

**Guidelines  
For  
Juvenile Justice Boards of Bihar**

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## **Patna High Court, Patna.**

**\_\_\_\_\_ May 2023**

It is to be noted that a bench of the Patna High Court vide order dated 06.09.2021 passed in Criminal Revision No. 06 of 2020 and order dated 28.09.2021 passed in Criminal Miscellaneous No. 25575/2021 had directed for placing the matters in issue before the Juvenile Justice Monitoring Committee, Patna High Court for consideration and issuance of necessary directions.

In the said light the Juvenile Justice Monitoring Committee, Patna High Court resolved vide minutes dated 14.12.2021 for the emergent necessity of framing guidelines for dealing with bail matters, including Social Investigation Report (SIR), and false claim of juvenility.

Keeping in mind the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 and Bihar Juvenile Justice (Care and Protection of Children) Rules, 2017 the following guidelines are being framed.

**“Guidelines for directing/ordering for Social Investigation Report (SIR) and hearing of Bail Petition by the Juvenile Justice Board when a child in conflict with law is apprehended or detained by the police or appears or brought before such Board and/or during the course of inquiry”**

## 1. Social Investigation Report (SIR)

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### Occasion

Date of First production of the child in conflict with law before the Board

### Desired Outcome

Juvenile Justice Board shall direct/order the Probation Officer, or in case a Probation Officer is not available to the Child Welfare Officer or a social worker, to undertake a social investigation and submit a Social Investigation Report (SIR) within a period of fifteen days so as to enable the Board to ascertain the circumstances in which the alleged offence was committed.

If the SIR is not submitted within the statutory time period, the Juvenile Justice Board shall inform the District & Sessions Judge regarding the same. The District & Sessions Judge, in turn shall discuss the matter with the District Magistrate for submission of SIR.

If even after such steps SIR is not made available to the Board, the matter shall be reported by the District & Sessions Judge to the Juvenile Justice Secretariat, Patna High Court accordingly.

### Statutory mandate

As per the mandate of section 8 (3) (e) of the Juvenile Justice (Care and Protection of Children) Act, 2015 it is obligatory on the Board to call for the SIR.

The Board shall direct/order for Social Investigation Report through *Form 5* as annexed with Bihar Juvenile Justice (Care and Protection of Children) Rules, 2017.

The Social Investigation report (SIR) shall be submitted in *Form 6* as annexed with Bihar Juvenile Justice (Care and Protection of Children) Rules, 2017.

## 2. Bail Matters

### Occasion

(i). When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board

### Desired Outcome

Such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person as provided under section 12 (1) of the Juvenile Justice (Care and protection of Children) Act, 2015;

### Statutory mandate

Provided that such person shall not be so released only on the grounds as have been mentioned in proviso to section 12 (1) of the Juvenile Justice (Care and protection of Children) Act, 2015 itself.

**Occasion**

(ii). When the parent/guardian of the child in conflict with law has engaged a lawyer of his own but the said lawyer has not filed a bail petition on behalf of the child



**Desired Outcome**

Board shall issue notice to the parent / guardian of such child, who can take necessary steps in this regard.

In case, no one appears on notice then, the Board shall provide legal aid to the child by appointing an efficient lawyer through Secretary, District Legal Services Authority (DLSA). The DLSA shall, upon receipt of such request, provide legal aid immediately.

The lawyer appointed through DLSA shall take all necessary steps, on behalf of the child in conflict with law, throughout the inquiry / trial including on bail matters

**Occasion**

(iii). When the parent / guardian of the child in conflict with law has engaged a lawyer of his own but the said lawyer after filing the bail petition on behalf of the child has neither appeared before the Board nor has pressed the same



**Desired Outcome**

Board shall take up the bail petition by fixing dates and if no steps are taken in this regard by the lawyer, so engaged on behalf of the child, then issue appropriate notice to the parent / guardian of the child whereupon he could take steps to get the bail petition pressed.

In case parent / guardian do not appear before the Board or has appeared but is not taking any further steps in the said regard, then Board shall provide legal aid to the child by appointing a lawyer through Secretary, District Legal Services Authority (DLSA). The DLSA shall, upon receipt of such request, provide legal aid immediately.

The lawyer appointed through DLSA shall take all necessary steps, on behalf of the child in conflict with law, throughout the inquiry / trial including on bail matters.

**Statutory mandate**

Right to Legal Aid is the fundamental right of a child in conflict with law.

**Occasion**

(iv). When the parent / guardian of the child in conflict with law has not engaged a lawyer of his own to represent such child

**Desired Outcome**

Board shall issue appropriate notice to the parent/ guardian of the child whereupon he could take steps in this regard.

In case parent/guardian do not appear before the Board or has appeared but is not taking any further steps, then Board shall provide legal aid to the child by appointing a lawyer through Secretary, District Legal Services Authority (DLSA). The DLSA shall, upon receipt of such request, provide legal aid immediately.

The lawyer appointed through DLSA shall take all necessary steps, on behalf of the child in conflict with law, throughout the inquiry/trial including on bail matters.

**Occasion**

(v) In all occasions including the above-mentioned occasions

**Desired Outcome**

The Juvenile Justice Board shall endeavour to dispose of the bail application normally within one week of receipt of SIR, in case where child in conflict with law has been institutionalized, in the light of judgement dated 09.03.2017 passed in Criminal Appeal No.-509/2017 (*Hussain and Anr. Vs. Union of India*) by the Hon'ble Supreme Court of India.

**Statutory mandate**

Right to Legal Aid is the fundamental right of a child in conflict with law.

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