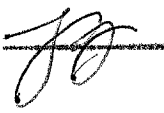


13<sup>th</sup> Congress of the Republic )  
of the Philippines )  
First Regular Session )

'04 JUN 30 P10:45

SENATE

RECEIVED BY: 

S. No. 1122

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*Introduced by Senator Aquilino Q. Pimentel Jr.*

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### EXPLANATORY NOTE

Only July 20, 1990, the Philippine Senate, through Resolution No. 109, ratified the Convention on the Rights of Children paving the way for the implementation of its provisions in the domestic level.

Articles 37, 38 and 39 of the said convention deal with the treatment of juvenile persons. These articles, among other things, prohibit torture, the imposition of cruel, inhuman and degrading treatment or punishment against children, and provide for the promotion of the physical and psychological recovery and social integration of a child victim. Moreover, every child accused of having infringed the penal laws is presumed innocent until proven otherwise.

Aside from this instrument, there are three International guidelines on Juvenile Justice System, namely: the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines); and the United Nations Rules for the Protection of Juvenile Deprived of their Liberty.

This bill seeks to incorporate the principles of these international instruments on juvenile justice system.

Under this bill, a child 12 years of age or under at the time of the commission of the crime is exempt from criminal liability, but shall be placed under delinquency prevention program provided herein. The same exemption applies to a child above 12 but below 15, unless he/she acted with discernment.

A system of diversion as an alternative measure to court proceedings for juvenile persons is introduced. It aims to provide a continuing program for the rehabilitation and re-integration of the child offender. The system involves the Katarungan Pambarangay, police and prosecution.

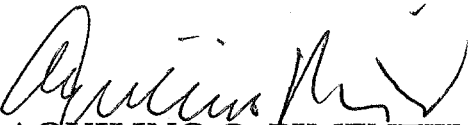
Under this proposed measure, community based services and programs are developed for the prevention of juvenile delinquency. A comprehensive juvenile delinquency prevention plan shall be instituted in the local government units, in coordination with lead government agencies like the Department of Justice, Department of Education, Culture and Sports, the Department of Social Welfare and Development and related agencies.

The Office of the Juvenile Justice and Delinquency Prevention to be created and placed under the DOJ is tasked to oversee and supervise the implementation of this proposed Act, and to monitor and assess the delinquency prevention programs of national and local governments.

The Philippine National Police shall designate a Child and Youth Relations Officers or Unit (CYRO/CYRU) in every city or municipality to handle cases involving children in conflict with the law.

To afford full protection for children, the crimes of vagrancy, prostitution and mendicancy shall not be applied to them.

The justice system in the country will greatly improved if the best interests of the children are taken into primordial consideration. The passage of this bill therefore is earnestly requested.

  
AQUILINO Q. PIMENTEL JR.

13<sup>th</sup> Congress of the Republic )  
of the Philippines )  
First Regular Session )

'04 JUN 30 P10:46

SENATE RECEIVED BY: 

S. No. 1122

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*Introduced by Senator Aquilino Q. Pimentel Jr.*

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**AN ACT**  
**ESTABLISHING A COMPREHENSIVE JUVENILE JUSTICE**  
**SYSTEM AND DELINQUENCY PREVENTION PROGRAM,**  
**CREATING THE OFFICE OF JUVENILE JUSTICE AND**  
**DELINQUENCY PREVENTION UNDER THE DEPARTMENT OF**  
**JUSTICE, APPROPRIATING FUNDS THEREFOR AND FOR**  
**OTHER PURPOSES**

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

**TITLE I. GOVERNING PRINCIPLES AND STRUCTURES N THE**

**ADMINISTRATION OF JUVENILE JUSTICE**

**CHAPTER I. GENERAL PRINCIPLES AND POLICIES**

**SECTION 1. *Title and Scope.*** - This Act shall be known as " The Juvenile Justice and Delinquency Prevention Act of 2004". shall cover the different stages involving children in conflict with the law from prevention to rehabilitation and reintegration into society.

**SEC. 2. *Framework of Restorative Justice.*** - This Act shall adopt the framework of restorative justice which aims at rehabilitating the child, providing restitution in favor of the victim and fostering peace in the community.

**SEC. 3. Declaration of State Policy.** - The State recognizes the vital role of youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

Pursuant to Article 40 of the United Nations Convention on the Rights of the Child, the State recognizes the right of every child who is alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, taking into account the child's age and desirability of promoting his/her reintegration. Whenever appropriate and desirable, the State shall adopt measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. It shall ensure that children are dealt with in a manner appropriate to their well-being by providing for, among others, a variety of disposition such as care, guidance and supervision orders, counseling, probation, foster care, educational and vocational training programs and other alternatives to institutional care.

The administration of juvenile justice shall take into consideration the cultural and religious perspective of the Filipino people, particularly the indigenous peoples and the Muslims consistent with the protection of the rights of children belonging to these communities.

**SEC. 4. Fundamental Principles on the Administration of Juvenile Justice and Delinquency Prevention.** - The State adopts the following fundamental principles:

1. The prevention of juvenile delinquency is an essential part of crime prevention in society.

2. Community -based services and programs should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should only be utilized as a means of last resort.
3. No child shall be subjected to harsh or degrading correction or punishment measures at home, in school or in any other institution.
4. No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.
5. A child deprived of his or her liberty shall be guaranteed the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial body and to a prompt decision on any such action.
6. The disposition taken by the competent authority on children in conflict with the law shall always be in proportion not only to the circumstances and the gravity of the offense but also to the circumstances and the needs of the child as well as to the needs of the society.
7. Restrictions on the personal liberty of children in conflict with the law shall be imposed only after careful consideration and shall be limited to the possible minimum degree.
8. Children detained in facilities shall be guaranteed the benefit of meaningful activities and programs which would promote and sustain their health and self-respect, to foster their sense of responsibility and

encourage those attitudes and skills that will assist them in developing their potential as members of society.

9. Neither capital punishment nor life imprisonment without possibility of parole or release shall be imposed for any crime committed by children.
10. Children deprived of personal liberty shall not for any reason related to their status be denied the civil, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty.
11. The competent authorities shall constantly seek to increase the awareness of the public that the care of detained children in conflict with the law and the preparation for their return to society is an invaluable social service.

**SEC. 5. *Adoption of International Standards on Juvenile Justice.*** - The provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice or "Beijing Rules", United Nations Guidelines for the Prevention of Juvenile Delinquency or "The Riyadh Guidelines", U.N. Rules for the Protection of Juveniles Deprived of Liberty shall be adopted as part of this Act.

**SEC. 6. *Best Interest of the Child and Child Participation.*** - Proceedings before any authority shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express himself or herself freely. Participation of children in program and policy formulation and implementation related with juvenile justice and delinquency prevention shall be ensured by the concerned government agency.

**SEC. 7. *Minimum Age of Criminal Responsibility.*** - A child twelve (12) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, he/she shall be subjected to a delinquency prevention program pursuant to Section 28 of this Act.

A child above twelve years but below fifteen years of age shall likewise be exempt from criminal liability, unless he/she has acted with discernment, in which case, such child shall be subjected to a delinquency prevention program and shall be proceeded against in accordance with this Act.

A child fifteen years and below eighteen years of age shall likewise be subjected to the appropriate proceedings as provided for in this Act.

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

**SEC. 8. *Determination of Age.*** - The child's age may be determined from the child's birth certificate, baptismal certificate or any other document such as affidavits. In the absence of these documents, age may be based on information from the child himself, testimonies of other persons or the physical appearance of the child. In case of doubt as to the age of the child, it shall be resolved in favor of minority.

Any person contesting the age of the child may file a case in a summary proceeding for the determination of age before the Family Court which shall, after notice, decide the case within forty-eight (48) hours from its receipt of the appropriate pleadings of all interested parties.

**SEC. 9. Rights of an Accused Child.** - Every child alleged as or accused of having infringed the penal law shall have the following rights in addition to those that are provided under existing law:

1. To be presumed innocent until proven guilty according to law;
2. To be informed promptly and directly of the charges against him or her, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defense;
3. To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
4. Not be compelled to give testimony or to confess guilt; to have the adverse witness examined and to obtain the participation and the examination of the witness on his or her behalf under conditions of equality;
5. If considered to have infringed the penal law, to have the decision and any measure imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body;
6. To have the free assistance of an interpreter if the child cannot understand or speak the language used;
7. To have his or her privacy fully respected in all stages of proceedings, and
8. Such other rights as may be availed of under existing laws.



## CHAPTER II. DEFINITIONS

SEC. 10. *Definition of Terms.* - The following terms as used in this Act shall be defined as follows:

- a. *Child* - shall refer to a person under the age of 18 years.
- b. *Child in conflict with the law* - shall refer to a person below eighteen years of age who is alleged as, accused of, or recognized as having committed an offense under Philippine laws.
- c. *Offense* - shall refer to any act or omission punishable by law.
- d. *Serious Offense* - shall refer to an offense punishable by imprisonment of more than six (6) years after considering the privileged mitigating circumstance of minority.
- e. *Deprivation of liberty* - shall refer to any form of detention or imprisonment or the placement of a person in public or private custodial setting, from which the person is not permitted to leave at will, by order of any judicial, administrative or other public authority.
- f. *Youth Detention Center* - shall refer to a child caring institution providing short term resident care for children in conflict with the law who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction.
- g. *Youth Rehabilitation Center* - shall refer to an institution that receives and rehabilitates children in conflict with the law or other disturbed children.
- h. *Take into custody* - shall refer to the moment when the child is arrested by law enforcement officers, barangay officials or any private person.
- i. *Detention* - shall refer to the effective limitation of the liberty of movement.

- j. *Juvenile Justice System* - shall mean proceedings starting from initial contact, including diversion proceedings, court proceedings after the filing of the proper information and until the disposition of the case against child.
- k. *Diversion* - shall refer to an alternative child-appropriate process of determining a child's responsibility for an alleged offense as well as in determining the measures, if any, to be undertaken by the child and other persons without resorting to formal court adjudication.
- l. *Diversion program* - shall refer to programs that the child is required to undergo after he is found responsible for an offense without resorting to formal court litigation.
- m. *Community-based Programs* - shall refer to the programs established for the purpose of rehabilitation and preparation of the child for re-integration into the community.
- n. *Child and Youth Relations Unit or Officer* - shall refer to the Children and Youth Relations Unit or Officer designated to handle cases involving children in conflict with the law.
- o. *Katarungang Pambarangay* - shall refer to a body created pursuant to Sections 408-422 of Republic Act No. 7160 otherwise known as the Local Government Code of 1991.
- p. *Special Prosecutor's Unit* - shall refer to a special section of the Prosecutor's Office of every city and municipality whose members/staff have been trained and assigned to conduct preliminary investigations and to prosecute cases of children who have been alleged as or accused of violating penal laws.
- q. *Special Child Prosecutor* - shall refer to the member of the Special Prosecutor's Unit.

- r. *Public Defenders for Children* - shall refer to a special section of the Public Attorney's Office (PAO) of every city and municipality who have been trained and assigned to defend cases involving children who have been alleged as or accused of violating penal laws.

## TITLE II. ADMINISTRATION OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

### CHAPTER I. GOVERNMENT AGENCIES INVOLVED

SEC. 11. *Existing Government Agencies; Their Functions.* - For effective implementation of this Act, appropriate coordinating mechanisms shall be established to rationalize the different programs on juvenile justice. For this purpose, the following government agencies shall execute their functions under this Act:

- a. *Council for the Welfare of Children (CWC).* - It shall coordinate the implementation and enforcement of all laws, evaluates the implementation of policy, and all programs and services relative to the promotion of child and youth welfare, advocates and recommends to the President and other appropriate agencies for implementation on a nationwide scale when appropriate, new innovative pilot programs and services for the general welfare of children and youth.
- b. *Department of Justice (DOJ).* - The Department of Justice shall, through the PAO, provide legal services to children in conflict with the law. It shall also assign Special Child Prosecutors in all cases involving children in conflict with the law.
- c. *Department of Social Welfare and Development (DSWD).* - It shall accredit institutions and organizations engaged in providing diversion

services, rehabilitation, counseling and other services for children in conflict with the law. The DSWD Regional Office shall establish, operate, promote and support, at the minimum, a Rehabilitation Center for Youth Offenders and, insofar as necessary and authorized by the Secretary of DSWD, other centers for youth offenders.

d. *Department of Education, Culture and Sports (DECS).* - It shall include in its programs delinquency prevention, provision of opportunities for the youth consistent with state policies under the Constitution and the teaching of the rights of the child.

e. *Department of Interior and Local Governments (DILG) and the Philippine National Police (PNP).* - It shall assist the President in the exercise of general supervision over local governments in the implementation of the plans and programs as provided in this Act.

The Philippine National Police shall designate a Children and Youth Relations Section or Unit to handle matters involving children in conflict with the law.

f. *Local Government Units (LGUs).* - Under this Act, provinces and cities shall establish separate youth detention centers. All LGUs shall also formulate and implement a three-year comprehensive juvenile delinquency and prevention plan.

g. *Commission on Human Rights.* - It shall strengthen the existing Child Rights Center by establishing a section or unit in every Regional Office of the Commission.

h. *Family Courts.* - Family Courts shall be established in every city or municipality in accordance with R.A. No. 8369

**SEC. 12. *Office of the Juvenile Justice and Delinquency Prevention***  
**(OJJDP)** - An Office of Juvenile Justice and Delinquency Prevention is hereby created and established under the Department of Justice headed by an Administrator with rank equivalent to an Undersecretary to oversee the implementation of this Act and ensure coordination among the concerned agencies as mentioned in Section 11 hereof. It shall be created within one year from the effectivity of this Act.

**SEC. 13. *Duties and Functions of the OJJDP.*** - The OJJDP shall have the following duties and functions:

1. To oversee and supervise the implementation of this Act;
2. To advise the President through the Department Secretary on all matters and policies relating to juvenile justice and delinquency prevention programs;
3. To assist agencies concerned with the administration of juvenile justice in the development of regulations in accordance with policies and provisions of this Act;
4. To conduct and support evaluations and studies of the performance and results achieved by delinquency prevention programs and activities of the local government units and other government agencies, and of the prospective performance and results that might be achieved by alternate programs and activities supplementary to or in lieu of those currently being administered;
5. To implement national juvenile delinquency programs and activities among national government agencies and other activities which may have an important bearing on the success of the entire juvenile delinquency effort;

6. To develop a comprehensive three to five year plan for juvenile justice, with the participation of government agencies concerned, NGO'S and youth organizations;
7. To collect relevant information and conduct a continuing research in relation to juvenile justice, analyze the data gathered for use in the improvement of the administration of juvenile justice and set up a mechanism to ensure that children themselves are involved in research and policy development;
8. To periodically review and appraise the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody;
9. To formulate and recommend policies, programs and strategies in consultation with children themselves for the prevention of juvenile delinquency as well as treatment and rehabilitation of children in conflict with the law;
10. To conduct inspections, through duly designated persons, on a regular basis in detention and rehabilitation facilities and to undertake spot inspections on their own initiative;
11. To conduct trainings for the personnel of the agencies involved in delinquency prevention and in the administration of the juvenile justice system.
12. To coordinate with the Council for the Welfare of Children and other agencies involved in juvenile justice in all its activities and functions; and
13. To publish an annual report on the implementation of this Act.

**SEC. 14. *Child Rights Center (CRC).*** - The existing Child Rights Center of the Commission on Human Rights shall be strengthened by establishing a section or unit in every Regional Office of the Commission. The Center shall ensure that the status, rights and interests of children are upheld.

**SEC. 15. *Duties and Functions of the Child Rights Center.*** - The CRC shall have the following duties and functions, in addition to those already being performed:

1. To investigate on complaints for violation of this Act and other violations of children's rights, take or support legal action or make recommendations for the prosecution of violators; and
2. To provide child advocacy services.

## CHAPTER II. OTHER INSTITUTIONS

**SEC. 16. *Other Institutions Focused on Juvenile Justice And Delinquency Prevention.*** - In addition to the child and youth welfare agencies defined under Section 117 of P.D. 603, institutions that can provide special services for children in need of parental supervision, guidance, care, counseling, diversion services and other programs for children in conflict with the law and their parents, may be established by private or public organizations.

**SEC. 17. *Accreditation of Agencies Established in Relation to Juvenile Justice.*** - The provisions under P.D. 603 related to child and youth welfare agencies, such as accreditation and licensing, shall be applicable to institutions created under the Section 15 of this Act. These institutions may enter into agreements with the police, local governments units, DSWD, DOJ and the Family

Courts to provide services, such as diversion programs, temporary shelter and counseling for children in conflict with the law.

The DSWD shall, in consultation with the Commission on Human Rights, formulate the standards and effect the accreditation of agencies established in relation to juvenile justice.

### TITLE III. PREVENTION OF JUVENILE DELINQUENCY

#### CHAPTER I. THE ROLE OF THE DIFFERENT SECTORS

**SEC. 18. *The Family.*** - The family shall be responsible for the primary socialization of children which is important in delinquency prevention. Governmental and social efforts to preserve the integrity of the family, including extended family, shall be pursued.

**SEC. 19. *The Educational System.*** - As far as practicable, educational institutions shall work together with parents, community organizations and agencies concerned with the activities of children.

Educational institutions shall also establish a system of dealing with students who commit offenses within the school.

**SEC. 20. *The Role of the Mass Media.*** - The mass media shall play an active role in the promotion of all programs relating to the prevention of drug abuse and other forms of delinquency by relaying consistent messages through a balanced approach.

**SEC. 21. *Establishment and Strengthening of Local Councils for the Protection of Children.*** - Local Councils for the Protection of Children shall be



established in all local government units and strengthened, where they have already been established, within one (1) year from effectivity of this Act.

The membership of these local councils shall be taken from responsible members of the community, including a representative of the youth, a representative of the local government unit concerned, and a representative from a non-government organization (NGO) or private agency concerned with the welfare of children.

These councils shall coordinate with and assist the local government unit concerned in adopting a comprehensive plan on delinquency prevention and be the primary agency to oversee its implementation.

**SEC. 22. *Appointment of Local Social Welfare and Development Officer.* -**

All provinces, cities and municipalities shall appoint local social welfare and development officers primarily tasked to assist children in conflict with the law. At the *barangay* level, a *Barangay* Council for the Protection of Children (BCPC) shall be established pursuant to Section 20 hereof which shall designate one of its members or a member of a child- focused NGO in the *barangay* or other responsible person for this purpose.

**SEC. 23. *The Sangguniang Kabataan (SK).* -** The *Sangguniang Kabataan* shall actively involve itself in the formulation and implementation of delinquency prevention and diversion programs in the community. It shall coordinate with local councils for the protection of children for this purpose. The SK shall, as far as practicable, devote at least 50% of its annual budget to delinquency prevention programs for the youth.

**CHAPTER II. COMPREHENSIVE DELINQUENCY PREVENTION PLANS**

**SEC. 24. *Development of a Comprehensive Juvenile Delinquency Prevention Plans.*** - Comprehensive juvenile delinquency prevention plans covering at least a three-year period shall be instituted in local government units from the *barangay* to the provincial level.

**SEC. 25. *Budget for Juvenile Delinquency Prevention Programs.*** - The local government units shall set aside in their annual budget an amount necessary to implement their respective juvenile delinquency programs.

**SEC. 26. *Planning Process.*** - The local government unit, in coordination with the local council for the protection of children, shall call on all sectors concerned, particularly the child focused institutions, non-government organizations, people's organizations, educational institutions and government agencies involved in delinquency prevention like the DSWD, PNP, DOJ. and DECS to participate in the planning process and implementation of programs related to delinquency prevention. Such delinquency prevention plans and programs shall be implemented consistent with the national program formulated and designed by the OJJDP.

**SEC. 27. *Periodic Review and Assessment of the Comprehensive Delinquency Prevention Plans.*** - The Comprehensive Delinquency Prevention Plans shall be reviewed and assessed yearly by the local government units in coordination with the local councils for the protection of children. Result of the assessment shall be submitted to the OJJDP every March 30 of the year.

**SEC. 28. *Delinquency Prevention Programs with Community- Approach.* -**

Delinquency prevention programs with community-approach shall be instituted by the local government units through the local councils for the protection of children, schools, youth organization and other concerned agencies. These local government units shall provide community-based services which respond to the special needs, problems, interest and concerns of young persons and which offer appropriate counseling and guidance to them and their families. These programs shall consist of three levels, namely:

- a. Primary prevention which includes general measures to promote social justice and equal opportunity, which tackles perceived root causes of offending such as poverty and other forms of marginalization.
- b. Secondary prevention which includes measures to assist children who are identified as being more particularly at risk, such as those whose parents are themselves in special difficulty or are not caring appropriately for them.
- c. Tertiary prevention which involves schemes to avoid unnecessary contact with the formal justice system and other measures to prevent repetition of the offense.

In all three levels of prevention, official intervention guided by fairness and equity shall be pursued primarily in the overall interest of the child.

**CHAPTER III. TREATMENT OF CHILDREN IN NEED OF PARENTAL  
SUPERVISION AND GUIDANCE**

**SEC. 29. *Children in Need of Parental Supervision and Guidance.*** - The following children may be considered as in need of parental supervision and care and shall be treated in accordance with this Chapter:

1. children below twelve years old who have committed an offense but are exempt from criminal responsibility;
2. Children used by criminals in the commission of crime;
3. Street children who may be runaways, abandoned, maltreated, abused and neglected; and
4. Those recommended by the OJJDP based on their research.

**SEC. 30. *Children Below the Age of Criminal Responsibility.*** -If it has been determined that the arrested child is twelve years old and below, the authority having initial contact with the child has the duty to immediately release the child to the custody of his/her parents or guardian or in the absence of the two, the child's nearest relative or any accredited child caring agency. If the offense alleged to be committed by the child has been determined as a serious offense, the child shall be referred to the local social welfare officer for the determination of appropriate prevention programs in consultation with the child and anyone having custody over his/her person.

**SEC. 31. *Children Used in Criminal Activities.*** - If it has been determined that the arrested child is only being used in committing the offense, the concerned authority has the duty to immediately release the child to the custody of his parent. If the offense alleged to have been committed by the child has been determined as a serious offense, the child shall be referred to the local social welfare officer for the determination of appropriate prevention programs in

consultation with the child and his parents or guardians or in the absence of the two, the child's nearest relative or family friend.

**SEC. 32. *Street children.*** - The local government units particularly in urban areas shall include programs for street children in their delinquency prevention programs, such as temporary shelter, referral to foster homes, child-caring institutions and eventual reintegration with the family or placement for adoption.

**SEC. 33. *Duty of the DSWD to File Proper Petition for Involuntary Commitment.*** - If the child referred to in Section 28 hereof has been found to be abandoned, neglected and abused by his parents, or in event that the parents will not comply with the prevention program, the proper petition for involuntary commitment shall be filed by the DSWD pursuant to Presidential Decree No. 603.

#### **TITLE IV. JUVENILE JUSTICE SYSTEM**

##### **CHAPTER I. INITIAL CONTACT WITH THE CHILD**

**SEC. 34. *Initial Contact with the Child.*** - The child comes into an initial contact with the juvenile justice system when he/she is: (1). Taken into the custody by a police officer or *barangay tanod*; (2). Taken into the custody by a private individual making a citizen's arrest; (3). Issued summons by the *Barangay Council*; and (4). Issued summons by the prosecutor's or judge of the municipal trial court as the case may be. The provisions of this chapter shall apply from initial contact with the child until the final disposition of the case in court.

**SEC. 35. *Duty to Inform the Child of His/Her Offense.*** - The competent authorities are duty-bound to explain to the child in a language known and understood by him/her the consequences of his/her acts and/or omission. In the presence of the parents or guardians, the child's responsibility for the commission of any offense shall be explained to him or her with a view towards counseling and rehabilitating him or her avoiding his or her contact with the criminal justice system, and indemnifying the victims if necessary in accordance with law.

**SEC. 36. *Procedure of Taking the Child into Custody.*** - From the moment a child is taken into custody by any of the persons authorized, he/she shall:

1. Immediately inform the child of the reason for such custody and advise the child of his or her rights in a language that is understood by the child;
2. He or she shall identify himself to the child and present identification paper if he/she is not in uniform;
3. Not employ unnecessary force or sexual advances during such proceedings;
4. Not use vulgar or profane words;
5. Not use handcuffs or other instruments of restraint on the child unless absolutely necessary;
6. Notify the local social welfare and development officer within 6 hours, as far as practicable, from the time the apprehension is made, who shall in turn notify the parents or guardians within another 6 hours from such custody; and
7. Take the child immediately after apprehension to the proper medical or health officer for a thorough physical and mental examination.

Whenever the treatment of any physical or mental defect of a child is required, steps shall be immediately undertaken to provide the same.

For private individuals making a citizen's arrest, he/she shall immediately turn over the child to the police.

**SEC. 37. *Initial Inquiry.*** - The authority who has initial contact with the child shall conduct an initial inquiry to determine the following:

1. The age of the child pursuant to Section 7 of this Act;
2. The imposable penalty of the offense for which the child was apprehended or summoned in order to determine where the case should be referred to.

The initial inquiry shall be conducted in the presence of the child's parents or guardian, local social welfare and development officer, the nearest relative member of child-focused group, religious group or BCPC member.

**SEC. 38. *Duty After Initial Inquiry.*** - After the initial inquiry, the authority conducting initial inquiry may do any of the following:

- a. Proceed in accordance with Section 30 if the child is 12 years old and below;
- b. If the child is above 12 years old, he may be referred to the following:
  1. *Katarungang Pambarangay*, if the imposable penalty for the offense is equal to or less than one (1) year or a fine not exceeding P5,000: Provided, *That* in determining the penalty of the offenses cognizable by the *Katarungang Pambarangay*, the provision of Section 53 hereof shall apply.
  2. Child and Youth Relations Unit, as provided in Chapter II (D), if the prescribed penalty for the offense charged exceeds one (1) year

after considering the privileged mitigating circumstance of minority and regardless of imposable fine, for further investigation, unless the case was filed directly before the Office of the Prosecutor in which case he shall be the one to conduct the investigation.

## CHAPTER II. DIVERSION

**SEC. 39. *System of Diversion.*** - Children in conflict with the law shall as much as possible be referred to alternative measures without undergoing court proceedings subject to the conditions hereinafter provided.

**SEC. 40. *Levels of Diversion.*** - Diversion shall be conducted at three levels namely: (a) *Katarungang Pambarangay*, (b) police, and (c) prosecution. The *Lupong Tagapamayapa*, the CYRU and the special child prosecutors are the competent authorities to conduct diversion proceedings.

**SEC. 41. *Indigenous Modes of Diversion.*** - Indigenous modes of conflict resolution in harmony with international and national human rights and child rights standards shall be resorted to and encouraged. The child's and his/her family's active participation in efforts towards conflict-resolution shall be optimized. The family shall be held answerable as well as exercise care and supervision over the person of the child.

**SEC. 42. *Referral of the case to the Special Prosecutor's Unit.*** - The competent authorities shall refer the case to the office of the Special Child Prosecutor for preliminary investigation to determine whether or not a prima facie case exists.



**SEC. 43. Admission of the act alleged.** - If the child voluntarily admits the commission of the act alleged, the competent authorities may propose a diversion program to be undertaken by the child. The proposed diversion program, if accepted, must be in writing and signed by the child and his/her parents or legal guardian.

If the child does not admit the commission of the act alleged and the weight of the evidence presented shows that the child conclusively committed such act, the competent authorities shall endeavor to make the child realize his responsibility and obligation arising from the commission of such act as well as its consequence.

Any admission of a child during any stage of the diversion proceedings, for an act alleged shall be inadmissible in evidence against the child in any proceeding should the diversion proceeding fail.

**SEC. 44. Diversion Programs; When proper.** - Where the parties or the competent authorities decide that the child must undergo a diversion program, such a continuing program for the rehabilitation and re-integration of the child shall be formulated with the cooperation of the complainant and the child.

**SEC. 45. Factors in Determining Diversion Program.**- In determining whether diversion is appropriate and desirable, the following factors shall be taken into consideration:

1. The nature and circumstances of the offense charged;
2. The frequency and the severity of its occurrence;
3. The character and reputation of the child;
4. The circumstances of the accused child (e.g. age, maturity, intelligence, etc.);

5. The influence of the family and environment on the growth of the child;
6. The emotional relief of the victim;
7. The weight of the evidence against the child; and
8. The safety of the community.

**SEC. 46. *Criteria for formulating Diversion Programs.*** - In formulating a diversion program, the individual characteristics and the peculiar circumstances of the child shall be used to formulate an individualized treatment. The following factors shall be considered in formulating a diversion program of the child:

1. The child's feelings of remorse for the offense he or she committed;
2. The parents' or legal guardians' ability to guide and supervise the child;
3. The victim's views about the propriety of the measures to be imposed; and
4. The availability of community based programs for rehabilitation and reintegration of the child.

**SEC. 47. *Diversion Programs.*** - The diversion program shall include adequate socio-cultural and psychological responses and services for the child.

Diversion programs shall include, but not limited to, the following:

1. written or oral reprimand or citation;
2. restitution of property;
3. reparation of the damage caused;
4. indemnification of consequential damages;
5. confiscation and forfeiture of the proceeds or instruments of the crime;

6. fine;
7. payment of cost of the proceedings;
8. written or oral apology;
9. guidance and supervision orders;
10. counseling for the child and the family;
11. trainings, seminars, lectures on: (i) anger management skills; (ii) problem solving and/or conflict resolution skills; (iii) values formation; and, (iv) other skills which will aid the child to deal with situations which can lead to repetition of the offense;
12. community based programs available in the community; and,
13. institutional care and custody.

**SEC. 48. *Criteria of Community-Based Programs.*** Every city and municipality shall establish program, through the local government unit, that will focus on the rehabilitation and re-integration of the child. All programs shall meet the criteria to be established by OJJDP which shall take into account the purpose of the program, the need for the consent of the child and his/her parents or legal guardians, and the participation of the child-centered agencies whether public or private.

**SEC. 49. *Community-Based Programs.*** - Community-based programs shall consist of, but shall not be limited to (1) community service; and (2) membership in- civic and/or religious organizations.

**SEC. 50. *Conditions for Diversion Programs.*** - In all cases where a child is required to undergo a diversion program, the following conditions shall be mandatory:

1. A contract of diversion containing the diversion program to be undergone by the child shall be signed by the authority concerned and the child and his/her parents or legal guardian;
2. The child shall present himself or herself to the competent authorities that imposed the diversion program at least once a month for reporting and evaluation of the effectiveness of the program;
3. The child shall cooperate and faithfully comply with the conditions in the contract;
4. Competent authorities and/or the local social welfare and development officer shall visit the child's home for surprise visits; and
5. The child and other parties concerned shall satisfy other conditions related to the diversion program as long as such conditions are not contrary to law, moral and good customs.

### CHAPTER III. KATARUNGANG PAMBARANGAY

**SEC. 51. *Applicability.*** - Unless otherwise provided in this Act, the provisions of the *Katarungang Pambarangay* Law are hereby adopted and shall apply as part of the diversion process of the administration of juvenile justice.

The proceedings in the *Katarungang Pambarangay* shall apply even if both parties actually reside or are in *barangays* of different cities or municipalities.

**SEC. 52. *Jurisdiction.*** - The *Katarungang Pambarangay* shall have jurisdiction over offenses punishable by imprisonment not exceeding one (1) year or a fine not exceeding Five Thousand Pesos (P5,000).

**SEC. 53. *Determination of Penalty.*** - In determining the penalty of the offense for purposes of determining the jurisdiction of the barangay conciliation, the privileged mitigating circumstance of minority shall be applied as provided in Section 68 of the Revised Penal Code. If, after having applied the mitigating circumstance of minority, the minimum penalty is imprisonment of less than one year, the case shall fall under the jurisdiction of *Katarungang Pambarangay*.

**SEC. 54. *Trainings of the Lupong Tagapamayapa.*** - In addition to the requirement provided in Section 399 of the Local Government Code, the members constituting the *Lupon* shall be provided with regular training by the LGU concerned, in cooperation with the local social welfare and development officer and NGOs specializing on child protection, which trainings shall include, among others, conflict management and mediation skills, paralegal seminars on laws affecting children, and child psychology.

**SEC. 55. *Venue.*** - (a) All disputes shall be brought in the *barangay* where the child resides.

(b) Where the child's residence cannot be ascertained as in the case of the homeless, abandoned or street children, or where the child's residence is in another place and it is not practicable for offended party to settle the dispute in the said child's residence, the case shall be brought to the *barangay* where the child is generally known by the people or where he or she normally frequents or to the *barangay* where the offense was committed at the instance of the offended party taking into consideration the best interests of the child in all circumstances.

**SEC. 56. *Assistance of Child by Parents, others.***- Aside from the requirement under Section 82 that all proceedings shall be in the presence of the

persons enumerated therein, any agreement resulting in the barangay conciliation shall be signed by the child and his or her parents or legal guardian.

**SEC. 57. *Referral to Diversion Programs.*** - In the process of conciliation, the *Lupon* or the *Pangkat* as the case may be shall encourage the inclusion of community service program or other forms of diversion in the settlement.

**SEC. 58. *Arbitration; when proper.*** - In all cases where the parties cannot reach an amicable settlement through mediation and conciliation proceedings, the *Lupong Tagapamayapa* shall *motu proprio* have the authority to go through arbitration proceedings.

#### CHAPTER IV. CHILD AND YOUTH RELATIONS UNIT OF THE PNP

**SEC. 59. *Designation of Officer or Unit to Handle Cases Involving Children in Conflict with the Law.*** - The PNP shall designate a Child and Youth Relations Officer or Unit (CYRO or CYRU) in every city or municipality to handle cases involving children in conflict with the law.

**SEC. 60. *Procedure before the CYRU.*** - Cases involving children in conflict with the law shall be referred to the CYRU who shall conduct an initial inquiry in accordance with Section 37 of this Act.

**SEC. 61. *Duty of the CYRU.*** - After the initial inquiry, if the child is found to be twelve years old and above and the offense does not fall under the *Katarungang Pambarangay*, the CYRU or the CYRO shall conduct further investigation of the child in accordance with the provisions of this Act.

**SEC. 62. *Manner of Investigation of a Child in Conflict with the Law.* -**

A child shall only be investigated or his statement secured in the presence of his parents/guardian, the nearest relative, member of child-focused group, religious group, BCPC member or the local social welfare and development officer, and his/her counsel. In their presence, the child shall be informed of his/her constitutional rights to remain silent and to have competent and independent counsel of his own choice. If the child cannot afford the services of counsel, he/she must be provided with one, free of charge.

No torture, force, violence, threat, intimidation or any other means that vitiate the free will shall be used against the child and any confession or admission in violation of these rights shall be inadmissible in evidence against him/her.

**SEC. 63. *Subject of the Investigation of Child in Conflict with the Law.* -**

In the conduct of investigation, the following shall be considered:

1. the facts of the case, including the details necessary to determine the cause or causes of action in court;
2. the previous police record, if any
3. the previous court or social agency records, if any
  1. the attitudes of the child, his/her parents and the complainant toward the act; and
  2. the adjustment of the child in the home, school and community.

**SEC. 64. *Diversion; when proper.* -** After investigation, if the imposable penalty for the offense, after considering the privileged mitigating circumstance of minority, is less than two years imprisonment, the CYRU/CYRO concerned in

consultation with the child, his/her parents or guardians and the local social welfare and development officer shall adopt the appropriate diversion program pursuant to Sections 46-52 of this Act.

If the child has no parent, any of the following may petition the court to be appointed as the child's legal guardian: (1) the nearest relative, (2) a member of a child-focused group, (3) a member of a religious group (4) a member of the BCPC. If found to be neglected, abandoned and abused, aside from the above dispositions, the DSWD shall file a petition for involuntary commitment of the child pursuant to P.D. 603.

**SEC. 65. *Duty of CYRU when there is no diversion.*** - Where the offense does not fall under the preceding paragraph or if the child, his parents or guardian do not consent to a diversion, the CYRU shall forward the records of the case of the child under custody to the prosecutor or judge concerned for the conduct of inquest and/or preliminary investigation to determine whether or not the child should remain under custody and correspondingly charged in court. The document transmitting said records shall display the word "child" in bold letters.

## CHAPTER V. THE PROSECUTOR'S OFFICE

**SEC. 66. *Duty of the Prosecutor's Office.*** - Any case involving a child in conflict with the law filed before the Prosecutor's Office shall be referred to the Special Child Prosecutor's Unit to be established in every city or municipality as provided for in this Act.



**SEC. 67. *Diversion from formal trial; when proper.*** - The Special Child Prosecutor shall conduct a preliminary investigation taking into consideration the circumstances of the child alleged as or accused of having committed an offense.

The proceedings shall be conducted in the manner that the rights of the child are protected, particularly the right to counsel. If the evidence warrants the filing of formal charges, the special child prosecutor pursuant to the principle of minimum intervention shall be diverted subject to the following conditions:

1. The child voluntarily admits the commission of the offense;
2. The child and his/her parents or legal guardian consented to such diversion; and
3. The imposable penalty after considering the privileged mitigating circumstance of minority does not exceed four years imprisonment.

**SEC. 68. *Alternative to Formal Court Process.*** - Where diversion is proper, the special child prosecutor shall, in consultation with the child, his or her parents or guardians, the offended party and the SSCD, determine the type of diversion programs the child shall be subjected to within sixty (6) days from the date of referral.

**SEC. 69. *Filing of Complaint or Information.*** - Where the conditions for diversion under Section 50 are not present, the corresponding criminal complaint/information shall be filed against the child before the Family Court within sixty (60) days from the start of the preliminary investigation.

**SEC. 70. *Application for Warrant of Arrest; Bail.*** - The application for issuance of a warrant of arrest filed by the special child prosecutor shall include a

recommendation for bail, specifying the amount thereof pursuant to the Rules of Court. This provision shall apply in all cases even if the offense is classified as non-bailable.

**SEC. 71. *Release on Recognizance.*** - Where a child is detained, the court may, in its discretion and taking into consideration the peculiar circumstances of the child and upon the recommendation of the DSWD, local social welfare and development officer or SSCD, release the child alleged to have committed an offense on recognizance to the custody of his parents or other suitable person who shall be responsible for his appearance whenever required by the court.

#### **CHAPTER VI. PUBLIC DEFENDERS FOR CHILDREN**

**SEC. 72. *Public Defenders for Children.*** - The Chief Public Attorney of the Public Attorney's Office (PAO) shall designate Public Defenders for Children to handle cases involving children in conflict with the law who cannot be represented by competent and independent counsel of their own choice. Such public defenders for children shall provide free legal services to these children in all stages of the proceedings.

**SEC. 73. *Duties of Counsel for the Child.*** - The representative from the Public Defenders for Children shall see to it that the rights of the child are respected and protected. Counsel shall, in all cases where it is allowed by law, insist that diversion proceedings be undertaken whenever a child is accused of or alleged or recognized as having committed an offense. In all cases where such rights are violated, counsel shall file a complaint before the Child Rights Center for the conduct of investigations.

## CHAPTER VII. COURT PROCEEDINGS

**SEC. 74. *Duty of the Social Services and Counseling Division.*** - Once the case of an accused child is referred to the Family Court, the SSSCD shall provide appropriate social services to the child and recommend the proper social action as mandated by the Family Courts Act.

**SEC. 75. *Settlement and Plea Bargaining.*** - The Court shall explore possibilities of settlement and plea-bargaining as a last diversion measure.

**SEC. 76. *Automatic Suspension of Sentence.*** - Pursuant to the Family Courts Act, once the child is found guilty of the offense charged, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred. However, the sentence shall be suspended without need of application.

**SEC. 77. *Various Disposition Measures.*** - Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose, among others, any or a combination of the following disposition measures:

1. Care, guidance and supervision orders;
2. Probation;
3. Community service orders;

4. Financial penalties, compensation and restitution;
5. Intermediate treatment and other treatment orders;
6. Orders to participate in group counseling and similar activities;
7. Orders for living communities or Open centers; or,
8. Commitment order to Youth Rehabilitation Center of the DSWD and other Centers for children in conflict with the law authorized by the Secretary of the DSWD.

The SSCD shall monitor the compliance with any of the above disposition measures.

**SEC. 78. *Probation as an Alternative to Imprisonment.*** - The court may, after it shall have convicted and sentenced a child in conflict with the law and upon application at any time of the said child, place him on probation in lieu of service of his sentence taking into account the best interest of the child.

**SEC. 79. *Discharge of Child in Conflict with the Law.*** - Upon recommendation of a duly authorized officer, an appropriate center or the duly accredited child caring agency which has custody over the child and the SSCD, the court shall dismiss the case against the child who has been issued disposition measures and order the final discharge of the child if it finds that he/she has behaved properly and has displayed the capability to be useful member of the community.

The discharge of the child in conflict with the law shall not affect his/her civil liability which shall be enforced in accordance with law.

**SEC. 80. *Return of Child in Conflict With the Law to Court.*** - If the court finds that the child has not behaved properly, or has not shown the capability of becoming a useful member of society, or has willfully failed to comply with the conditions of his disposition or rehabilitation program, or should his/her continued stay in the training institution where he/she has been assigned be found inadvisable, he/she shall be brought before the court for the pronouncement of judgment of conviction.

If said child in conflict with the law has reached the age of eighteen years while in commitment, the court shall determine whether to dismiss the case in accordance with Section 79 of this Act, to pronounce judgment of conviction, or to extend the suspended sentence for a certain specified period or until the child reached the maximum age of twenty-one (21) years.

**SEC. 81. *Credit in Service of Sentence.*** - The child in conflict with the law shall be credited in the service of his/her sentence with the full time spent in actual commitment and detention effected under this Act.

## **CHAPTER VIII. ASSISTANCE OF PARENTS; CUSTODY; AND CONFIDENTIALITY**

**SEC. 82. *Assistance of Parents, Guardian and/or Social Worker.*** - In all diversion and court proceedings, the participation of the parents, if not inimical to the interest of the child, or legal guardian and the local social welfare and development officer shall be mandatory.

**SEC. 83. *Custody and Supervision.*** - No child from initial contact until the case is filed in the Family Court shall be removed from parental supervision, whether partly or entirely, unless the circumstances of his or her case make protective custody necessary. The competent authorities conducting diversion proceedings shall immediately commit the child to the custody of the parents or legal guardian who shall be responsible for the presence of the child during the diversion proceedings. In the absence of the parents or legal guardian, the child shall be committed to the care of the nearest relative, BCPC member or the local social welfare and development officer. If necessary, the local social welfare office in coordination with DSWD may refer the child to the appropriate child-caring institution.

**SEC. 84. *Confidentiality of Proceedings and Records.*** - All records and proceedings involving children from initial contact until final disposition of the case by the Family Court shall be confidential. The public may be excluded during the proceedings and the records shall not be disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings.

The competent authorities shall undertake all measures, including non-disclosure of records to the media, maintaining a separate police blotter for cases involving children and adopting a system of coding to conceal material information which will lead to the child's identity. Records of children in conflict with the law shall not be used in subsequent proceedings cases involving the same offender as an adult.

A child in conflict with the law shall not be held under any provision of law, to be guilty of perjury or of concealment or misrepresentation by reason of

his/her failure to acknowledge the case or recite any fact related thereto in response to any inquiry made to him for any purpose.

#### **TITLE IV. DETENTION AND REINTEGRATION**

**SEC. 85. *Objective of Institutional Treatment.*** - The objective of training and treatment of children in conflict with the law placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.

**SEC. 86. *Commitment Order Required.*** - No child shall be received in any detention facility without a valid commitment order issued by the court after a hearing for the purpose. The details of this order shall be immediately entered in the register. No child shall be detained in any facility where there is no such register.

**SEC. 87. *Separate Detention Facilities From Adults.*** - In all detention facilities, children shall be separated from adults. They shall in no case be allowed to socialize with adult detainees, unless it is part of a special program that has been shown to be beneficial to the children concerned.

**SEC. 88. *Female Offenders.*** - Female children in conflict with the law placed in an institution deserve special attention as to their personal needs and problems. They shall in no case be allowed to socialize with adult detainees, unless it is part of a special program that has been shown to be beneficial to the

children concerned. They shall be handled exclusively by female doctors and social workers.

**SEC. 89. *Detention of the Child Pending Trial.*** - Children detained pending trial may be released on bail or recognizance as provided for under Sections 70 and 71. In all other cases and whenever possible, detention pending trial may be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home. Institutionalization or detention of the child pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

Whenever detention is necessary, a child shall always be detained in the youth home established by local governments, pursuant to Section 8 of the Family Courts Act, in the city or municipality where the child resides.

**SEC. 90. *Establishment of Detention Home by Private Organizations.*** - Detention homes may also be established by private and non-government organizations accredited by the OJJDP.

**SEC. 91. *Care and Maintenance of the Child in Conflict with the Law.*** - The parents or other persons liable to support the child shall pay the expenses for the care and maintenance of the child under institutional care. The disposition measure shall include the proportion of support if the parents or those liable to support the child shall not be capable of paying the whole amount. The rest shall be paid by the institution maintaining such a facility. If the parents of the child are indigents, the DSWD or the local government unit concerned shall shoulder such expenses.



**SEC. 92. *Detention for Convicted Children in Conflict with the Law.*** - A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp that may be established, maintained, supervised and controlled by the Bureau of Corrections.

**SEC. 93. *Duties of detention personnel.*** - In the performance of their duties, personnel of detention facilities shall respect and protect the human dignity and fundamental human rights of all children under their care.

## **TITLE V. GENERAL PROVISIONS**

### **CHAPTER I. EXEMPTING PROVISIONS**

**SEC. 94. *Status offenses.*** - Any conduct not considered an offense or not penalized if committed by an adult shall not be considered an offense and shall not be punishable if committed by a child. No laws and ordinances shall be passed in violation of this provision.

**SEC. 95. *Offenses not applicable to children.*** - Consistent with laws on child abuse, a person below eighteen of age shall be exempt from prosecution in the offense of vagrancy and prostitution under Section 202 of the Revised Penal Code, and mendicancy under P.D. 1563.

### **CHAPTER II. PROHIBITED ACTS**

**SEC. 100. *Prohibition Against Labeling.*** - In the conduct of the proceedings beginning from the initial contact with the child, the competent authorities must refrain from branding or labeling children as young criminals, juvenile delinquents, prostitutes or attaching to them in any manner any other derogatory names. Likewise, no discriminatory remarks and practices shall be allowed particularly with respect to the child's class or ethnic origins.

**SEC. 101. *Other Prohibited Acts.*** - The following acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child alleged as, accused of or recognized as having committed an offense;

1. Employment of threats of whatever kind and nature
2. Employment of abusive, coercive and punitive measures such as cursing, beating, stripping, and detaining in cells;
3. Employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring in irritating, corrosive or harmful substances over the body of the child in conflict with the law, or forcing him or her to walk around the community wearing signs which embarrass, humiliate, and degrade their personality and dignity;
4. Compelling the child to perform involuntary servitude in any and all forms under any and all instances.

### CHAPTER III. PENAL PROVISION

**SEC. 102. *Violation of the Provisions of this Act or Rules or Regulations in General.*** - Any person who violates any provision of this Code or any rule or

regulation promulgated in accordance thereof, for which no specific penalty is provided by law, shall, upon conviction for each act or omission, be punished by a fine of not more than One Thousand Pesos (P1,000) or suffer imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the court, unless a higher penalty is provided for in the Revised Penal Code or special laws. If the offender is a public officer or employee, he shall, in addition to such fine and/or imprisonment, be held administratively liable.

#### IV. APPROPRIATION PROVISION

**SEC. 103. *Appropriations***- An initial amount of Ten Million Pesos for the purpose of setting up the OJJDP shall be taken from the proceeds of the Philippine Charity Sweepstakes Office. Thereafter such amounts as may be necessary for the implementation of this Act shall be in the annual General Appropriations Act.

#### TITLE VI. TRANSITORY PROVISIONS

**SEC. 104. *Children in Conflict with the Law 12 Years Old and Below.*** - Upon effectivity of this Act, cases of children twelve years old and below at the time of the commission of the crime shall immediately be dismissed and the child shall be released to the custody of DSWD. The DSWD upon thorough assessment of the child, shall determine whether to release him or her to the custody of his or her parents, or refer him or her to prevention programs as provided under this Act. Those with suspended sentences and undergoing

rehabilitation at the youth rehabilitation center shall likewise be released unless it is contrary to the best interest of the child.

**SEC. 105. *Children Detained Pending Trial.*** - If the child is detained pending trial, the Family Court shall also determine whether or not continued detention is necessary and, if not, determine appropriate alternatives for detention. If detention is necessary and he is detained with adults, the court shall immediately order the transfer of the child to the youth detention home.

**SEC. 106. *Children Who Reach the Age of 18 Pending Diversion and Court Proceedings.*** - If a child reaches the age of 18 pending diversion and court proceedings, the appropriate diversion authority in consultation with LSWDO or the Family Court in consultation with the SSCD, as the case may be, shall determine the appropriate diversion/disposition measures. The Family Court shall specify the period during which the child shall enjoy a suspended sentence or may opt to impose the sentence taking into consideration the minority of the child as a mitigating circumstance. In this case, the child may apply for probation.

## **TITLE VII. FINAL PROVISIONS**

**SEC. 107. *Rule Making Power.*** - The Department of Justice and Department of Social Welfare and Development in consultation with the DILG, PNP, CWC, NYC, CHR, and child-focused NGO, issue the necessary rules and regulations for the implementation of the provisions of this Act within one (1) year from the effectivity thereof.

**SEC. 108. *Separability Clause.*** - If, for any reason, any section or provision of this Act is declared unconstitutional or invalid by a competent court, the other sections or provisions hereof not affected by such declaration shall remain in full force and effect.

**SEC. 109. *Repealing Clause.*** - All existing laws, orders, decrees, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**SEC. 110. *Effectivity.*** - This Act shall take effect after fifteen days from its publication in at least two (2) national newspapers of general circulation.

*Approved,*