



Bill Essentials

The Miscellaneous Provisions (Supreme Court of Judicature and Children) Bill, 2018

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BACKGROUND AND PURPOSE OF THE BILL

1. **The Miscellaneous Provisions (Supreme Court of Judicature and Children) Bill, 2018** (hereinafter “the Bill”) was introduced by The Honourable Faris Al-Rawi, Attorney General and Minister of Legal Affairs in the House of Representatives on Friday March 16, 2018.
2. The Bill aims to amend twelve pieces of legislation:
 - **The Interpretation Act, Chap. 3:01**
 - **The Supreme Court of Judicature Act, Chap. 4:01**
 - **The Summary Courts Act, Chap. 4:20**
 - **The Bail Act, Chap. 4:60**
 - **The Administration of Justice (Deoxyribonucleic Acid) Act, Chap. 5:34**

- The Legal Aid and Advice Act, Chap. 7:07
- The Child Rehabilitation Centre Act, Chap. 13:05
- The Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08
- The Children Act, Chap. 46:01
- The Children’s Community Residences, Foster Care and Nurseries Act, Chap. 46:04
- The Children’s Authority Act, Chap. 46:10
- The Family and Children Division Act, 2016

TYPE OF BILL – OMNIBUS BILL

3. The **Miscellaneous Provisions (Supreme Court of Judicature and Children) Bill, 2018** is an omnibus bill; that is, a bill which has “one basic principle or purpose which ties together all the proposed enactments and thereby renders the Bill intelligible for parliamentary purposes”. The various components of an omnibus bill usually reflect a common principle, theme or purpose, or are part of a single administrative initiative. The **Miscellaneous Provisions (Supreme Court of Judicature and Children) Bill, 2018** seeks to streamline the processes in relation to the treatment of children and children matters.

KEY FEATURES OF THE BILL

THE INTERPRETATION ACT, CHAP. 3:01

4. **Clause 2** of the Bill amends **Section 83** of the **Interpretation Act** to insert the definition of “child” which means a person under the age of eighteen years (18). This definition is consistent with the **Children Act, Chap. 46.01**

THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

5. **Clause 3** amends **Sections 5 (1)** and **6 (1)** of the **Supreme Court of Judicature Act, Chap. 4:01** to extend the maximum number of Puisne Judges in the High Court from forty-nine (49) to sixty-four (64), and the maximum number of Justices of Appeal from twelve (12) to fifteen (15) respectively. This amendment is proposed as being required to facilitate the implementation of the consequential increase in judicial responsibilities
6. **Clause 3** proposes an amendment to **Section 7** of the Act to now allow for a member of the Bar of any Commonwealth country to become a High Court Judge or Justice of Appeal.

THE SUMMARY COURTS ACT, CHAP. 4:20

7. **Clause 4** amends **Section 2** of the **Summary Courts Act. Chap 4:20** by deleting and replacing definitions of “*child*” and “*younger child*”, and inserting definitions for “*Magistracy Registrar and Clerk of the Court*” and “*older child*”.
8. **Section 39 (1)** of the **Summary Courts Act** is also amended by providing for any person designated by the Chief Justice to receive a complaint.

THE BAIL ACT, CHAP. 4:60

9. **Clause 5** will insert the definition of “*child offender*” into **Section 3** of the **Bail Act**, in accordance with **section 1A** of the **Child Rehabilitation Act**. It also seeks to amend **Section 12 (5)(a)** to change the age of the child who is the subject of a surety from “sixteen” (16) to “eighteen” (18) to have the effect that no condition would be imposed on a parent or guardian of a young person where it appears that the young person will attain the age of eighteen years before the time appointed for him to surrender to custody.

THE ADMINISTRATION OF JUSTICE (DEOXYRIBONUCLEIC ACID) ACT, CHAP. 5:34

10. **Clause 6** amends **Section 4** of the **Administration of Justice (Deoxyribonucleic Acid) Act, Chap. 5:34** to introduce the concept of the Rehabilitation Centre by deleting the definition of “*Juvenile Residential Facility*” and substituting it with “*Rehabilitation Centre*”.

THE LEGAL AID AND ADVICE ACT, CHAP. 7:07

11. **Clause 7** will amend the **Legal Aid and Advice Act, Chap. 7:07** to provide for the grant of legal aid to minors charged with any criminal offence in a Court of summary jurisdiction.

THE CHILD REHABILITATION CENTRE ACT, CHAP. 13:05¹

12. **Clause 8** will make several key amendments to the **Child Rehabilitation Centre Act, Chap. 13:05** as follows:

Section Amended	Amendment Made
1A	<ul style="list-style-type: none">▪ The following definitions are inserted:<ul style="list-style-type: none">○ <i>Advisory Board</i>○ <i>prohibited article</i>○ <i>resident</i>○ <i>responsibility</i>○ <i>Superintendent</i>
2	Subsection (4) is amended to make the Commissioner the licensee of a Rehabilitation Centre and a Superintendent the Manager of a Rehabilitation Centre.

¹ This Act was formerly known as the **Young Offenders Detention Act Chap 13: 05**. The Young Offenders Detention Act was subsequently amended by the **Family and Children Division Act No.6 of 2016** by the substituting of the words, “*Young Offenders Detention*” to “*Child Rehabilitation Centre*.”

3	Subsection (1) is repealed and replaced with a new subsection (1) which vests the management and control of a Rehabilitation Centre in the Commissioner of Prisons subject to certain statutory provisions.
4	A new subsection (2) is added which gives the Minister of Education the power to appoint educational instructors, including special education instructors for a Rehabilitation Centre after consultation with the Commissioner of Prisons.
10	This Section is repealed and replaced with a New Section 10 which provides for an Order of placement of a child to be forwarded from the Court to certain persons.
12A	This Section is repealed and replaced with a New Section 12A which provides that the Commissioner of Prisons may apply to the Court for an order permitting a resident to leave a Rehabilitation Centre and it further provides the conditions of such a permission.

13. **Clause 8** further amends this Act by inserting the following new Sections:

New Section	Details
2A	<p>New Section 2A empowers the Commissioner to make policies in the areas regarding:</p> <ul style="list-style-type: none"> ○ Strategies for the rehabilitation and the reduction of recidivism of residents; ○ Training programmes for officers and residents of a Rehabilitation Centre; ○ Fitness for discharge of residents within a Rehabilitation Centre; ○ Applications for permission for residents to engage in on-the-job training outside of a Rehabilitation Centre; and ○ Other matters relating to the management, maintenance or operations of a Rehabilitation Centre and the protection of the residents.

12B	New Section 12B makes provision for a resident who is a child offender to spend a period of leave from the residence with a ‘proposed host’ who must make a request to the Commissioner to initiate the process of such a grant of leave.
12C	New Section 12C provides that leave from a Rehabilitation Centre will be deemed to be part of the period of placement at the Rehabilitation Centre.
12D	New Section 12D will allow for the summoning of parents or guardians or persons with responsibility for a child to produce the child (where the Court finds that there is reasonable grounds to believe that such persons could produce the child) where the child refuses or fails to return to the Children’s Home after permission was granted for his absence.

THE CHILDREN ACT, CHAP. 46:01

14. **Clause 10** will make several key amendments to Sections of the **Children Act** as follows:

Section Amended	Amendment Made
3	The definitions of “ <i>appropriate adult</i> ”, “ <i>Commissioner</i> ” and “ <i>resident</i> ” are inserted.
4	A new subsection (7A) is inserted after subsection 7 to provide specific instances in which corporal punishment shall not be used. It states that corporal punishment shall not be used in relation to: <ul style="list-style-type: none"> • A child in a Nursery, Children’s Home or Foster Home. • A resident in a Rehabilitation Centre. • A child in the custody, care and control of a fit person.
40 (5)	A new paragraph is inserted to add to the list of persons who are exempt from the offence of child pornography under Section 40 (1) , a person employed by the Authority who is designated to investigate abuse of a child or any offence against a child.

51	The marginal note is amended to more accurately reflect the contents of the Section.
52	The Section is amended to provide for the way in which the police must treat with a child that has been apprehended. The amendment will require that the officer in charge of the police station to place the child in either a Children’s Home or a Rehabilitation Centre depending on the age of the child, until the child can be brought before the Court.
54	Amendments are made to this Section for consistency with the amendments made under New Section 51A and further to insert a new paragraph (d) to allow the court to make an order permitting a child who is remanded in custody, to leave the place he has been remanded for educational or vocational purposes.
59 (4)	A new paragraph is inserted which gives the Court a discretion to order that a person who was detained in a Rehabilitation Centre as a child, to remain there after attaining the age of eighteen (18) if they are pursuing educational or vocational training as opposed to being ordered to serve the rest of the sentence at prison or one of the other options under subsection 4 .
61	This Section, which deals with the inability of a parent to control a child will be repealed.
81	A new subsection (2A) will be inserted to allow for the transfer of cases from the Children Court to the High Court or Magistrate Court where trial of the child had not yet begun at the Children Court and the person attains the age of eighteen (18).
83	Subsection (5) will be repealed and replaced with a new subsection (5) which defines “ <i>careplan</i> ”.

15. **Clause 10** further amends the **Children Act** by inserting, *inter alia*, the following new Parts and Sections:

New Part/Section	Details
Part IXA	The new Part IXA will be inserted after Section 50 and will provide how the Court must treat with a matter where a parent, guardian or person with responsibility for the child applies to the Court for an order deeming the child in need of supervision due to their inability to control the child.
51A	Current Section 51A ² is substituted with a New Section 51A which confers an obligation on the police officer in charge a police station to inform the relevant parent or guardian, appropriate adult and the legal aid clinic, where a child is apprehended.
54A	New Section 54A will provide the Court with the power to relocate a person who was remanded as a child at a Child Rehabilitation Centre to a Rehabilitation Centre or Prison, or to grant bail to the person once they have attained the age of eighteen (18) while in remand.
70	Section 70 will be repealed and replaced with a New Section 70 to provide for the instances in which the Court may make a transfer order and the instances where the Authority may apply for a transfer order.
75A	New Section 75A would confer a discretionary power to place a child offender convicted of murder at a Community Residence as the sentence if it is the opinion of the Court that no other punishment under the Act is appropriate.
82	Section 82 will be repealed and replaced by New Section 82 which will provide that the internal disciplinary procedures of a Children’s Home will be used to discipline a child within the Home who has breached its rules.

² **Section 51A** was inserted into the **Children Act** by the **Family and Children Division Act, 2016**.

16. **Clause 11** will make several amendments to Sections of the **Children’s Community Residences, Foster Care and Nurseries Act, Chap. 46:04** as detailed below:

Section Amended	Amendment Made
2	<ul style="list-style-type: none"> ▪ The definitions of “<i>child offender</i>”, “<i>Manager</i>” and “<i>residence licence</i>” are amended. ▪ The definition of “<i>standards for Community Residences</i>” is deleted.
5	<p>A new subsection (2A) will be inserted after subsection (2) which provides that where a person intending to operate a community residence makes an application for a residence licence to the Authority, the Authority must cause all investigations to be conducted to determine the suitability of the applicant to be granted such a licence.</p>
8	<ul style="list-style-type: none"> ▪ Subsection (2) is amended to increase the term of validity for a residence licence from one (1) year to two (2) years. ▪ Subsection (3), which requires that the residence licence to be displayed in a conspicuous place at the community residence, will be repealed.
8A	<p>This Section is amended to reduce the number of years that a temporary Community Residence licence will remain valid from three (3) years to one (1) year.</p>
8B	<p>A new subsection (3) is inserted after subsection (2) which provides that the Authority may extend a conditional licence.</p>
11	<p>Subsection (3) is amended to empower the Authority to immediately serve a notice to a licensee or Manager of the community residence of its decision to revoke the residence licence where it is unsatisfied that the licensee has taken corrective measures to remedy the initial dissatisfaction of the Authority with its conditions, rules, management or superintendence of the community residence.</p>

<p>11A</p>	<ul style="list-style-type: none"> ▪ Subsection (1) is amended to ensure that the Authority, when serving a notice of revocation to a licensee, do so no less than fourteen days (14) prior to the date of revocation. ▪ Subsection (2) is repealed and substituted with a new subsection (2) which provides that the Authority must state the grounds on which it intends to revoke the residence licence. It is no longer required to state corrective measures where possible and require that such measures be taken under this subsection.
<p>15</p>	<p>Subsection (1) will be amended to provide that where a Children’s Home ceases to be a licensed community residence, the Authority must transfer the children kept therein to another suitable alternative placement including Children’s Homes and Foster Care having regard the needs of each child.</p>
<p>21</p>	<ul style="list-style-type: none"> ▪ Subsection (2) is amended to provide that a person who wishes to function as a Manager of a community residence must possess the necessary qualifications, training or experience as may be prescribed. ▪ A new subsection (3) will be inserted which states that subsection (2) does not apply to Rehabilitation Centres.
<p>22</p>	<p>This Section is renumbered to add two new subsections which will:</p> <ul style="list-style-type: none"> ○ Require the Manager of a community residence to keep a written record of a child charged or child offender received into the Children’s Home (New subsection (2)); and ○ Allow such records to constitute evidence in matters stated within those records.
<p>27</p>	<ul style="list-style-type: none"> ▪ Subsection (2) is repealed and substituted with a new subsection (2) which provides that where an officer is refused admission to a Community Residence for inspection, he may enter under a warrant issued by the Court where he has reasonable cause to believe that children are being treated in contravention of the Act or any other written law within the residence.

	<ul style="list-style-type: none"> ▪ A new subsection (2A) is inserted and provides that an officer may enter any Community Residence owned by the State for inspection at any time without a warrant. ▪ A new subsection (2B) is inserted and confers certain powers on officers in executing their duties of inspection including: <ul style="list-style-type: none"> ○ The power to take pictures and require the production of documents; ○ The power to require any information contained in a computer; and ○ The power to interview any person. ▪ In subsection (3), the offence of obstructing an officer upon entry into a Community Residence in exercise of his powers, is amended to make it an imprisonable offence. A person who commits the offence can be imprisoned for six (6) months.
27A	This Section will be repealed.
53 (1)	<ul style="list-style-type: none"> ▪ Paragraph (a) is deleted and substituted with a new paragraph (a) which provides that the Authority may make regulations with respect to the welfare of the children in any Rehabilitation Centre. ▪ A new paragraph (aa) is inserted which states that the Authority may make regulations with respect to the management of any Children’s Home and the discipline and welfare of the children within.

17. **Clause 11** inserts the following new sections:

New Section	Details
2A	New Section 2A provides that the State will be bound by the Act.
8C	New Section 8C will require that licences granted under that Part of the Act must be displayed in a conspicuous place at the Children’s Home.
17A	New Section 17A prohibits certain forms of punishment to a child placed in a Children’s Home and makes it an offence to perform such forms of punishment. The offence carries a penalty of Five Thousand Dollars (\$5000.00) and six (6) months imprisonment upon summary conviction or Fifty Thousand Dollars (\$50,000.00) and ten (10) years imprisonment upon conviction on indictment.
17B	New Section 17B makes it an offence to contravene the Act or its Regulations with respect to Children’s Homes. The offence is punishable by a fine of Ten Thousand Dollars (\$10,000.00) and in cases of a continuous offence, it is punishable by a fine of Five Hundred Dollars (\$500.00) for each day the offence continues.
26	Section 26 will be repealed and replaced with a New Section 26 which requires the Manager of a community residence to inform the authority within twenty-four (24) hours when the Children’s Home receives a child in respect of whom no Care Order was made..
26A	New Section 26A will allow for the temporary placement of a child within a Children’s Home with a person who is willing to receive and care for the child after having applied for permission of the manager of the Children’s Home. The Section further provides that where such a person makes an application, he must also supply the Authority with a police certificate of good character and certain particulars, including the reason for the request, age, sex, marital status, occupation, the relationship between the applicant and the child..
26B	New Section 26B will count the time a child offender spends away from the Children’s Home by permission, as part of the time of his placement in the Home.

26C	<p>New Section 26C will allow for the summoning of parents or guardians or persons with responsibility for a child to produce the child (where the Court finds that there is reasonable grounds to believe that such persons could produce the child) where the child refuses or fails to return to the Children’s Home after permission was granted for his absence.</p>

THE FAMILY LAW (GUARDIANSHIP OF MINORS, DOMICILE AND MAINTENANCE) ACT, CHAP.

46:08

18. **Clause 12** will make several key amendments to Sections of this Act as follows:

Section Amended	Amendment Made
2	<p>The following definitions are inserted:</p> <ul style="list-style-type: none"> ○ <i>“Court’s Custodial Bank Account”</i> ○ <i>“Magistracy Registrar and Clerk of the Court”</i> ○ <i>“Post Office”</i> ○ <i>“Registrar”</i> ○ <i>“Trinidad and Tobago Postal Corporation”</i>
26	<ul style="list-style-type: none"> ▪ Subsection (10) is repealed and replaced with new subsections (10) and (10A) which prescribes the manner in which the payment of amounts ordered shall be made by a Collecting Officer: <ul style="list-style-type: none"> ○ It must be made directly to the applicant or such other person named in the order. ○ An original and duplicate order specifying the amounts to be paid to the T&T Postal Corporation at the post office of the person to whom the payment is to be made. ○ It is however, the duty of the person entitled to the payment to attend the post office for collection. ▪ A new subsection 11A is inserted which provides that payments may nevertheless also be received into the Court’s Custodial Bank Account and paid out to the applicant electronically.

	<ul style="list-style-type: none"> ▪ A new subsection 11B is inserted which states that electronic records of payment out to the applicant will suffice as proof of payments. ▪ A new subsection 14 is inserted which empowers the Court to order that payments be received and paid out of the Court’s Custodial Bank Account. ▪ A new subsection 15 is inserted which requires the keeping of records for maintenance orders, deposits, payments in, payments out, receipt, failures to pay and any other associated records.
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THE CHILDREN’S AUTHORITY ACT, CHAP. 46:10

19. **Clause 13** will amend the **Children’s Authority Act, 46:10** as follows:

Section Amended	Amendment Made
3	The definitions of “ <i>child offender</i> ” and “ <i>residence licence</i> ” are inserted and the definition of “ <i>fit person</i> ” is amended.
7	<p>Clause 7 amends how the Board is to be constituted:</p> <ul style="list-style-type: none"> ▪ Subsection (2) is repealed and replaced with a new subsection (2) which would reconstitute the number of members that are to be appointed to the Management Board of the Authority from eleven (11) or less members to a minimum of nine (9) members or a maximum of fifteen (15) members. ▪ Subsection (2A) prescribes the specific qualifications required for four (4) members of the Board to represent the youth, the Tobago House of Assembly, NGOs who promote the welfare and protection of children and the Authority. ▪ A new subsection (2B) requires the other members of the Board to be selected from among persons with qualification and skills in: <ul style="list-style-type: none"> ○ Child psychology;

	<ul style="list-style-type: none"> ○ Social work; ○ Pediatrics; ○ Education; ○ Accounting; ○ Family Law; ○ Management or Administration; or ○ Psychiatry.
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THE FAMILY AND CHILDREN DIVISION ACT, 2016

20. **Clause 14** amends the Family and Children Division Act as detailed below:

Section Amended	Amendment Made
3	The definition of “ <i>children matter</i> ” is clarified.
8	A new subsection (1A) is inserted to make provision for the office of the Deputy Court Executive Administrator.
34	Section 34 is repealed and substituted with a New Section 34 which provides for proceedings to be held <i>in camera</i> , the redacting of judgments and rulings by the Court Records Management Subunit, the sealing of the transcripts of proceedings and other relevant documents, the imposition of a complete prohibition against publication and, mandating that where permitted, publication shall be done in a manner which preserves the identity of the children involved.

REFERENCES

LEGISLATION MENTIONED IN THE BILL

- **The Interpretation Act, Chap. 3:01**
http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/3.01.pdf
- **The Supreme Court of Judicature Act, Chap. 4:01**
http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/4.01.pdf
- **The Summary Courts Act, Chap. 4:20**
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The Children Act, Chap. 46:01
- **The Children Act, Chap. 46:01**
https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/46.01.pdf
- **The Children’s Community Residences, Foster Care and Nurseries Act, Chap. 46:04**
http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/46.04.pdf
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http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/46.08.pdf
- **The Children’s Authority Act, Chap. 46:10**
http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/46.10.pdf
- **The Family and Children Division Act, 2016**

<http://www.ttparliament.org/legislations/a2016-6.pdf>



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Kindly note that this information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual.