

# Protection of Children from Sexual Offences (POCSO) Act

# Introduction

- India – population of **47.2 crore** <18 years of age; 22.5 crore – girls
- **Article 15** guarantees protection of children by the state
- **Signatory to the UN Convention on the Rights of the Child**
- 'Protection of Children Against Sexual Offences Bill, 2011' referring to child sexual abuse passed in Indian Parliament in 2011; made into an act on 22 May 2012
- Rules notified in November 2012
- Last amendment – August 2019

# Introduction

- Enacted by the Government of India to **protect** children from offences of sexual assault, sexual harassment and pornography, while **safeguarding the interest** of the child at every stage of the judicial process, by incorporating **child-friendly mechanisms** for reporting, recording of evidence, investigation and **speedy trial** of offences through designated Special Courts
- Provides comprehensive definition and recognition of crime covering all possible sexual crimes and sexual exploitation against children
- Definition of child – anyone below 18 years

# Punishment

Offences	Simplified Definitions	Punishment
Penetrative Sexual Assault	<ul style="list-style-type: none"> <li>• Penetration in private parts or other body parts or application of mouth to private parts of the child or forcing the child to penetrate the offender or someone else</li> </ul>	Imprisonment <b>20 years*</b> to life with fine
Aggressive Penetrative Sexual Assault	<ul style="list-style-type: none"> <li>• Penetrative sexual assault committed by person in position of trust/authority</li> <li>• <b>Assault causing death of child*</b></li> <li>• <b>Assault during natural calamity/any similar situations of violence*</b></li> </ul>	Rigorous imprisonment <b>20 years*</b> to life with fine or <b>death*</b>
Sexual Assault	<ul style="list-style-type: none"> <li>• All acts of physical nature without penetration</li> </ul>	Imprisonment 3 years to 5 years with fine
Aggravated Sexual Assault	<ul style="list-style-type: none"> <li>• Offences of sexual assault committed by person in position of trust/authority</li> <li>• <b>Assault during natural calamity/any similar situations of violence*</b></li> <li>• <b>Administering or help in administering hormone/chemical substance to child for attaining early sexual maturity*</b></li> </ul>	Imprisonment 5 years to 7 years with fine

\* - Amendments, 2019

# Punishment

Offences	Simplified Definitions	Punishment
Sexual Harassment	<p>Person with sexual intent:</p> <ul style="list-style-type: none"> <li>• Carries out any act with sexual connotations</li> <li>• Makes a child exhibit his/her body</li> <li>• Shows any object in any form/media for pornographic purposes</li> <li>• Follows/watches/contacts child (in)directly through electronic, digital or other means</li> <li>• Entices child for pornographic purposes/gives gratification therefor</li> </ul>	Imprisonment up to 3 years with fine
Pornographic Purposes	<ol style="list-style-type: none"> <li>1. Penetrative Sexual Assault</li> <li>2. Aggressive Penetrative Sexual Assault</li> <li>3. Sexual Assault</li> <li>4. Aggravated Sexual Assault</li> <li>5. <b>Storing</b> child pornography material (<b>failing to destroy/delete/report and transmitting/displaying/distributing</b>)*</li> <li>6. Child pornography <b>for commercial use</b></li> </ol>	<ol style="list-style-type: none"> <li>1. Imprisonment 10 years to life with fine</li> <li>2. RI for life with fine</li> <li>3. Imprisonment 6 to 8 years with fine</li> <li>4. Imprisonment 8 to 10 years with fine</li> <li>5. Imprisonment 5 years with fine</li> <li>6. Imprisonment 3 to 5 years (1st), 5-7 years (subsequent) with fine</li> </ol>

\* - Amendments, 2019

# Punishment

**Table 1: Punishment for offences for using child for pornographic purposes**

Offence	POCSO Act, 2012	2019 Bill
Use of child for pornographic purposes	<ul style="list-style-type: none"> <li>Maximum: 5 years</li> </ul>	<ul style="list-style-type: none"> <li>Minimum: 5 years</li> </ul>
Use of child for pornographic purposes resulting in penetrative sexual assault	<ul style="list-style-type: none"> <li>Minimum: 10 years</li> <li>Maximum: life imprisonment</li> </ul>	<ul style="list-style-type: none"> <li>Minimum: 10 years (in case of child below 16 years: 20 years)</li> <li>Maximum: life imprisonment</li> </ul>
Use of child for pornographic purposes resulting in aggravated penetrative sexual assault	<ul style="list-style-type: none"> <li>Life imprisonment</li> </ul>	<ul style="list-style-type: none"> <li>Minimum: 20 years</li> <li>Maximum: life imprisonment, or death.</li> </ul>
Use of child for pornographic purposes resulting in sexual assault	<ul style="list-style-type: none"> <li>Minimum: Six years</li> <li>Maximum: Eight years</li> </ul>	<ul style="list-style-type: none"> <li>Minimum: Three years</li> <li>Maximum: Five years</li> </ul>
Use of child for pornographic purposes resulting in aggravated sexual assault	<ul style="list-style-type: none"> <li>Minimum: Eight years</li> <li>Maximum: 10 years</li> </ul>	<ul style="list-style-type: none"> <li>Minimum: Five years</li> <li>Maximum: Seven years</li> </ul>

# Punishment

Offences	Simplified Definitions	Punishment
Abetment	Intentionally instigates, aids by any act/illegal omission, the doing of that offence or be a part of a conspiracy with others	Same as punishment for that offence
Attempt	Attempts to commit any act towards the commission of any of the offences	One half of the imprisonment for life/longest term provided for that offence or with fine or both
Media Obligations	Disclose identity/fails to report crime to the police	Imprisonment 6 months to 1 year with fine
False information or complaint	Anyone who provides false information/makes false complaint except child	Imprisonment 6 months to 1 year with fine
Failure to record/report crime	Failure to record/report crime under POCSO Act	Imprisonment 6 months to 1 year with fine

# Child-Friendly Procedures

## Section 19: Special Juvenile Police Unit/Local Police and the Magistrate

- **Anyone (incl. child) can report offence** to SJPU/local police
- All individuals/institutions obligated to report cases of child abuse
- Woman sub-inspector record statement in simple language/provide translator/interpreter at residence/place of child's choice
- SJPU/local police – **provide care and protection to child**
- **Arrangements to take child to nearest hospital for medical examination; admit child in shelter home if necessary**



# Child-Friendly Procedures

## Section 19: Special Juvenile Police Unit/Local Police and the Magistrate

- Report to CWC and Special Court within 24 hours
- Police in plain clothes
- Ensuring that child does not come in contact with accused
- Cannot be kept overnight in police station
- Protect identity of child from public media
- Produce child before CWC

# Child-Friendly Procedures

## Medical/Legal/Media and other facilities:

- Female victim to be examined by female doctor only in presence of woman nominated by head of medical institute
- Child and his/her family entitled to free legal aid thorough Legal Services Authority
- Media to strictly follow procedure

# Child-Friendly Procedures

## Special Court:

- Child-friendly atmosphere – presence of family member/guardian
- Statement recorded in verbatim, audio-visual means allowed
- Not permit aggressive questioning/character assassination of child
- Maintain dignity of child
- Disclose identity
- Assistance of special educators to children having mental and physical disability

# Child-Friendly Procedures

## Special Court:

- In-camera trials
- Child's evidence recorded within 30 days and in presence of parents/other trustworthy person
- Trial to be completed within 1 year
- Juvenile Justice (Care and Protection of Children Act), 2015 to be applied if offender is <18 years
- Services of professionals and experts to help child in recording of evidence

# Key Authorities

Authorities	Duties
Police/Special Juvenile Police Unit	<ul style="list-style-type: none"><li>• Record information</li><li>• Conduct preliminary inquiry</li><li>• Report case to CWC/Special Court within 24 hours</li><li>• Produce child before CWC within 24 hours if required</li><li>• Attend to medical needs of child</li><li>• Keep parent/guardian informed</li><li>• Inform Special Court about appointment of Support Person within 24 hours</li><li>• Ensure that child does not come in contact with accused</li></ul>
CWC	<ul style="list-style-type: none"><li>• Determine placement of child within 3 days with family/children home/shelter home if found in need of care and protection</li><li>• Provide support person</li></ul>
District Child Protection Unit	<ul style="list-style-type: none"><li>• Maintain list of interpreters/translators/special educators etc., make it available to authorities</li><li>• Make payment for services</li></ul>

# Key Authorities

Authorities	Duties
Magistrate	<ul style="list-style-type: none"><li>• Record statement at residence of child/at a place of child's choice/comfort</li><li>• Provide child/parents/representative, a copy of final report by police</li></ul>
Special Court/Judge	<ul style="list-style-type: none"><li>• Conduct in-camera trial</li><li>• Ensure child friendly atmosphere</li><li>• Respect dignity of child</li><li>• Maintain anonymity</li><li>• Record evidence of child within 30 days</li><li>• Complete trial within 1 year</li><li>• Compensation for any physical or mental trauma and immediate rehabilitation</li></ul>
Special Public Prosecutor	<ul style="list-style-type: none"><li>• Prosecution of the cases under the Act exclusively</li></ul>
Support Person	<ul style="list-style-type: none"><li>• Maintain confidentiality</li><li>• Keep parent/guardian informed</li><li>• Inform child his/her role in judicial process</li></ul>

# Key Authorities

Authorities	Duties
State Government	<ul style="list-style-type: none"><li>• Designate a court as Special Court</li><li>• Appoint Special Public Prosecutor</li><li>• Provide publicity to Act</li><li>• Impart training to authorities/stakeholders</li><li>• Frame rules and guidelines</li></ul>
Central Government	<ul style="list-style-type: none"><li>• Provide publicity to Act</li><li>• Impart training to authorities/stakeholders</li><li>• Frame rules and guidelines</li></ul>
NCPCR/SCPCRs	<ul style="list-style-type: none"><li>• Monitor implementation of the Act</li><li>• Call for reports from CWCs on specific cases</li><li>• Report implementation of Act through separate chapter in its annual report</li></ul>

# Statutory Presumptions

- Persons prosecuted under Act shall be presumed guilty unless proved innocent by special court
- Presumption of culpable mental state unless proved otherwise by the guilty



# Symptoms

## Some Symptoms of Sexual Abuse



Child has frequent unexplained injuries especially in private body parts



The child walks and sits with difficulty



Fatigue and sleeping difficulties



Poor attendance of child in school



Unexpected behavioural changes in a child such as social withdrawal or unjustified/inappropriate aggression



Regressive behaviour such as bed wetting and thumb sucking



Sudden dislike/withdrawal from certain specific people or places he/she was comfortable with earlier



Sudden accumulation of money or gifts



The child starts paying too much or too little attention to his/her appearance

**Note:** The above symptoms are only indicative of abuse but there may be others which are not so obvious and therefore, parental attention is required.

✓ **Do's**

## Adopt supportive behaviour towards child victims



Listen to the case with patience when the child complains about a person or an incident or a physical discomfort



Raise your concern with people close to the child



Call CHILDLINE at 1098



Ensure the child has undergone medical examination immediately after reporting the incident



Report incident of abuse at the nearest Police Station



Be sensitive while discussing the incident or its details with the child

Do's

**✘ Do Not**

**Do not adopt unsupportive behaviour towards child victims**



**Blaming the child**



**Ignoring when the child complains about a person or an incident or a physical discomfort**



**Reacting in extremes when the incident is reported**



**Sending the child back to the person/ place where the abuse happened**



**Asking the child not to seek help from others**



**Disclosing the child's identity to other people or to the media**



**Not providing medical attention to the child**



**Not taking action even when one is aware of the abuse being taking place**



**Not reporting the incident at the Police Station**

**Do Not**

## Important:

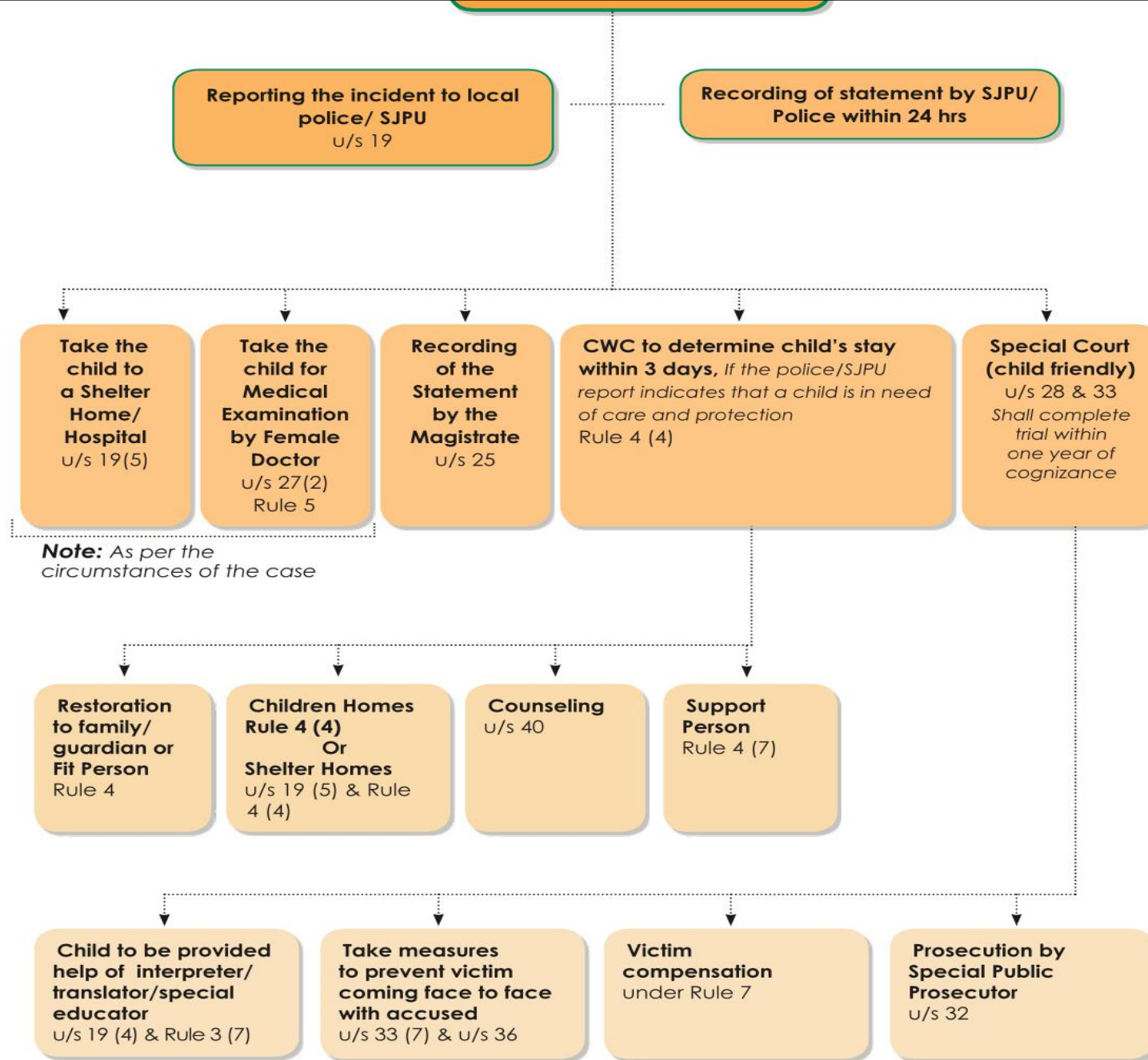
Listen to  
children  
reporting sexual  
abuse

Believe the  
child

Tell the child  
that he/she is  
brave

Tell the child  
it is not his/  
her fault that  
he/she has  
been abused

# Processes



Thank You