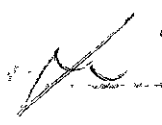


SENATE
S.B. No. **2488**

RECEIVED


Introduced by Senator Francis N. Pangilinan

EXPLANATORY NOTE

The fundamental law of the land clearly mandates the protection and nurturing of children, recognizing that they are an indispensable part of the "Filipino family" which in turn is the foundation of the nation. Article 15 Section 3, par. 2 of the 1987 Constitution states --

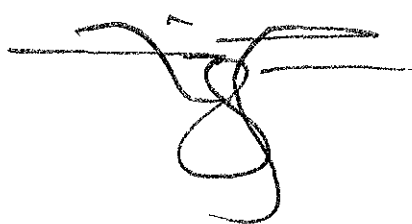
"Section 3. The State shall defend:

"Par. 2 - The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development."

Giving life to this imperative command of the constitution, among other laws, the Republic Act 9344 or otherwise known as the "Juvenile Justice and Welfare Act of 2006" (JJWA of 2006), with unusual unanimity from our political leaders, was passed by the Philippine Congress. The support that the JJWA had acquired in both houses of congress is testament to the realization that there is an urgent need to protect our youthful offenders from the hazards and unresponsive judicial and penal practices in our jurisdiction.

The search for the ideal judicial and penal measures to be employed to Children in Conflict with Law ("CICL") is a continuous task for the legislative branch as it is also an unending challenge to the executive and judicial branches to implement. Accordingly, this bill is promptly filed to address the legitimate concerns and realities confronted by the different sectors of our government implementing the provisions of the JJWA of 2006 and ultimately to make the law more responsive to the actual needs and concerns of its main beneficiary - the CICL.

In view of the foregoing, the approval of this bill is earnestly sought.



FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE
S.B. No. 2188

Introduced by Senator Francis N. Pangilinan

AN ACT
AMENDING REPUBLIC ACT NO. 9344
OTHERWISE KNOWN AS "AN ACT
ESTABLISHING A COMPREHENSIVE JUVENILE
JUSTICE AND WELFARE SYSTEM, CREATING
THE JUVENILE JUSTICE AND WELFARE
COUNCIL UNDER THE DEPARTMENT OF
SOCIAL WELFARE AND DEVELOPMENT,
APPROPRIATING FUNDS THEREFOR, AND FOR
OTHER PURPOSES"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 Section 1: The Title of Republic Act No. 9344 is hereby amended to read
2 as follows:

3 AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE
4 JUSTICE AND WELFARE SYSTEM, CREATING THE JUVENILE
5 JUSTICE AND WELFARE COUNCIL UNDER THE DEPARTMENT OF
6 [JUSTICE] SOCIAL WELFARE AND DEVELOPMENT,
7 APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

8 Section [1] 2: Section 6 of Republic Act No. 9344 is hereby amended to read as
9 follows:

10 SEC. 6. *Minimum Age of Criminal Responsibility.* - A child fifteen (15)
11 years of age or under at the time of the commission of the offense shall be exempt
12 from criminal liability. However, the child shall be subjected to an intervention
13 program pursuant to Section 20 of this Act.

14 A CHILD IS DEEMED TO BE FIFTEEN (15) YEARS OF AGE ON
15 THE DAY OF THE FIFTEENTH ANNIVERSARY OF HIS BIRTH DATE.

1 A child above fifteen (15) years but below eighteen (18) years of age shall
2 likewise be exempt from criminal liability and be subjected to an intervention
3 program, unless he/she has acted with discernment, in which case, such child shall
4 be subjected to the appropriate proceedings in accordance with this Act.

5 The exemption from criminal liability herein established does not include
6 exemption from civil liability, which shall be enforced in accordance with
7 existing laws.

8 Sec. [2] 3: Section 8 of Republic Act No. 9344 is hereby amended to read as
9 follows:

10 SEC. 8. *Juvenile Justice and Welfare Council (JJWC)*. - A Juvenile Justice
11 and Welfare Council (JJWC) is hereby created and attached to the [Department of
12 Justice] **DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT**
13 and placed under its administrative supervision. The JJWC shall be chaired by an
14 undersecretary of the Department of Social Welfare and Development. It shall
15 ensure the effective implementation of this Act and coordination among the
16 following agencies:

17 **(a) DEPARTMENT OF JUSTICE (DOJ)**

18 ([a] **b**) Council for the Welfare of Children (CWC);

19 ([b] **c**) Department of Education (DepEd);

20 ([c] **d**) Department of the Interior and Local Government (DILG);

21 ([d] **e**) Public Attorney's Office (PAO);

22 ([e] **f**) Bureau of Corrections (BUCOR);

23 ([f] **g**) Parole and Probation Administration (PPA);

24 ([g] **h**) National Bureau of Investigation (NBI);

25 ([h] **i**) Philippine National Police (PNP);.

26 ([i] **j**) Bureau of Jail Management and Penology (BJMP);

27 ([j] **k**) Commission on Human Rights (CHR);

28 ([k] **l**) Technical Education and Skills Development Authority (TESDA);

1 ([l] m) National Youth Commission (NYC); and

2 ([m] n) Other institutions focused on juvenile justice and intervention programs.

3 The JJWC shall be composed of representatives, whose ranks shall not be
4 lower than director, to be designated by the concerned heads of the following
5 departments or agencies:

6 (a) Department of Justice (DOJ);

7 (b) Department of Social Welfare and Development (DSWD);

8 (c) Council for the Welfare of Children (CWC)

9 (d) Department of Education (DepEd);

10 (e) Department of the Interior and Local Government (DILG);

11 (f) Commission on Human Rights (CHR);

12 (g) National Youth Commission (NYC); and

13 (h) Two (2) representatives from NGOs, [one] to be designated by the Secretary
14 of [Justice] [and the other] **SOCIAL WELFARE AND DEVELOPMENT** [and
15 the other].

16 The JJWC shall convene within fifteen (15) days from the effectivity of
17 this Act. The Secretary of [Justice] **SOCIAL WELFARE AND**
18 **DEVELOPMENT** [and the] shall determine the organizational structure and
19 staffing pattern of the JJWC.

20 **IN THE IMPLEMENTATION OF THIS ACT, THE JJWC SHALL**
21 **CONSULT WITH THE VARIOUS LEAGUES OF LOCAL**
22 **GOVERNMENT OFFICIALS.**

23 The JJWC shall coordinate with the Office of the Court Administrator and
24 the Philippine Judicial Academy to ensure the realization of its mandate and the
25 proper discharge of its duties and functions, as herein provided.

1 Sec. [3] 4: Section 9 of Republic Act No. 9344 is hereby amended to read
2 as follows:

3 **SEC. 9. *Duties and Functions of the JJWC.*** – The JJWC shall have the
4 following duties and functions:

5 (a) To oversee the implementation of this Act;

6 (b) To advise the President on all matters and policies relating to
7 juvenile justice and welfare;

8 (c) To assist the concerned agencies in the review and redrafting of
9 existing policies/regulations or in the formulation of new ones in line with the
10 provisions of this Act;

11 (d) To periodically develop a comprehensive 3 to 5-year national
12 juvenile intervention program, with the participation of government agencies
13 concerned, NGOs and youth organizations;

14 (e) To coordinate the implementation of the juvenile intervention
15 programs and activities by national government agencies and other activities
16 which may have an important bearing on the success of the entire national
17 juvenile intervention program. All programs relating to juvenile justice and
18 welfare shall be adopted in consultation with the JJWC;

19 (f) To formulate and recommend policies and strategies in
20 consultation with children for the prevention of juvenile delinquency and the
21 administration of justice, as well as for the treatment and rehabilitation of the
22 children in conflict with the law;

23 (g) To collect relevant information and conduct continuing research
24 and support evaluations and studies on all matters relating to juvenile justice and
25 welfare, such as, but not limited to:

26 (1) the performance and results achieved by juvenile intervention
27 programs and by activities of the local government units and other government
28 agencies;

1 (2) the periodic trends, problems and causes of juvenile delinquency and
2 crimes; and

3 (3) the particular needs of children in conflict with the law in custody.

4 The data gathered shall be used by the JJWC in the improvement of the
5 administration of juvenile justice and welfare system.

6 **THE JJWC SHALL CONDUCT A STUDY ON THE AGE OF**
7 **DISCERNMENT OF FILIPINO CHILDREN EVERY THREE (3) YEARS.**

8 The JJWC shall set up a mechanism to ensure that children are involved in
9 research and policy development.

10 (h) Through duly designated persons and with the assistance of the
11 agencies provided in the preceding section, to conduct regular inspections in
12 detention and rehabilitation facilities and to undertake spot inspections on their
13 own initiative in order to check compliance with the standards provided herein
14 and to make the necessary recommendations to appropriate agencies;

15 (i) To initiate and coordinate the conduct of trainings for the
16 personnel of the agencies involved in the administration of the juvenile justice and
17 welfare system and the juvenile intervention program;

18 (j) To submit an annual report to the President on the implementation
19 of this Act; and

20 (k) To perform such other functions as may be necessary to implement
21 the provisions of this Act.

22 Sec. [4] 5. Section 20 of Republic Act No. 9344 is hereby amended to read as
23 follows:

24 **SEC. 20. *Children Below the Age of Criminal Responsibility.*** - If it has
25 been determined that the child taken into custody is fifteen (15) years old or
26 below, the authority which will have an initial contact with the child, **IN**
27 **CONSULTATION WITH THE LOCAL SOCIAL WELFARE AND**
28 **DEVELOPMENT OFFICER,** has the duty to immediately release the child to

1 the custody of his/her parents or guardian, or in the absence thereof, the child's
2 nearest relative[.]. **THE CHILD SHALL BE SUBJECTED TO A**
3 **COMMUNITY-BASED INTERVENTION PROGRAM SUPERVISED BY**
4 **THE LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER,**
5 **UNLESS THE BEST INTEREST OF THE CHILD REQUIRES THE**
6 **REFERRAL OF THE CHILD TO A YOUTH [REHABILITATION CENTER]**
7 **CARE FACILITY MANAGED BY THE DEPARTMENT OF SOCIAL**
8 **WELFARE AND DEVELOPMENT (DSWD), LOCAL GOVERNMENT**
9 **UNITS (LGUs), OR LICENSED AND/OR ACCREDITED NGOs**
10 **MONITORED BY THE DSWD.** [Said authority shall give notice to t] The local
11 social welfare and development officer [who will] **SHALL** determine the
12 appropriate programs **FOR THE CHILD WHO HAD BEEN RELEASED,** in
13 consultation with the child and [to] the person having custody over the child. If
14 the parents, guardians or nearest relatives cannot be located, or if they refuse to
15 take custody, the child may be released to any of the following:

16 (1) a duly registered nongovernmental or religious organization;

17 (2) a barangay official or a member of the Barangay Council for the Protection of
18 Children (BCPC);

19 (3) a local social welfare and development officer; or when and where
20 appropriate, the DSWD.

21 [If the child referred to herein has been found by the Local Social Welfare and
22 Development Office to be abandoned, neglected or abused by his parents, or in
23 the event that the parents will not comply with the prevention program,] **IF THE**
24 **[BEST INTEREST OF THE CHILD REQUIRES THAT HE OR SHE BE**
25 **PLACED IN A YOUTH REHABILITATION CENTER] CHILD HAS BEEN**
26 **FOUND BY THE LSWDO TO BE DEPENDENT, ABANDONED OR**
27 **NEGLECTED AND THE BEST INTEREST OF THE CHILD REQUIRES**

1 THAT HE OR SHE BE PLACED IN A YOUTH [REHABILITATION
2 CENTER] CARE FACILITY, THE CHILD'S PARENTS OR GUARDIANS
3 SHALL EXECUTE A WRITTEN AUTHORIZATION FOR THE
4 VOLUNTARY COMMITMENT OF THE CHILD; PROVIDED, THAT IF
5 THE CHILD HAS NO PARENTS OR GUARDIANS OR IF THEY REFUSE
6 OR FAIL TO EXECUTE THE WRITTEN AUTHORIZATION FOR
7 VOLUNTARY COMMITMENT, the proper petition for involuntary
8 commitment shall be IMMEDIATELY filed by the DSWD or the Local Social
9 Welfare and Development Office pursuant to Presidential Decree No. 603, AS
10 AMENDED, otherwise known as "The Child and Youth Welfare Code" AND
11 THE SUPREME COURT RULE ON COMMITMENT OF CHILDREN;
12 PROVIDED FURTHER, THAT THE MINIMUM AGE FOR CHILDREN
13 COMMITTED TO A YOUTH [REHABILITATION CENTER] CARE
14 FACILITY SHALL BE TWELVE (12) YEARS OLD.

15 SEC. 20-A. *REPETITION OF OFFENSES.* -- A CHILD WHO IS
16 FIFTEEN YEARS OF AGE OR BELOW FIFTEEN (15) YEARS OF AGE
17 AND WHO COMMITS AN OFFENSE FOR THE THIRD TIME OR
18 OFTENER SHALL BE DEEMED A NEGLECTED CHILD UNDER
19 PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND SHALL
20 UNDERGO AN INTENSIVE INTERVENTION PROGRAM[S]
21 SUPERVISED BY THE LOCAL SOCIAL WELFARE AND
22 DEVELOPMENT OFFICER; PROVIDED THAT, IF THE BEST
23 INTEREST OF THE CHILD REQUIRES THAT HE OR SHE BE PLACED
24 IN A YOUTH [REHABILITATION CENTER] CARE FACILITY, THE
25 CHILD'S PARENTS OR GUARDIANS SHALL EXECUTE A WRITTEN
26 AUTHORIZATION FOR THE VOLUNTARY COMMITMENT OF THE
27 CHILD; PROVIDED, THAT IF THE CHILD HAS NO PARENTS OR
28 GUARDIANS OR IF THEY REFUSE OR FAIL TO EXECUTE THE

1 WRITTEN AUTHORIZATION FOR VOLUNTARY COMMITMENT,
2 THE PROPER PETITION FOR INVOLUNTARY COMMITMENT
3 SHALL BE IMMEDIATELY FILED BY THE DSWD OR THE LOCAL
4 SOCIAL WELFARE AND DEVELOPMENT OFFICE PURSUANT TO
5 PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND THE
6 SUPREME COURT RULE ON COMMITMENT OF CHILDREN;
7 PROVIDED FURTHER, THAT THE MINIMUM AGE FOR CHILDREN
8 COMMITTED TO A YOUTH [REHABILITATION CENTER] CARE
9 FACILITY SHALL BE TWELVE (12) YEARS OLD.

10 SEC. 20-B. *HEINOUS CRIMES COMMITTED BY CHILDREN WHO*
11 *ARE EXEMPT.* -- A CHILD WHO IS FIFTEEN YEARS OF AGE OR
12 BELOW FIFTEEN (15) YEARS OF AGE AND WHO COMMITS A
13 PARRICIDE, MURDER, INFANTICIDE, KIDNAPPING AND SERIOUS
14 ILLEGAL DETENTION WHERE THE VICTIM IS KILLED OR RAPED,
15 ROBBERY WITH HOMICIDE OR RAPE, DESTRUCTIVE ARSON,
16 RAPE, OR CARNAPPING WHERE THE DRIVER OR OCCUPANT IS
17 KILLED OR RAPED SHALL BE DEEMED A NEGLECTED CHILD
18 UNDER PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND, IF THE
19 BEST INTEREST OF THE CHILD SO REQUIRES, SHALL BE PLACED
20 IN A YOUTH [REHABILITATION CENTER] CARE FACILITY. THE
21 CHILD'S PARENTS OR GUARDIANS SHALL EXECUTE A WRITTEN
22 AUTHORIZATION FOR THE VOLUNTARY COMMITMENT OF THE
23 CHILD; PROVIDED, THAT IF THE CHILD HAS NO PARENTS OR
24 GUARDIANS OR IF THEY REFUSE OR FAIL TO EXECUTE THE
25 WRITTEN AUTHORIZATION FOR VOLUNTARY COMMITMENT,
26 THE PROPER PETITION FOR INVOLUNTARY COMMITMENT
27 SHALL BE IMMEDIATELY FILED BY THE DSWD OR THE LOCAL
28 SOCIAL WELFARE AND DEVELOPMENT OFFICE PURSUANT TO

1 PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND THE
2 SUPREME COURT RULE ON COMMITMENT OF CHILDREN;
3 PROVIDED FURTHER, THAT THE MINIMUM AGE FOR CHILDREN
4 COMMITTED TO A YOUTH [REHABILITATION CENTER] CARE
5 FACILITY SHALL BE TWELVE (12) YEARS OLD.

6 SEC. 20-C. *EXPLOITATION OF CHILDREN FOR COMMISSION*
7 *OF CRIMES.* -- ANY PERSON WHO, IN THE COMMISSION OF A
8 CRIME, MAKES USE, TAKES ADVANTAGE OF, OR PROFITED FROM
9 THE USE OF CHILDREN, SHALL BE IMPOSED THE PENALTY
10 PRESCRIBED BY LAW FOR THE CRIME COMMITTED IN ITS
11 MAXIMUM PERIOD.

12 SEC. 20-D. *ASSISTANCE TO VICTIMS OF OFFENSES*
13 *COMMITTED BY CHILDREN.* – [IF] THE VICTIM OF THE OFFENSE
14 COMMITTED BY A CHILD [IS ALSO A CHILD,] AND THE VICTIM'S
15 FAMILY SHALL BE PROVIDED THE APPROPRIATE ASSISTANCE
16 AND PSYCHOSOCIAL INTERVENTION [SHALL BE PROVIDED TO
17 THE VICTIM-CHILD AND HIS OR HER FAMILY] BY THE LOCAL
18 SOCIAL WELFARE AND DEVELOPMENT OFFICER AND THE
19 DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT [AS
20 PROVIDED IN REPUBLIC ACT NO. 7610, OTHERWISE KNOWN AS
21 THE "SPECIAL PROTECTION OF CHILDREN AGAINST CHILD
22 ABUSE, EXPLOITATION AND DISCRIMINATION ACT" AND ITS
23 IMPLEMENTING RULES AND REGULATIONS].

24 Sec. [5] 6: Section 22 of Republic Act No. 9344 is hereby amended to
25 read as follows:

26 SEC. 22. *Duties During Initial Investigation.* - The law enforcement
27 officer shall, in his/her investigation, determine where the case involving the child
28 in conflict with the law should be referred.

1 The taking of the statement of the child shall be conducted in the presence
2 of the following: (1) child's counsel of choice or in the absence thereof, a lawyer
3 from the Public Attorney's Office; (2) the child's parents, guardian, or nearest
4 relative, as the case may be; and (3) the local social welfare and development
5 officer. In the absence of the child's parents, guardian, or nearest relative, and the
6 local social welfare and development officer, the investigation shall be conducted
7 in the presence of a representative of an NGO, religious group, or member of the
8 BCPC.

9 **THE SOCIAL WORKER SHALL CONDUCT AN INITIAL**
10 **ASSESSMENT TO DETERMINE THE APPROPRIATE**
11 **INTERVENTIONS AND WHETHER THE CHILD ACTED WITH**
12 **DISCERNMENT, USING THE ASSESSMENT TOOLS DEVELOPED BY**
13 **THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT.**
14 **THE INITIAL ASSESSMENT SHALL BE WITHOUT PREJUDICE TO**
15 **THE PREPARATION OF A MORE COMPREHENSIVE CASE STUDY**
16 **REPORT.** [After the initial investigation, t] The local social worker [conducting
17 the same may] **SHALL** do either of the following:

- 18 a) Proceed in accordance with Section 20 if the child is fifteen (15)
19 years or below or above fifteen (15) but below eighteen (18)
20 years old, who acted without discernment; and
21 b) (b) If the child is above fifteen (15) years old but below eighteen
22 (18) and who acted with discernment, proceed to diversion
23 under the following chapter.

24 Sec. [6] 7: Section 33 of Republic Act No. 9344 is hereby amended to read as
25 follows:

26 **SEC. 33. Preliminary Investigation and Filing of Information.** - The
27 prosecutor shall conduct a preliminary investigation in the following instances: (a)

1 when the child in conflict with the law does not qualify for diversion: (b) when
2 the child, his/her parents or guardian does not agree to diversion as specified in
3 Sections 27 and 28; and (c) when considering the assessment and
4 recommendation of the social worker, the prosecutor determines that diversion is
5 not appropriate for the child in conflict with the law.

6 Upon serving the subpoena and the affidavit of complaint, the prosecutor
7 shall notify the Public Attorney's Office of such service, as well as the personal
8 information, and place of detention of the child in conflict with the law.

9 Upon determination of probable cause by the prosecutor, the information
10 against the child shall be filed before the Family Court within forty-five (45) days
11 from the start of the preliminary investigation. **THE INFORMATION MUST**
12 **ALLEGE THAT THE CHILD ACTED WITH DISCERNMENT.**

13 Sec. [7] 8: Section 57 of Republic Act No. 9344 is hereby amended to read as
14 follows:

15 *SEC. 57. Status Offenses.* - Any conduct not considered an offense or not
16 penalized if committed by an adult shall not be considered an offense and shall
17 not be punished if committed by a child.

18 **CURFEW ORDINANCES ENACTED BY LOCAL**
19 **GOVERNMENTS SHALL BE FOR THE PROTECTION OF CHILDREN.**
20 **NO PENALTY SHALL BE IMPOSED ON CHILDREN FOR CURFEW**
21 **VIOLATIONS. INSTEAD THE CHILD SHALL BE BROUGHT TO HIS**
22 **OR HER RESIDENCE OR TO THE BARANGAY HALL TO BE**
23 **FETCHED BY HIS OR HER PARENTS. THE ORDINANCE SHALL**
24 **ALSO PROVIDE FOR INTERVENTION PROGRAMS, SUCH AS**
25 **COUNSELLING, ATTENDANCE IN GROUP ACTIVITIES FOR**

1 **CHILDREN, AND, FOR THE PARENTS, ATTENDANCE IN**
2 **PARENTING EDUCATION SEMINARS.**

3 Sec. [8] 9: *Separability Clause* – If any provision of this Act is declared invalid
4 or unconstitutional, the provisions not affected thereby shall continue to be in full force
5 and effect.

6 Sec. [9] 10: *Repealing Clause.* – All laws, decrees or rules inconsistent with the
7 provisions of this Act are hereby repealed or modified accordingly.

8 Sec. [10] 11: *Effectivity Clause* – This Act shall take effect fifteen (15) days after
9 the completion of its publication in at least two (2) national newspapers of general
10 circulation.

 Approved,