

*Council of Ministers*

*Act No.01 of 2017*

*Amending Some Provisions of the Juveniles Law Promulgated by Act No. 111 of 2015*

-After having perused the Constitution and Act No.111 of 2015 about enacting a Juvenile Law, the National Assembly has agreed upon the following Act-which we have ratified and delivered:

(Article No. 01)

-The wordings of articles (No.01 -Items No. 1, 2 and 3), (No.15), (first paragraph of Article No.39), and (article No.60 –second and third paragraphs) that fall under the Juvenile Law (promulgated in Act No.111 of 2015) shall be replaced with the following provisions:

*Article (No.1-First Item)*

A juvenile: every human being below the age of 18 years.

*Article (No.1-Second Item)*

A juvenile delinquent: every human between the ages of 7 and 18 years who carries out an act punishable by law.

*Article (No.-Third Item)*

A juvenile at risk of delinquency: every human being in one of the following circumstances:

- a) Associating with vagrants or suspected vagrants or persons who are notorious for their misconduct, or involving in terrorist or extremist groups.
- b) Having bad behavior that includes: defying the parental authority or the testamentary guardian, or defying the mother's authority (in case the father is deceased, absent or incapable).
- c) Frequently absconding from home or from education or training institutes.
- d) Is found begging (i.e offering goods and trifle services and begging for charity by whatever means that do not constitute a proper source of livelihood).
- e) Is found in need for a breadwinner.
- f) Is suffering from a physical or psychological disorder or a mental infirmity and is wholly or partially incapable of discretion or making choices, which can result in threatening the safety of others or his or her own safety.
- g) Imitating the opposite sex or adopting extremist ideas and beliefs, such as Satanism and religious extremism.

***Article (No.15)***

No juvenile shall be sentenced to death or to life imprisonment. If the juvenile –who is over 15 years old but has not yet reached 18 years old - commits a felony punishable by death or life imprisonment, he or she shall be sentenced to a term of not more than 15 years.

If the juvenile commits an offence that is punishable by a fixed term of imprisonment, the court shall sentence him or her to up to one half the maximum prison term prescribed by law.

Fines may not be imposed on juveniles whether the punishment is accompanied by imprisonment or not.

The preceding provisions shall not contravene the court's authority in applying the terms of articles (81), (82), and (83) of the Penal Code within the permissible limitations.

***Article (No.39- First Paragraph)***

If there is more than one accused of committing misdemeanors, and one or more juvenile is among them, while the others are older than 18 years old, all of them shall be brought before the competent court, provided that the court should apply the provisions of this Act.

***Article (No.60- Second Paragraph)***

If the accused is sentenced, considering that he or she is over 18 years old, and is found –with official documents- that he or she is not yet of age, the Public Prosecution shall bring the matter before the court that delivered the original judgment in order to review it as specified in the previous paragraphs.

(Article No. 02)

Each provision contradicting the provisions of this law shall be nullified.

(Article No. 03)

The Prime Minister and Ministers-each to their perspective- must implement this law.

Emir of Kuwait

***Sabah Ahmad Al-Jaber Al-Sabah***

***Issued in Siece Palace: 9 Rajab, 1438 A.H***

***Corresponding to: April, 6<sup>th</sup>, 2017***

*The Explanatory Memorandum*

*Of Act No. 01 of 2017*

*Amending Some Provisions of the Juveniles Law Promulgated by Act No. 111 of 2015*

The Juveniles Law – promulgated by Act No. 111 of 2015- has reduced the age of juveniles from 18 years old –as prescribed by the nullified law No.03 of 1983- to the age of 16 years old. The legislator did not outline in the explanatory note the reasons, nor did he mention the expected benefits.

The decision of reducing the juveniles’ age came as opposed to The Child Rights Act legislature No.21 of 2015-which had been promulgated several months before The Juveniles Law was passed- that clarified in its first article that a child is whoever under 18 Gregorian years of age.

This law has also opposed Paragraph (B) of article No.03 of the said Act that provides for the protection of the child from any type of discrimination in rights and duties.

The studies conducted by legal professionals and sociologists after the (111) law of 2015 was passed have also shown numerous tragic consequences of treating a 16-year old child as an adult that include: presenting the child to the court and placing them in private prisons.

This amendment aims at restoring the juveniles age to the age provided in the nullified law No.03 of 1983 (which is 18 years old) that is commensurate with the legal system of the state of Kuwait, in general, and its schooling and social systems. It also aims at preventing difference in penal treatment among students of the same level. It is important to note that this law protects children from getting influenced by individuals with criminal records, which can happen by lumping them in courtrooms and places of detention.

Article No.01 of the Act stipulates the amendment of the first article of the (111) Juveniles Act of 2015 and the increasing of the age of majority up to 18 years old and defining a juvenile delinquent as anyone who reached 7 years old and is not aged more than 18 years old, and has committed an act that is punishable by law.

Delinquency situations have also been amended by adding two cases.

Article No.15 of the (111) Juvenile Act of 2015 has also been amended, for it is unreasonable to impose a financial penalty on a minor, while he or she is not yet of working age and with no source of income. Similarly, civil proceedings cannot be sued against the minor.

If the minor is fined, but he or she does not pay the fine, they must not be enforced through physical coercion. Even if the aggrieved party insists that the juvenile pay, they (the aggrieved party) still have a right to make a civil claim against the parent or the testamentary guardian-in accordance to their civil liability- and demand compensation.

The amendment to articles (39) and (60) aims at making their provisions commensurate with what this Act includes (i.e rising the juvenile age up to 18 years old and preventing incompatibilities among the texts of the Act).

Article No.02 nullifies any law conflicting with the provisions of this law.

Article No.03 states that The Prime Minister and the Ministers-each to their perspective- must implement this law.