

# LEGALFOXES LAW TIMES

## JUVENILE CURFEW

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*“Youth is such a wonderful thing; want a crime to waste it on children”*

-GEORGE BERNARD SHAW

Juvenile curfew is a persistent and vogue system for regulating the crimes. This law glorify the futurity of the child by department of police. The curb is imposed for the juvenile in public places. Though the public outlook the use of curfew but they want to pass-through the streets peacefully .juvenile curfew have become a popular tool to tackle juvenile crimes. In this rules generally minors from specified age criteria from occupying public areas and streets during particular times. The supporters of the curfew sticks to the point that they safeguard the children from sights and influences which might cause them psychological harm, avoiding late night public order disturbances and preventing children from entering gangs and committing crimes

*“Education the great mumbo jumbo and fraud of the age”*

-MALCOLM MUGGERIDGE

### KEYWORDS

Legal Challenges, Goals of Juvenile Curfew, Difference between Crpc 144 and Curfew, Arguments

## **INTRODUCTION**

A Curfew is an order defining a time in which certain regulations apply. The etymology of the word "curfew" comes from the Old French word "couvre-feu", which means "cover fire", and it was later adopted into Middle English as "curfeu" it then later transformed into the present term "Curfew ". Juvenile curfew has become a combating tool for juvenile Delinquency. The juvenile curfews encompass a variety of restricted activities and sanctions implemented with the intention of controlling delinquencies and to ensure public safety. The main aim of Juvenile Curfew is to reduce juvenile related crimes and delinquencies by keeping juveniles at home during night hours where they might be exposed to fewer opportunities to commit crimes or become a victim of crime. The constitutionality and legal justification of juvenile curfew are based on effectiveness of these laws in reducing juvenile crime and protecting from victimization. Juvenile curfew is extremely more common in United States and it is also found in larger cities and towns. They are viewed by some as part of a more vigorous law enforcement effort, and others by as identifying juvenile at early stages of delinquencies and providing them with the opportunities of intervention .However several states contain curfew statutes the contemporary epoch of sustainable enforcement only after 1990's where punitive offences and victimization of juvenile aroused thus ended in curfew laws. Still the debate exists whether it affects our civil rights of the citizens

## **JUVENILE CURFEW TESTIMONIAL**

These orders are exposed to inferior the crises in any sites or town. The natives are ordered to stay back in homes for a particular time which is a worthwhile technique to hold any vicious circumstances.

The targeted people are juveniles in an area under the age group of 18 and some laws specify the age limit to be 17 years where generally curfew is imposed during night hours rather than daytime to reduce youth offences, violence and delinquency which is consider to diminish the crime rate of juveniles. Juvenile curfew consists variations-controlled action and penalty which impose limitation time, restricted practise, exceptions and sanctions.

- ❖ The timing for laws casually be during 10 p.m. or 11 p.m. and extend up to 5 a.m. or 6 a.m. during night
- ❖ During daytime it commences from 8.30 a.m. up to 1.30 p.m. which is aimed to keep the juveniles in school

Curfew is imposed to slash crimes and victims in juvenile category. The main motive of these laws pertains to avert crimes and offences by restricting youth in delinquent matters. The assumption among people is, if they are penalised at early stages and provide them with “INTERVENTIONAL PROGRAM”.

### **EXCEPTION**

- i. Voyaging with parents/guardian
- ii. Returning to home after school hours/work or any spiritual Endeavour
- iii. Take part in school events like meetings and gatherings
- iv. Task completes under adults guidelines.
- v. Emergencies



### **PENANCE**

Violations of juvenile curfews are punished differently among various jurisdictions but can often include one or more of the following penalties:

- ✱ Fines (usually increasing for subsequent violations)
- ✱ Imposition of community service or required enrollment in after-school programs
- ✱ Restriction of driver's license privileges
- ✱ Possible detention in jail or juvenile hall.<sup>1</sup>

Parents who voluntarily engage to violate child curfew are also punished.

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<sup>1</sup> <https://criminal.findlaw.com/criminal-charges/juvenile-curfew-laws-the-basics.html>

## **LEGAL CHALLENGES**

In the recent years there have been number of challenges to juvenile curfews laws

- It is too difficult to find out whether certain activities of juvenile are permitted or not, in legal terms the juvenile curfew laws are vague.
- Juvenile curfew laws are found to be unconstitutional because Police officers are targeting juveniles based on race.
- Juvenile curfew laws lead to unlawful infliction of martial law and thus it violates the constitutional rights to free interstate travel.
- Though the juvenile curfew laws do not provide a "parental permission" but in certain circumstances government may intervene in the parental permission to up bring their children.

## **ARGUMENTS**

### **IN FAVOUR**

#### **❖ PEACE OF MIND FOR PARENTS**

By implementing curfew law, it will lessen the chances of juvenile to get involved in juvenile violence and crime. Parents often feel self-confident and grateful for having their child at home and not on the streets at a certain time.

#### **❖ SAFETY**

Late night driving and hanging out creates teenagers a perilous situation. Night time traveling and driving give rise to greater dangers than traveling at daytime. In addition to that curfew keeps them away from desire such as drug-use, violent acts, sexual risks, heavy partying and alcohol intake.

#### **❖ PARENTAL CONTROL**

Restricting kids from staying out late helps to set boundaries in their lives while they remain under their parent's care. With a curfew, confidence will be created among the parents to their children at a certain time, making it easier to manage the household.

❖ **STRUCTURED TEENAGE LIFE**

The young people have so much energy, interest and agony within them and they tend to lose control and lack decision making ability. A curfew puts limits and structures to their otherwise random ways. By this curfew, it allows juvenile to form commendable habits such as responsibility taking, showing respect and prioritizing safety.

❖ **PREVENT JUVENILE DELINQUENCY**

Sneaking out of the house very late night generally puts teenagers in a different position because they lack protection and safety outside the family environment. Juvenile become endangered to participating and falling victim to juvenile crime and other crime acts done during night.

**AGAINST**

❖ **AUTOCRATIC PARENTING**

Though juvenile have their own beliefs, opinions and goals that will be interfered by Parents when curfew law is blindly enforced. By this way the family loses sights over importance of getting juvenile involved in the way the household runs.

❖ **FALSE SENSE OF SECURITY**

Curfew is not a cure-all remedy against teenage crime and violence. It is only an ultimate tool in which parents can discipline the child. It is one of the ways through which good citizens can be brought.

❖ **HINDER MATURITY**

When the family or community foists curfew laws, juveniles are expected to obey it without any questions to avoid punishment. This restricts juveniles from to claim themselves, negotiate with parents, and how to overcome the real world. Curfew brought juveniles may get cultural shock and became less adaptable when they are released from curfew laws.

❖ **UNCONSTITUTIONAL**

Some critics argue that curfew is unconstitutional because it gives the government the right to step into family's privacy and chosen methodologies for Parenting. Curfew restricts everyone under 18 whether or not they are rebellious or delinquent. From this curfew, even the good kids are punished for offense they didn't commit.

❖ **DISCRIMINATION**

Curfew discriminates young individuals who need to offer extra work to aid their families and themselves. In the same way authorities portrays those who do stay out beyond the curfew limit as delinquents or violators.

**DIFFERENCE BETWEEN CrPC SEC 144 AND CURFEW***i. Do these belong to prevention of unlawful assembly?*

Yes, they work in the manner to abduct the gathering to prevent illegal activity.

*ii. Does these laws are similar to each other?*

No. the major motive of both laws isn't the same.

*iii. Does curfew is automatically imposed when 144 is implemented?*

Not at all has it depended upon the situation arisen and the higher officials only instruct to direct curfew laws.

*iv. Difference between 144 and curfew?*

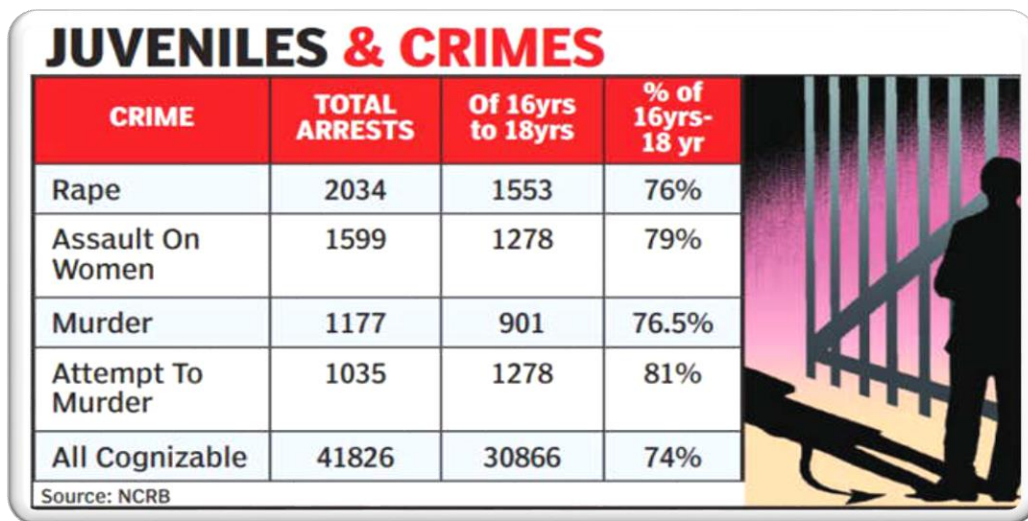
Typically, when a fierce protest occurs in a region people assemble with an intension to fess the public tranquillity is termed as unlawful assembly where CrPC sec 144 and curfew laws are imposed to suppress. They are not similar because Sec 144 restricts public meetings while curfew order people to stay in homes for a specific time are mandate. The time limit can be fixed by the officials it may also prolong. Getting out of the house during the curfew period needs approval from local authorities.

Accordingly Sec 144 restricts mob gatherings but have no constrain over it but curfew is a curb serious circumstance and permission is necessitated for movement.

**CONSTRAINT**

- Denial of hunger-strike
- Not inflicted on examinees, marriage or other religious festival
- Persons can't carry any decisive weapon while moving though licensed.
- No retailing or recreation of crackers
- Vernacular or hoardings ruins the feelings of others are not permitted
- Ban of loudspeakers or DJ's without prior information
- Gathering of five or more person aren't allowed at a distance of 200m from examination place

**STATISTICS and ANALYSIS**



CRIME	TOTAL ARRESTS	Of 16yrs to 18yrs	% of 16yrs-18 yr
Rape	2034	1553	76%
Assault On Women	1599	1278	79%
Murder	1177	901	76.5%
Attempt To Murder	1035	1278	81%
All Cognizable	41826	30866	74%

Source: NCRB

As of report published by National Crime Records Bureau relation to the crimes committed by juveniles it clearly states the crimes are been increasing day by day, thus some ethics or curfew should be imposed upon children for their betterment.

According to our research these are the reasons for the crimes done by juveniles.

- ❖ Guidedences
- ❖ No affection / care
- ❖ No proper surrounding
- ❖ Wrong circumstances
- ❖ Erge for money in short period
- ❖ No parental support
- ❖ Wrong influence

### PENALIZATION CRITERIA OF JUVENILE OFFENDERS

Juvenile aged 12-17 are punished if crime proved under juvenile criminal law which is also applicable for adults age 18-22 under same act.

#### Under 12

- No child is prosecuted, if so, committed a minor offence police may initiate talk to parents or send to youth care office for counselling.
- **HALT** program is termed as juvenile crime prevention program which creates opportunity to set right the wrong committed by juvenile like apology, compensation etc. If they complete the **HALT successfully** no criminal record will be initiated against them. If not completed then public prosecutor will take control over prosecution
- Alternative sanctions can be awarded for children by granting service order or training order to upliftment

### YOUTH DETENTION



Those who have been sentenced for crimes are detained in young offender institutions for which a maximum sentence is given up to 2 year (child up to 16-17 age) and child 12-15 granted maximum 1 year. They may attend school and taught lessons for social skill and anger management.

Some may need intensive treatment and counselling for preventing from offences where “PIJ ORDER” for placement of child protection and custody institution. The order is valid for three years which may extend up to seven years. The last term of period the juvenile is not let out if so under condition monitored by youth probation service.

Overnight detention is a provisional detention because they let go to school in morning hours and after school held in institutions which allow working or studying but under their control.

#### PENALITY / NON –PUNITIVE ORDERS

- ✓ Confiscation of property ,goods obtain illegal etc
- ✓ Payment of fine / damage

#### ADOLESCENT CRIMINAL LAW (AGED 16-22)

Juvenile can be treated either as juvenile or adult under this law, which consider the offenders development into account.

#### SECTION 82<sup>2</sup> OF IPC

According to this section, a child below age of 7 years gets immunity from any kind of defence or criminal liability. The principle incorporated is “**DOLI INCAPAX**” means that no guilty for offences because there is no maturity to differentiate right and wrong. The lack in ability to understand the nature and consequence of act thus the main contention “**MENS REA**” is not satisfied.

#### Section 83<sup>3</sup> of IPC

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<sup>2</sup> Act of a child under seven years of age.—Nothing is an offence which is done by a child under seven years of age

The child aged from 7- 14 years is partially liable for criminal liability incorporeal by juvenile. Though “**DOLI INCAPAX**” is understood but the prosecution is necessary to prove the mental capability of the child beyond reasonable doubts. The liability depends on understanding and not age where “**apple pie**” rule is been utilised for proof of mentality of child

### **MATURITY**

Child in-between age of 7-12 is totally dependent on maturity or mental capacity and not on age factor. The maturity of child is inferred about the circumstance of crime and involment of crime in different cases. Some general factors to prove guilt of child are

- \* The immediate actions of the child after the commission of the act.
- \* The conduct of the child during the investigation process.
- \* The nature of the act done by the child
- \* Other similar factors.<sup>4</sup>

### **CRUX**

- Child below 7yrs can be completely discharged of crime.
- Child range from 7-12 years has to prove that no mental maturity is attained to understand the circumstance of crime or act.
- Child above 12 years will be governed by Juvenile Justice (Care and Protection Act), 2000 and no defence of age can be entertained by prosecution.

### **OUTBREAK OF CURFEW LAWS**

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<sup>3</sup> Act of a child above seven and under twelve of immature understanding.—nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

<sup>4</sup> <http://lawtimesjournal.in/offence-by-minor/#:~:text=According%20to%20section%2082%20of,any%20kind%20of%20criminal%20liability.&text=It%20works%20under%20the%20assumption,form%20the%20required%20mens%20rea.>

Many places in the world have had a juvenile curfew for years. United States had enacted its first juvenile curfew in 1880 in Omaha, Nebraska.

### UNITED STATES

At least 500 US cities have curfew on juveniles. These cities prohibit children under 18 from being on streets after 11pm during week and after 12am on weekends. About 100 cities, including Los Angeles, also have daytime curfew to keep juvenile off the street during school hours

Studies show that 93% of cities that currently enforce a curfew law believe it is effective. The law also helps out cops because they are less apt to worry about children participating in troublesome late-night events in the case that their parents are not strict and do not abide by their own curfew laws. The law is a progressive sign in society that keeps teenagers out of trouble and is for the betterment of their life.

<https://sites.psu.edu/siowfa15/2015/10/23/are-curfews-effective-when-keeping-teens-out-of-trouble/>



### AUSTRALIA

Australia introduced juvenile curfew system restricting aged 13 to 16, from leaving their homes at night without being occupied by their parents in the early 2000s. Juvenile founding flouting the rule are dragged by the police and taken to the station, where they will be kept until their parents come to pick them up. According to them the main aim is to reduce the increasing number of teenagers who were found *“drinking, using drugs and sniffing glue”*.

### THAILAND

In 2007, Thai police issued a directive stating that children under 18 in Bangkok prohibited from leaving their homes after 10pm without justified reasons. Juveniles caught hanging out at night in Bangkok without valid reasons would be taken to the police stations.

**GERMANY**

In Germany, children under 16 years of are barred from clubs after midnight, while children under 18 need consent from parents to attend concert.

**BRITAIN**

In the year 2001, a new legislation was to give local authorities the power to foist a curfew for kids under 16 in their areas. In a town in Cornwall, police implemented curfew to gear anti-social behaviour was implemented in 2008 to keep kids under 10 off the streets by 8pm and children under 16 by 10pm.

**SUGGESTIONS**

The juvenile curfews have a wide variety of restricted activities and sanctions were implemented in order to control delinquencies and to ensure safety of public. It is based upon the assumptions that reducing the hours of juveniles in public will limits the scope to commit crimes or become victims. The hours for enforcing curfew differ between weekdays, weekend or holidays. Juvenile curfews have received numerous legal challenges. Common challenges were that this curfew ordinance violates the rights of youth. The effectiveness of curfew is that most crimes committed by juvenile, notably those against the person, are committed before and after the school hours. In addition to that the possibility for fines or other sanctions is presumed to deter youth from being out public place during the curfew hours. United States which are having juvenile curfew as of now with a history dating back over one hundred years. In United States a survey conducted in 2006 reports that 93 percent considered enforcement of curfew a good use of police resources. Iceland passed a Child Protection Act in 2002 which includes a curfew that affects juvenile aged 16 or younger. . In the United Kingdom, the Anti-social Behaviour Act of 2003 encompass a curfew element which allowed police officers to take juvenile under the age of 16 home if he found unsupervised on the streets between 9 P.M. and 6 A.M. However, the Act was ruled illegal by the High Court and was only in effect for a short period of time. Yet, curfew orders for individual juveniles adjudicated for a crime are used in Britain. In the 1990s, there was growing demand for juvenile curfews in Canada, but none has been implemented given that they would violate the rights of youths as defined by the Canadian Charter of Rights (Howe & Covell,

2001).It is unable to identify any countries other than the United States and Iceland that have general juvenile curfews which apply to all juveniles of certain ages within a given jurisdiction.

### **CONCLUSION**

According to our research we suggest that if curfew has been adopted in India it will be a reformatory mechanism and can bring changes drastically where teenagers will always behave puerile and moreover, they are merely kids. However not all the kids' stands on same foot. Curfew may not really work on every teenager, whether there are curfew laws or not both parents and teenagers need to adhere each other by making necessary adjustments. When juvenile faithfully observes the rules of house and curfew limits, parents need to recognize this praiseworthy behaviour and honour their children by giving them more freedom. By increasing freedom, juvenile learn to be responsible, accountable and mature and take these commendable traits with them into adulthood.

***“A CRIME IS BORN IN THE GAP BETWEEN THE MORALITY OF  
SOCIETY AND THAT OF THE INDIVIDUAL”***

***-HAYKAN NESSER***

▶ LEGAL FOXES ◀