

# **DESTITUTE PROTECTION BILL, 2011**

**A DRAFT JOINTLY SUBMITTED TO NIALS**

**BY**

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# A BILL ON DESTITUTES IN NIGERIA

**Preamble.-** Whereas it is expedient to consolidate the law for the rescue, protective custody, care and rehabilitation of destitute persons and neglected children in Nigeria other than those involved in criminal litigation;

It is hereby enacted as follows:-

## Part 1-Preliminary

**1. Short title, extent and commencement.-** (1) This Bill may be called A Bill on Destitute Persons and Neglected Children's Bill 2011.

(2) It is intended to cover the 36 States of the Federation including the Federal Capital territory.

(3) It shall come into force on such date as the Minister may by notification in the Gazette appoint and different dates may be appointed for different States in Nigeria and for different provisions of this Bill.

**2. Saving.-** The Government may, by notification, direct that all or any of the provisions of this Bill shall not apply to any class of children in Nigeria or in any particular area.

**3. Definitions.-** (1) In this Bill, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "begging" means-

(i) soliciting or receiving alms in a public or private place;

(ii) exposing or exhibiting any sore, wound, injury, deformity or disease with the object of obtaining or extorting alms; and

(iii) having no visible or known means of subsistence and found wandering about with the ostensible object of soliciting or receiving alms;

(b) "Board" means Board of Governors established under section 6 of this Act;

(c) "child" means a natural person who has not attained the age of eighteen years;

(d) "child protection institution" means an institution for the admission, care, protection and rehabilitation of destitute and neglected children established or recognized under this Act or the rules;

(e) "child protection officer" means a person appointed under section 15 of this Act;

(f) "child protection unit" means a child protection unit established by the Bureau for a local area under section 16;

- (g) "Court" means a Child Protection Court established or any Court exercising powers of a Child Protection Court under this Act;
- (h) "destitute and neglected child" means a child who-
- (i) is found begging in a public place in such a way as to cause or to be likely to cause annoyance to persons frequenting the place or otherwise to create nuisance; or;
  - (ii) persons displaced by war or communal conflicts; or
  - (iii) physically challenged without feasible source of income; or
  - (iv) ex-convict who are yet to be reintegrated into normal family life; or
  - (v) any idle person found in a public place, whether or not he is begging, who has no visible means of subsistence or place of residence or is unable to give a satisfactory account of himself; or
  - (vi) is found without having any home or settled place of abode and without any ostensible means of subsistence; or
  - (vii) has a parent or guardian who is unfit or incapacitated to exercise control over the child; or
  - (viii) is being or is likely to be abused or exploited for immoral or illegal purpose or unconscionable gain; or
  - (ix) any person who is obviously beyond the parental control; or
  - (x) has lost his parents or one of the parents and has no adequate source of income; or
  - (xi) is victim of an offence punishable under this Act or any other law for the time being in force and his parent or guardian is convicted or accused for the commission of such offence; or
  - (xii) any person who is being or is likely to be abused or exploited for immoral or illegal purpose or unconscionable gain;
- (i) Director General means the Director General of Social Welfare, and includes a State Director of Social Welfare and the Director of Social Welfare, Federal Territory;
- (j) "Fund" means the Destitute and Neglected Children's Welfare Fund established under section 22 of this Bill;
- (k) "Government" means the Government of Nigeria:

- (l) "local area" means a town, a city, as defined in the Nigeria Local Government Act,
- (m) "Member" means Member of the Board;
- (n) "Minister" means the Minister charged with the responsibility for welfare services;
- (o) "prescribed" means prescribed by the rules;
- (p) "Republic" means the Federal Republic of Nigeria; and
- (q) "suitable person" or "Superintendent" means a person suitable for the custody of the destitute and management and control of any welfare home;
- (r) "Welfare home" means any institution, or part thereof, established under this Bill for the reception, care and rehabilitation of destitute persons.

(2) Words and expressions used herein and not defined in this Bill but defined in the Code or the Juvenile Persons Act, shall have the meanings respectively assigned to them in that Code or Act.

### **Power to require a destitute person to reside in a welfare home**

**3. (1)** Any officer duly authorized in writing by a local authority and acting under the direction of the Director General or any social welfare officer may take into his charge any destitute person and produce such person before a Magistrate within twenty-four hours;

Provided that if the destitute person refuses to be taken or offers any resistance to the officers mentioned in this subsection, such officer may call upon any police officer for assistance in the exercise of his powers, and it shall be the duty of every police officer to comply with such request.

(2) If the Magistrate has reasonable cause to believe that any person so brought before him is a destitute person, he may order such person to be admitted temporarily to a welfare home pending a report by a social welfare officer.

(3) The report shall be completed within a period of one month from the date of such person's admission into welfare home.

(4) A Magistrate in Chambers if satisfied from a report furnished by a social welfare officer that the person is a destitute person, may by warrant under his hand order that person to reside in a welfare home for a period which shall not exceed three years;

Provided that a Magistrate in Chambers may, if satisfied from a report furnished by a social welfare officer, extend the Order for a further period which he deems fit and that period shall not exceed three years.

(5) The Superintendent of the welfare home shall keep such destitute person who has been temporarily admitted or who has been so ordered to reside in a welfare home.

### **Voluntary admission into a welfare home**

4. Any destitute person who voluntarily seeks admission into a welfare home shall be required to undertake that, if admitted, he will abide by the conditions of admission imposed under this Bill or by any rules made thereunder.

## **Part 2- Child Protection and Welfare Home**

### **Minister may establish welfare homes**

5. (1) The Minister may, by notification in the Gazette, establish welfare homes at such places as he thinks proper.

(2) The Minister may appoint superintendents for the management of welfare homes.

(3) The Welfare Home shall be a body corporate, having perpetual succession and a common seal with power, subject to the provisions of this Bill, to acquire land in accordance with law and hold properties both movable and immovable and may sue and be sued by the said name.

(4) The Government may transfer state land or building, free of cost, to be utilized for the purpose for which the Welfare Home is established.

### **Board of Governors**

6. The Minister shall appoint the following as members of the Board of Governors for the welfare home to perform such duties and functions as the Minister may by rules prescribe and to advise and make recommendations to the Director General on such matters as the Director General may refer to it.

|   |                 |
|---|-----------------|
| (a) Minister of Youth and Social Development  | Patron-in-Chief |
| (b) Secretary to the Government, Home Department  | Member          |
| (c) Secretary to the Government<br>Social Welfare Department;                             | Member          |
| (d) Secretary to the Government<br>Local Government Department;                           | Member          |
| (e) three Members of the National House of Assembly<br>to be appointed by the Government, | Members         |
| (f) two donors or representatives of donor  | Members         |

agencies to be appointed by the Government  
for a term of four years;

(g) two professors of sociology, psychology  
or related social sciences to be appointed  
by the Government for a specified term; Members

(h) six persons to be appointed by the  
Government for a term of four years; and non-official  
Members

(i) Director General. Member/Secretary

(2) The Government shall not appoint a person as non-official Member unless he-

(a) holds a Master's Degree, or equivalent or a higher Degree; and

(b) has at least five years' experience in the related field.

(3) The Government shall appoint the Chairperson of the Board from amongst the Members  
on such terms and conditions as may be specified.

(4) A Member shall not be appointed as a Chairperson of the Board for more than two  
consecutive terms.

(5) The Chairperson shall hold office during the pleasure of the Government and may resign  
from his office by tendering his resignation to the Government.

(6) The Chairperson shall exercise the powers and the functions as may be delegated to him  
by the Board.

(7) Five Members, including two ex-officio Members, shall constitute the quorum for a  
meeting of the Board.

(8) The Patron-in-Chief, and in his absence, the Chairperson shall preside over any meeting  
of the Board.

(9) Subject to quorum, the Board shall take decision by majority of the members present and voting  
and the person presiding shall have the casting vote.

(10) A Member shall not be entitled to any perks and privileges.

(11) A Secretary to the Government may be represented in the meeting of the Board by an

officer of the Department not being below the rank of a Permanent Secretary.]

**7. Removal of a Member.-** (1) A Member, not being an ex-officio Member, shall hold office during the pleasure of the Government.

(2) The Government may remove any such Member during the tenure of his office in the manner as may be prescribed.

(3) A Member, not being an ex-officio Member, may resign from his office by tendering his resignation to the Government.

**8. Casual vacancy.-** Any vacancy caused due to the death, resignation or removal of a Member other than an ex-officio Member, shall be filled in by the Government through appointment of another person as Member and such appointee shall, subject to the provisions of section 7, hold such office for the unexpired term of his predecessor.

**9. Powers and functions of the Board.-** Subject to the provisions of this Act, the Board shall exercise such powers and take such measures as may be necessary for carrying out the purposes of this Act, including -

- (a) to take steps for the establishment of a Fund in the manner hereinafter provided, for carrying out the purposes of the Bureau;
- (b) to establish, manage and recognize child protection institutions;
- (c) to exercise control over child protection institutions and look after the operation and maintenance of all essential services provided in the institutions;
- (d) to regulate the affairs of the child protection institutions;
- (e) to arrange, purchase or acquire land wherever necessary within the Province;
- (f) to supervise prosecution of the persons accused of the offences created under this Act;
- (g) to sell or dispose of assets, movable or immovable, of the Bureau in the manner as may be determined by the Board;
- (h) to appoint and authorize employees with the designations and the terms and conditions as the Board may determine;
- (i) to authorize spending from the Fund;
- (j) to delegate any of these powers and functions to a Member, Members, official or officials of the Bureau;
- (k) to regulate its meetings and all matters connected with or ancillary to a meeting; and
- (l) to do such acts as are ancillary and incidental to the above functions.

**10. Committees of the Board.-** The Board may constitute committees with such powers, as may be delegated by the Board for carrying out the purposes of this Act.

**11. Special committee of the Board for a local area.-** (1) The Board may constitute special committee for a local area.

(2) The special committee shall consist of such members with the powers and functions of the Board, as may be devolved upon it by the Board.

**12. Director General.-** (1) There shall be a Director General of the Bureau who shall also be the chief executive of the Bureau.

(2) The Director General shall be appointed by the Government for a specified term.

(3) The Director General shall exercise such powers and perform such functions as may be determined by the Board.

(4) The Director General may resign, during the term of his office, by tendering his resignation to the Government.

(5) The Government may remove the Director General, during the tenure of his office, in the manner as may be prescribed.

**13. Annual progress report.-** (1) The Director General shall prepare an annual progress report at the end of each financial year.

(2) This report shall be submitted in a meeting of the Board, whenever such meeting takes place after the preparation of the report.

### **Part 3- Protection Home**

#### **Rules for management of welfare homes**

**14.** The Minister may make rules-

- (a) for regulating the management of welfare homes and the admission of persons thereto and for the care, control, discipline and rehabilitation of persons residing therein;
- (b) for prescribing the constitution and functions of the Board of Visitors; and
- (c) generally for carrying this Bill into effect.

#### **Discharge from welfare homes**

**15.** (1) Any person admitted to a welfare home, either on his own application or otherwise, may be

Discharged by the Superintendent-

- (a) if he is satisfied that the resident has found suitable employment to maintain himself; or
- (b) to the care of any person willing and able to give the resident proper care and support.

**Persons in welfare home may be required to engaged in suitable activity**

**16.** Any person residing in a welfare home may be required to engage in any suitable activity, either with a view to fitting him for employment outside the welfare home or with a view to contributing to his maintenance in the welfare home.

**Persons in welfare home may be sent to hospital**

**17.** Any person residing in a welfare home may, if so directed by the medical officer, be sent to a hospital or other medical institution for treatment, and shall be deemed while receiving such treatment to be a resident of the welfare home.

**Penalty for behaving in a disorderly manner.**

**18. (1)** Any person residing in a welfare home who —

- (a) takes part in any assault or attack on any officer of the welfare home;
- (b) aggravates or repeatedly assaults any other person residing in the welfare home; or
- (c) willfully destroys any property of the welfare home,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding N3,000 or to imprisonment for a term not exceeding 2 years.

**Penalty**

**18. (2)** Any person who-

- (a) refuses to be taken, or offers any resistance to being taken, into the charge of an officer duly authorized in writing by a local authority and acting under the direction of the Director General or a social welfare officer under this Bill;
- (b) escapes from an officer duly authorized in writing by a local authority and acting under the direction of the Director General or a social welfare officer while committed to their charge under this Bill.
- (c) without permission of the Superintendent leaves a welfare home in which he is required to reside under section 3 or to which he has been admitted on his own application under section 4; or

(d) having been permitted to leave a welfare home for a specified time fails to return without reasonable cause at the expiration of such time,

shall be guilty of an offence and shall be liable, to conviction, to be sent to a welfare home or to imprisonment for a term not exceeding three months.

**Return to welfare home after serving sentence.**

18. (3) A person who has completed serving a sentence imposed on him under section 18(1) or 18(2) shall be returned to a welfare home, and the Administrator shall have the power to take such person into custody for this purpose after he has served his sentence.

**Arrest of escaped destitute person**

19. A police officer may arrest without warrant any person who he reasonably believes has committed an offence under section 18.

**Shortening of period of residence**

20. The Minister may shorten the period of residence and discharge any person from a welfare home if the Minister is satisfied that it is just and proper to do so for special reasons pertaining to the welfare of such person.

**Aftercare supervision**

21. Where a person is discharged from a welfare home under any of the provisions of this Bill, he shall be placed under the supervision of a social welfare officer for a period not exceeding one year.

**Part 4-Destitute and Neglected Children's Welfare Fund**

**22. Destitute and Neglected Children's Welfare Fund.-**

- (1) The Board and each child protection institution shall establish a fund to be known as Destitute and Neglected Children's Welfare Fund.
- (2) Such fund shall be administered by the Board for the purpose of administration and smooth running of the Welfare home.
- (3) The Fund shall consist of all moneys received from any source by the Board or a child protection institution, as the case may be, for the control, care, protection and rehabilitation of destitute and neglected children.
- (4) The Board may, from time to time, with approval of the Director General apply the proceeds of

the fund in pursuit of its functions under the Act.

**23. Power to Accept Gifts**

The Board may accept any gift of land, money, or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.

**24. Audit of the Fund.-**

(1) The Fund shall be kept, operated, spent and audited in such manner as may be prescribed by the Minister.