior to decide whether to divert or not, shall consider the following factors:

- a. the circumstances of the offense;
- b. the severity of the offense;
- c. the personality of the minor such as age, cognitive development, intelligence, character;
- d. the effect of the family and living environment
- e. the harm caused to the victim;
- f. the safety of the victim, community and society.

#### **Article 65.- Diversion measures**

After consider diverting, diverting authority may decide to choose one or more measures for the minor to full fill his/her obligation as follow:

- One or more measures as stipulated in Criminal Procedure Code (Article 223: Obligations under court supervision)
- attend school regularly as mentioned in the diversion plan not exceeding 6 (six) months
- spend a specified number of hours with his or her family, not exceeding 6 (six) months
- attend educational or vocational training not exceeding 6 (six) months
- to serve community service not exceeding 100 (one hundred) hours. Community service may impose only to minor who is at least 16 (sixteen) years old and in training concept as well as facilitate to the minor reintegration into society
- attend a programme in the community or in a centre that may assist the minor not to commit offences again
- to stay at a specific place in a specific period
- to make restitution for the damage caused to victim
- other measures that contribute to the purpose of diversion

Any diversion plans involving labour shall be in accordance with labour law and international convention on labour which the kingdom of Cambodia has ratified.

#### **Article 66.- Formulation of diversion plan**

After admission of diversion order from diverting authority, social agent shall formulate diversion plan. Diversion plan shall be completed not later than 1 (one) month upon receiving the diversion order except under an insurmountable circumstance.

In formulation of diversion for each of minor, social agent shall take into account the following factors:

- the views of the minor, designated representative, and other persons affected by the offence, the appropriateness of the proposed diversion plan
- background, culture, religion and linguistic
- educational level, cognitive ability, circumstance and family circumstances
- the proportionality of the proposed plan to the situation of the minor, the nature of the offence and the interests of society and
- age and developmental needs of minor.

Diversion for minor shall:

- provide the advantages to minor
- ensures that the minor understands the impact of his or her behaviour on the victim of the offence and others

- redress the wrong caused by the offense, and may include compensation or restitution
- be carried out in a location accessible to the minor
- not be exploitive or harmful or hazardous to a minor's physical or mental health
- not negatively affect the minor's schooling, if any, and
- not involve deprivation of liberty in any form.

#### **Article 67.- Note in diversion plan**

Diversion plan shall be noted as follow:

- Set out any measure in article 65 (Diversion measures) of this law and the period of implementation
- Specify the service and assistance to be provided for minor
- Specify the person or organization to provide such service and assistance
- Specify the responsibilities of the minor, designated representative
- Specify the minor personal goals and his/her designated representative
- Include other programs relating to education, employment, recreation, welfare of the minor as relevant
- Specify from authority or appropriate person who will monitor and supervise the minor's compliance with the plan. They could be police, NGO staff, commune district council member, teacher or other appropriate member of the community.
- certify by social agent in charge of monitoring and implementation of diversion plan
- Specify the minor agreement upon the diversion plan

Diversion plan shall be added:

- the identity and signature of social agent
- the identity and finger-print of minor
- the identity, signature, or finger-print of relevant persons.

The copy of diversion plan shall be kept confidential at the office of social agent.

#### **Article 68.- Decision to divert by diverting authority**

Social agent shall refer the diversion plan to diverting authority to review and decide upon.

In case the diverting authority agree to the diversion plan, diverting authority shall order to implement diversion plan.

In case the diverting authority disagree with the diversion plan, diverting authority may order social agent to formulate a new diversion plan. Diversion plan shall be done within 1 month upon receiving the order except under an insurmountable circumstance.

#### **Article 69.- The implementation of diversion plan**

Social agent and appropriate person in charge of diversion implementation shall guarantee to implement the decision to divert and diversion plan via supervision and monitoring the minor who implement the diversion plan.

Appropriate person in charge of diversion implementation shall report the success or failure or obstacle in the implementation of diversion plan to social agent. The social agent shall refer the report and recommendations to diverting authority and copy to municipal, provincial department in charge of social affair.

#### **Article 70.- The adjustment of diversion plan**

For the best interest of the minor, during the implementation of diversion plan, the diverting authority may adjust the diversion plan by his/her own initiative, or by the request of social agent base on the real situation.

After receiving the written request for adjustment from social agent, diverting authority shall decide within 5 (five) working days. If there is no response within 5 (five) working days, the adjustment shall be taken as approved.

Such adjustment will not amount to a failure to implement the original diversion plan.

#### **Article 71.- Failure to implement the diversion measures**

Failure to implement the diversion measures refers to the failure to comply with the obligations in the diversion measures or in the diversion measures that already adjusted.

The social agent shall submit a report on the failure to implement diversion measures or diversion measures that have been adjusted together with a recommendation to diverting authority and copy to municipal, provincial department in charge of social affairs.

After reviewing the report, the diverting authority shall issue a written notice to the minor and his/her designated representative, support person or social agent, appropriate person in charge of diversion implementation, minor's lawyer, if available, to appear within 15 days.

Diverting authority shall conduct an interview and inquire as to the reasons for the minor's failure to comply with the diversion measures.

Diverting authority may, after consider the views of minor, his/her designated representative, or support person, and after consultation with the social agent, decide to issue a new diversion order or send the case forward for prosecution through formal criminal proceeding.

Provision in Article 66 (formulation of diversion plan) to article 70 (adjustment of diversion plan) shall be applied in case the diverting authority issue a new diversion plan.

In case of the minor's failure to appear without any appropriate reason, the diverting authority may proceed in accordance with criminal procedure code.

## **CHAPTER XI**

### **Conditional Release of Minor**

#### **Article 72.- Conditional release of minor**

Conditional release may be applied to minor who is serving his/her sentencing in prison:

- one-third (1/3) of the sentence has been served if the sentence is less than or equal to 1 (one) year
- one-half (1/2) of the sentence has been served in other cases.

#### **Article 73.- The request of conditional release of minor**

Those who have the right to apply for conditional release include:

- minor, the minor's lawyer
- minor's designated representative
- chief of detention facility
- social agent involves in the case
- embassy or consular officer in cases of minor is a foreigner.

## **CHAPTER XII**

### **Rehabilitation of Minor**

#### **Article 74.- Condition concerning to the duration to apply for restoration of qualification**

The application for the restoration of qualifications may be submitted to the Criminal Chamber of Appeals Court only after the lapse of the following duration:

- two (2) years for a felony
- one (1) years for a misdemeanour
- One (1) year for a petty offence.

This duration shall start from the date the sentence was served or the expiration of statute of limitation of penalty.

The request for restoration of qualifications may be done via:

- Adult prisoner who have committed an offence when he/she was a minor
- Designated representative in case the prisoner is a minor.

#### **Article 75.- Lawful restoration of qualifications**

Restoration of qualification shall be provided after the lapse of the following duration:

- 3 (three) years for a felony
- 1 (one) year for misdemeanour
- 3 (three) months for petty offence

This duration shall start from the date the sentence was served or at the expiration of statute of limitations of penalty.

## **CHAPTER 13**

### **Establishment and Competence in Administration of Youth Rehabilitation Centre**

#### **Article 76.- The establishment of youth rehabilitation centre**

Youth rehabilitation centre shall be established at municipal, provincial for administration of minor. The centre shall be under the administration of ministry in charge of social affairs.

The organization and functioning of youth rehabilitation centre shall be regulated by sub-decree.

#### **Article 77.- The separation of minor in youth rehabilitation centre**

The administration of minor in youth rehabilitation centre shall be divided into 3 (three) sections separately:

- Pre-trial detention section
- Minor detention section for rehabilitation program
- Pre-release of minor section for reintegration.

The formalities of supervision of detained minor in youth rehabilitation centre shall be regulated by Inter-Ministerial Prakas between minister in charge of social affairs, minister of interior, and minister of justice.

#### **Article 78.- Register for recording minor's name**

All Youth Rehabilitation Centres shall maintain a separate register for administration, recording minors' name and all relevant information and be kept safely.

Register and this separated procedure shall be regulated by Inter-Ministerial Prakas between minister in charge of social affairs, and minister of justice.

## **CHAPTER XIV**

### **Measures Dealing with Detention of Minor**

#### **Article 79.- Purpose of detention**

The purpose of detention of minors is to provide rehabilitation, including training, treatment, care, protection, education and vocational training, with a view to assisting them to become a good citizen and productive member of society.

Officer at Youth Rehabilitation Centre in charge of supervision the minor shall receive appropriate training on child psychology, child welfare, national and international standards on child rights and treatment of juveniles deprived of their liberty.

#### **Article 80.- Basic Rights of minor in detention facilities**

All minors who is in detention facilities shall have the following basic rights:

- The right to education
- The right to be free from torture or cruel, inhumane and degrading treatment, physical and mental punishment, or other forms of torture including isolation, restriction or denial of contact with family, reduction of diet and forced labour
- The right to have fair disciplinary hearings which are consistent with protecting the dignity of the minor
- the right to be advised of the facility's rules upon admission, the rights and obligations of the minor
- the right to be notified the minor's designated representative, support person, and the minor's lawyer of the minor's detention, transferred, and released
- The right to access health care, to be treated while illness or injury and to be notified the minor's designated representative, support person, and the minor's lawyer
- The right to have adequate opportunity to maintain regular contact privately with his/her family or friends
- The right to access to a confidential and effective complaints mechanisms concerning to conditions and treatment on minor in detention
- Other rights as accepted by legal instruments currently in force.

#### **Article 81.- Services for minor in youth rehabilitation centre**

The competent authorities in charge of youth rehabilitation centre shall provide the minor the following services:

- provide protection, care and all necessary personal requirements in accordance with his/her personality, belief, religion, sex, age
- stay in house in group dormitories or individual rooms
- participate in educational program, vocational training, art, leisure sport, recreational activities and relax from work
- provide appropriate mental and physical health services
- provide medical check-up by hospital. Injury, mental problem, physical disability or other information shall be recorded and included in the minor's case file
- other programs that promote his/her health and self-respect; foster a sense of responsibility, and encourage attitudes and skills that will assist the minor in developing his/her potential to be a good member of society and reintegrating the minor into society after release.

#### **Article 82.- The placement of detained minors**

Minors held under Youth Rehabilitation Centre shall be placed as follow:

- Minors shall be kept in a separate from adult.
- Minors shall be kept in a separate building, sex, nature and circumstance of the offence, minors' age, character, mental and physical health. Female minors must be kept under the care of female personnel.
- Minors with transmittable diseases will be separated and transported separately.

A minor who reaches 18 years of age, while serving his/her sentencing in Youth Rehabilitation Centre, shall continue to stay in the Centre until the age of 24 (twenty-four). When the minor reaches 24 (twenty-four) years of age, he/she shall be transferred to adult detention centre to continue serving his/her sentencing.

The formalities and procedures concerning to transfer, handover, and admission of minor shall be regulated by Inter-Ministerial Prakas between minister in charge of social affairs, minister of interior, and minister of justice.

#### **Article 83.- Security classification in youth rehabilitation centre**

Security classification of minor in Youth Rehabilitation Centre shall be classified at the lowest security risk category and be regulated by Inter-Ministerial Prakas between minister in charge of social affairs, minister of interior, and minister of justice.

#### **Article 84.- Agents in youth rehabilitation centre**

All agents who work with minor in Youth Rehabilitation Centre including officer at Youth Rehabilitation Centre, social agent, education and vocational training expert, counsellor and life-skill expert, and psychologist or psychiatrist shall have a proper training on child psychology, child welfare, and international instrument on child rights and treatment of juveniles deprived of their liberty.

#### **Article 85.- Inspection of youth rehabilitation centre**

The general prosecutor of appeals court, prosecutor of court of first instance, president of investigation chamber, investigating judge shall conduct regular inspections of Youth Rehabilitation Centre located in his/her jurisdiction and ensure that minor conditions on treatment and detention are implemented in accordance with Criminal Procedure Code and laws currently in force.

National prevention mechanism and other competence officers are entitled to visit Youth Rehabilitation Centre at any time.

## **CHAPTER XV**

### **Transitional Provisions**

#### **Article 86.- Provision concerning to judges**

Prosecutor and judge who are appointed take charge of minor case in accordance with provisions stipulated in criminal procedure code shall carry out their duty until prosecutor and judge specialized in minor available.

#### **Article 87.- Specialized judicial police in charge of minor**

Judicial police who is in charge of minor case in accordance with provisions stipulated in criminal procedure code shall carry out their duty until judicial police specialized in minor available.

#### **Article 88.- Youth Rehabilitation Centre**

In case the Youth Rehabilitation Centre has not been available, all measures which is currently applied to minor shall be carried out until the establishment of Youth Rehabilitation Centre.

The formalities and procedures concerning to transfer, handover, and admission of minor shall be regulated by Inter-Ministerial Prakas between minister in charge of social affairs, minister of interior, and minister of justice.

## **CHAPTER XVI**

### **Final Provision**

#### **Article 89.- The application of this law**

After come into force throughout the country, this law shall be disseminated within 6 (six) months prior to its implementation.

Phnom Penh, 14<sup>th</sup> July 2016

**On behalf and by order of the Royal Highness  
Acting Head of State  
Signature and Stamp**

**Samdech Vibol Sena Pheakdey SAY Chhum**

*PLR. 1607.730*

Having inform to His Majesty the King  
For Royal Signature

**Prime Minister  
Signature**

**Samdech Akka Moha Sena Padei Decho HUN SEN**

Having informed to  
Samdech Akka Moha Sena Padei Techo HUN SEN, Prime Minister  
**Minister of Social Affairs, Veterans, and Youth Rehabilitation**  
**Signature**

**Vong Sot**

No. 719 S.N

**The copy is valued for publication**  
Phnom Penh, 14 July 2015  
**Secretary-General of the Royal Government**

**Signature and Stamp**

**SOY SOKHA**

# CONTENT

<b>CHAPTER I</b> .....	<b>5</b>
<b>General Provisions</b> .....	<b>5</b>
Article 1.- Objectives .....	5
Article 2.- Goals .....	5
Article 3.- Scope .....	5
Article 4.- Definitions.....	5
<b>CHAPTER II</b> .....	<b>6</b>
<b>Principals and Basic Rights of Minor</b> .....	<b>6</b>
Article 5.- Basic principles .....	6
Article 6.- Procedural rights of minor.....	6
<b>CHAPTER III</b> .....	<b>7</b>
<b>Criminal and Civil Liability of Minor</b> .....	<b>7</b>
Article 7.- Criminal liability of minor .....	7
Article 8.- Civil liability of minor .....	7
Article 9.- Age determination.....	7
<b>CHAPTER IV</b> .....	<b>7</b>
<b>Social Services Support</b> .....	<b>7</b>
Article 10.- The appointment and accreditation of social agents .....	7
Article 11.- Social agents .....	7
<b>CHAPTER V</b> .....	<b>8</b>
<b>Judicial Police and Investigation</b> .....	<b>8</b>
Article 12.- Competency of Judicial Police to examine felonies and misdemeanours .....	8
Article 13.- Authority of Judicial police officer to examine and resolve petty offence.....	8
Article 14.- Procedure concerning to minor under 14 (fourteen) years of age.....	9
Article 15.- Arrest .....	9
Article 16.- The Search of minor.....	9
Article 17.- Apprehension of minor.....	9
Article 18.- Notice following police apprehension or arrest of a minor .....	9
Article 19.- Physical or mental health examination .....	10
Article 20.- The record of apprehension or arresting of minor .....	10
Article 21.- Procedure prior to the interview .....	10
Article 22.- Interview of minor .....	10
Article 23.- Treatment of minor who is apprehended .....	11
<b>CHAPTER VI</b> .....	<b>11</b>
<b>Prosecution</b> .....	<b>11</b>
Article 24.- Competency of the Prosecution Department.....	11
Article 25.- Verification of age of minor .....	11
Article 26.- Interviewed by the prosecutor .....	12
Article 27.- Filing case without processing for the minor below 14 years of age .....	12
Article 28.- Authority of the prosecutor in diversion .....	12
Article 29.- Notification on initial charge .....	13

Article 30.- The separation of case file.....	13
<b>CHAPTER VII .....</b>	<b>13</b>
<b>Investigations.....</b>	<b>13</b>
Article 31.- Competency of investigation .....	13
Article 32.- Commencement of investigation .....	13
Article 33.- Notification of court supervision .....	13
Article 34.- Prioritization of minor case .....	14
Article 35.- Interview of minor .....	14
Article 36.- The adjournment of interview.....	14
Article 37.- Suspension from school and employment of minor.....	14
Article 38.- The authority of investigating judge in diversion .....	14
Article 39.- Pre-trial detention .....	15
Article 40.- Court supervision.....	15
Article 41.- Pre-trial release .....	15
Article 42.- Settlement warrant by investigating judge .....	16
Article 43.- The appeal to Investigating Chamber of Appeals Court .....	16
<b>CHAPTER VIII .....</b>	<b>16</b>
<b>Competency of Court of First Instance .....</b>	<b>16</b>
Article 44.- The competent to trial.....	16
Article 45.- Prioritization of minors' cases .....	17
Article 46.- Pre-trial procedures.....	17
Article 47.- Closed court.....	17
Article 48.- Trial .....	17
Article 49.- Acquittal.....	17
Article 50.- Assistance of lawyer .....	18
Article 51.- The court to Advise minor of his/her rights.....	18
Article 52.- Authority of the trial judge in diversion.....	18
Article 53.- Admission of guilt at trial.....	19
Article 54.- Pronouncement of Judgment .....	19
<b>CHAPTER IX .....</b>	<b>19</b>
<b>Competency of Higher Court.....</b>	<b>19</b>
Article 55.- Composition of the trial council.....	19
Article 56.- Referring the case files to appeals court and supreme court.....	19
Article 57.- Priority of minor case.....	19
Article 58.- Authority of the appeals court in diversion .....	20
Article 59.- The expansion of rules to higher court.....	20
<b>CHAPTER X .....</b>	<b>20</b>
<b>Diversion.....</b>	<b>20</b>
Article 60.- Diversion .....	20
Article 61.- Authority in charge of diversion .....	20
Article 62.- The purposes of diversion.....	20
Article 63.- Minimum conditions for diversion .....	20
Article 64.- Diversion criteria.....	20
Article 65.- Diversion measures .....	21
Article 66.- Formulation of diversion plan.....	21
Article 67.- Note in diversion plan.....	22
Article 68.- Decision to divert by diverting authority.....	22

Article 69.- The implementation of diversion plan.....	22
Article 70.- The adjustment of diversion plan .....	23
Article 71.- Failure to implement the diversion measures.....	23
<b>CHAPTER XI .....</b>	<b>23</b>
<b>Conditional Release of Minor .....</b>	<b>23</b>
Article 72.- Conditional release of minor .....	23
Article 73.- The request of conditional release of minor .....	23
<b>CHAPTER XII .....</b>	<b>24</b>
<b>Rehabilitation of Minor .....</b>	<b>24</b>
Article 74.- Condition concerning to the duration to apply for restoration of qualification.....	24
Article 75.- Lawful restoration of qualifications.....	24
<b>CHAPTER 13 .....</b>	<b>24</b>
<b>Establishment and Competence in Administration of Youth Rehabilitation Centre .....</b>	<b>24</b>
Article 76.- The establishment of youth rehabilitation centre.....	24
Article 77.- The separation of minor in youth rehabilitation centre .....	24
Article 78.- Register for recording minor’s name.....	25
<b>CHAPTER XIV .....</b>	<b>25</b>
<b>Measures Dealing with Detention of Minor .....</b>	<b>25</b>
Article 79.- Purpose of detention .....	25
Article 80.- Basic Rights of minor in detention facilities.....	25
Article 81.- Services for minor in youth rehabilitation centre.....	25
Article 82.- The placement of detained minors.....	26
Article 83.- Security classification in youth rehabilitation centre .....	26
Article 84.- Agents in youth rehabilitation centre.....	26
Article 85.- Inspection of youth rehabilitation centre.....	26
<b>CHAPTER XV .....</b>	<b>27</b>
<b>Transitional Provisions .....</b>	<b>27</b>
Article 86.- Provision concerning to judges.....	27
Article 87.- Specialized judicial police in charge of minor .....	27
Article 88.- Youth Rehabilitation Centre .....	27
<b>CHAPTER XVI .....</b>	<b>27</b>
<b>Final Provision.....</b>	<b>27</b>
Article 89.- The application of this law.....	27