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SENATE

S. B. No. 1211

Introduced by Senator Ramon Bong Revilla, Jr.

AN ACT
ENHANCING THE ADMINISTRATION OF JUVENILE
JUSTICE, APPROPRIATING FUNDS THEREFORE
AND FOR OTHER RELATED PURPOSES

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

PART I

GOVERNING PRINCIPLES AND STRUCTURES ON THE
ADMINISTRATION OF JUVENILE JUSTICE

CHAPTER I
GENERAL PRINCIPLES AND POLICIES

SECTION. 1. *Title.* This Act shall be known as "*The Juvenile Justice Act of 2004*".

SEC. 2. *Framework of Restorative Policy.* This Act shall adopt the framework of restorative justice which aims at rehabilitating the child, 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 civil affairs.

Pursuant to Article 40 of the United Nations Convention on the Rights of the Child, the State recognizes the right of every child 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.

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.* The provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice or "Beijing Rules", the United Nations guidelines for the Prevention of Juvenile Delinquency or "Riyadh Guidelines", the U.N. Rules for the Protection of Juvenile Deprived of Liberty shall be adopted as part of this Act. The State adopts the following principles:

- (a) The prevention of juvenile delinquency is an essential part of crime prevention in society.
- (b) 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.*
- (c) No child shall be subjected to harsh or degrading correction or punishment measures at home, in school, or in any other institution.
- (d) 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.
- (e) 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.
- (f) Deprivation of personal liberty and imprisonment shall be a disposition of last resort and for the minimum necessary period. Children detained in facilities shall be guaranteed the benefit of meaningful activities and programs which serve to 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.
- (g) Neither capital punishment nor life imprisonment without possibility of parole or release shall be imposed for any crime committed by children.

SEC. 5. *Best Interests of the Child and Child Participation.* Proceedings before any authority should be conducted in the best interests 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. 6. *Minimum age of Criminal Responsibility.* No person below twelve (12) years of age may be held criminally liable. However, although exempt from criminal liability, he or she may be subjected to a delinquency prevention program pursuant to SEC. 25 of this Act.

SEC. 7. *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 the 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 decide within forty-eight (48) hours from filing.

SEC. 8. *Definition of Terms.* The following terms used in this Act shall be defined as follows:

- (a) *Child* refers to a person under the age of eighteen (18) years;
- (b) *Child in conflict with the Law* refers to a person below eighteen (18) years of age who is alleged, accused of, or recognized as having committed an offense under the Philippine laws;
- (c) *Deprivation of liberty* means any form of detention or imprisonment or the placement of a person in a 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;
- (d) *Take into custody* refers to the moment when a child is arrested by law enforcement officers, barangay officials or any private person;
- (e) *Diversion* refers 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.

CHAPTER II

AGENCIES INVOLVED IN THE ADMINISTRATION OF JUVENILE JUSTICE AND DELIQUENCY PREVENTION

A. EXISTING AGENCIES

SEC. 9. *Coordination of Programs on Juvenile Justice Among Existing Agencies.* For effective implementation of this Act, appropriate coordinating mechanisms shall be established to rationalize the different programs on juvenile justice which are presently in place or being planned by the following agencies:

- (a) Council for the Welfare of Children;
- (b) Department of Justice;
- (c) Department of Social Welfare and Development;
- (d) Department of Education, Culture and Sports;
- (e) Department of Interior and Local Government;
- (f) Philippine National Police;
- (g) Supreme Court; and
- (h) Commission on Human Rights.

B. OFFICE OF THE JUVENILE JUSTICE AND DELINQUENCY PROGRAM

SEC. 10. *Office of Juvenile Justice and Delinquency Prevention.* An Office of Juvenile Justice and Delinquency Prevention (OJJDP) 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 9. It shall be created within one year from the effectivity of this Act.

SEC. 11. *Mandate of the OJJDP.* The OJJDP shall have the following mandate:

(a) Develop objectives, priorities, and short- and long-term plans, and implement overall policy and strategy to carry out such plan, for all juvenile crime control, prevention, and juvenile offender accountability programs and activities relating to improving juvenile crime control, the rehabilitation of juvenile offenders, the prevention of juvenile crime, and the enhancement of accountability by offenders within the Philippine juvenile justice system;

(b) Assists in the form of grants to eligible local government units (LGUs) to provide financial assistance to eligible entities to carry out projects designed to prevent juvenile delinquency, including the following:

- (1) educational projects or supportive services for juveniles to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations in educational settings;
- (2) projects that use neighborhood courts or panels that increase victim satisfaction and require juveniles to make restitution or perform community service for the damage caused by their delinquent acts;
- (3) projects that expand the use of probation officers; and
- (4) projects that leverage funds to provide scholarships for postsecondary education and training for low-income juveniles who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;

(c) Assists the indigenous peoples through the National Commission on Indigenous Peoples (NCIP) or community-based, nonprofit organizations in crime prone areas for purposes of providing:

- (1) constructive activities to youth during after school hours, weekends, and school vacations;
- (2) supervised activities in safe environments to youth in those areas; and
- (3) anti-alcohol and other drug education to prevent alcohol and other drug abuse among youth;

(d) Make CRISIS (confidential reporting of individuals suspected of imminent school violence) grants to support the development and operation of confidential, toll-free telephone hotlines for the reporting of specific threats and suspicious or criminal conduct by juveniles to appropriate local law enforcement entities for investigation, and for related purposes;

(e) Make grants to LGUs to assist them in planning, establishing, operating, coordinating, and evaluating projects for the development of more effective education, training,

research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system;

(f) Sets forth national agenda, plans, programs and activities (which, among other things, shall provide for court supervised initiatives that address the illegal possession of firearms by juveniles, and programs for positive youth development that provide delinquent and at-risk youth with an ongoing relationship with a caring adult, safe places and structured activities during non-school hours, a healthy start, a marketable skill, and an opportunity to give back through community service);

(g) Establishes within the OJJDP a National Institute for Juvenile Crime Control and Delinquency Prevention, which shall provide:

- (1) for the rigorous and independent evaluation of delinquency and youth violence prevention programs funded under this title; and
- (2) funding for new research on the nature, causes, and prevention of juvenile violence and juvenile delinquency.

(h) Authorizes the following:

- (1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, and to establish or expand specified programs;
- (2) provide technical assistance and training assistance;
- (3) establish a training program regarding methods and techniques for the prevention and treatment of juvenile delinquency; and
- (4) conduct a study on the effect of incarceration on status offenders and report to specified congressional committee members.

(i) Enters into contracts with public and private nonprofit agencies, organizations, and institutions to establish and support programs and activities that:

- (1) involve families and communities and that are designed to carry out specified purposes, such as preventing and reducing juvenile participation in the activities of gangs that commit crimes, targeting elementary school students in steering students away from gang involvement, and providing treatment to juvenile gang members; and
- (2) reduce juvenile participation in illegal gang activities, develop regional task forces involving State, local, and community-based organizations to coordinate gang disruption, prosecution, and curtailment, facilitate coordination and cooperation among specified agencies and community-based programs, and support programs that are designed to encourage courts to develop and implement a specified continuum of post-adjudication restraints, and assist in the provision by the Administrator of information and technical assistance to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior.

(j) Make grants to, and enter into contracts with LGUs, public and private nonprofit agencies, organizations, and institutions, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency.

(k) Make grants to:

- (1) local education agencies and nonprofit organizations to establish and support programs and activities for the purpose of implementing mentoring programs; and
- (2) a qualified cooperative extension service for the purpose of expanding and replicating family mentoring programs to reduce the incidence of juvenile crime and delinquency among at-risk youth.

SEC. 12. *Duties and Functions of the OJDDP Administrator.* The OJDDP shall have the following duties and functions:

- (a) To oversee and supervise the implementation of this Act;
- (b) To advise the President through the Department Secretary on all matters and policies relating to juvenile justice and delinquency prevention programs;
- (c) To assist agencies concerned with the administration of juvenile justice in the development of regulations, in accordance with the policies and provisions of this Act;
- (d) To conduct evaluations and studies of delinquency programs and activities of the local government units and other government agencies;
- (f) To implement national juvenile delinquency programs and activities which may have an important gearing on the success of the entire juvenile delinquency effort;
- (g) To develop a comprehensive three to five year plan for juvenile justice, with the participation of government agencies concerned, NGOs, and youth organizations;
- (h) To collect relevant information and conduct research in relation to juvenile justice and analyze these data of juvenile for use in the improvement of the administration of juvenile justice;
- (i) 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; and
- (j) To conduct trainings for the personnel of the agencies involved in the administration of juvenile justice.

C. OFFICE OF THE CHILD OMBUDSMAN

SEC. 13. *Office of the Child Ombudsman.* - An Office of the Child Ombudsman (OCO) shall be established under the Commission on Human Rights (CHR) in all regions of the country primarily to monitor and check the implementation of this Act and to ensure that the status, rights and interests of children are upheld.

SEC. 14. *Duties and Functions of the OCO.* - The OCO shall have the following duties and functions:

- (a) To monitor the implementation of this Act;
- (b) To act on complaints for violation of this Act and other violations of children's rights;

(c) To publish an annual report on the implementation of this Act; and,

(d) To provide child advocacy services.

SEC. 15. *Other Institutions Focused on Juvenile Justice and Delinquency Program.* – In addition to the child and youth welfare agencies defined under SEC. 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. 16. *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 SEC. 14. These institutions may enter into agreements with the PNP, local government units, DSWD, the DOJ and the Family Courts to provide services, such as diversion programs, temporary shelter and counseling for children in conflict with the law.

PART II PREVENTION OF JUVENILE DELIQUENCY

CHAPTER I THE ROLE OF THE DIFFERENT SECTORS

SEC. 17. *Family Program.* – The family is 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 the extended family, should be pursued.

The focus of this component, initiated in year two and lasting through year three, is to develop family support and modeling for a non-drug use norm within the family and in the school neighborhood and includes parent education and organization throughout high school. This is accomplished by the creation of a group consisting of the principal, four to six parents, and two student peer leaders from each school who meet throughout the school year to:

- (1) refine school policy to institutionalize crime and delinquency prevention program in the school;
- (2) help provide a drug-free environment by monitoring the school grounds and surrounding neighborhood; and
- (3) plan and implement parent skills training twice a year for all parents, focusing on parent-child communication and prevention support skills.

SEC. 18. *School Program.* – As far as practicable, educational institutions shall work together with parents, community organizations and agencies concerned with the activities of children. Educational institutions shall establish a system of dealing with students who commit offenses within the school.

The school program, which is the central program channel, is initiated in grade six or seven (i.e., depending on the local school district, the transition year into high school), delivered by trained teachers, and facilitated by peer leaders nominated by the class and trained by the teacher. The program includes 10-13 classroom sessions focused upon increasing skills to resist and counteract pressures to use drugs, and to change the social climate of the school to accept a non-drug use norm. The second year (grade seven or eight) includes a five-session booster

program to reinforce the previous year's message, and in the subsequent high school years peer counseling and support activities are provided.

SEC. 19. *Mass Media.* – The mass media shall use its power for the prevention of drug abuse and other forms of delinquency by relaying consistent messages through a balanced approach. The mass media component intends to introduce and explain to the community the school-based program and each new program component as it is added. The messages delivered by each program component, especially the school and parent programs, are reinforced by broadcasting to the larger community of residents who provide a modeling influence on adolescents.

SEC. 20. *Establishment and Strengthening of Local Councils for the Protection of Children.* – Local Councils for the Protection of Children shall be established in all local governments 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 an 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. 21. *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, the Barangay Council for the Protection of Children (BCPC) 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. 22. *The Sangguniang Kabataan.* – 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. It is encouraged that the SK shall devote at least fifty percent (50%) of its annual budget to delinquency prevention programs for the youth.

CHAPTER II

COMPREHENSIVE DELINQUENCY PREVENTION PLANS

SEC. 23. *Comprehensive Juvenile Delinquency Prevention Plans.* – Comprehensive juvenile delinquency prevention plans covering at least a three-year period shall be instituted in all local government units from the barangay to the provincial level.

SEC. 24. *Budget for Juvenile Delinquency Prevention Programs.* – The local government units shall set aside at least ten percent (10%) of their annual budget for the implementation of juvenile delinquency prevention programs.

SEC. 25. *The Community Approach.* – Community-based services and programs which respond to the special needs, problems, interests and concerns of young persons and which offer appropriate counseling and guidance to young persons and their families should be developed or strengthened where they exist.

SEC. 26. *Multidimensional Treatment Foster Care.* – A system for a multidimensional treatment foster care (MTFC) shall be established as a cost effective alternative to group or residential treatment, incarceration, and hospitalization for adolescents who have

problems with chronic antisocial behavior, emotional disturbance, and delinquency. Toward this end, community families are recruited, trained, and closely supervised to provide MTFC-placed adolescents with treatment and intensive supervision at home, in school, and in the community; clear and consistent limits with follow-through on consequences; positive reinforcement for appropriate behavior; a relationship with a mentoring adult; and separation from delinquent peers. To ensure that the mechanism for MTFC are put in place, the following components shall be institutionalized:

- (a) *MTFC Training for Community Families.* This training component emphasizes the behavior management methods to provide youth with a structured and therapeutic living environment. After completing a pre-service training and placement of the youth, MTFC parents attend a weekly group meeting run by a program case manager where ongoing supervision is provided. Supervision and support is also given to MTFC parents during daily telephone calls to check on youth progress and problems.
- (b) *Services to the Youth's Family.* This component provides for the youth's biological (or adoptive) family, with the ultimate goal of returning the youth back to the home. The parents are taught to use the structured system that is being used in the MTFC home. Closely supervised home visits are conducted throughout the youth's placement in MTFC. Parents are encouraged to have frequent contact with the MTFC case manager to get information about their child's progress in the program.
- (c) *Coordination and Community Liaison.* This component is maintained between the MTFC case manager and the youth's parole/probation officer, teachers, work supervisors, and other involved adults.

SEC. 27. *Process in Coming up with Comprehensive Delinquency Prevention Plans.* – 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, youth organizations, educational institutions and government agencies involved in delinquency prevention like the DSWD, PNP, DOJ and DECS to participate in the planning process and the implementation of programs related to delinquency prevention.

SEC. 28. *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. Results of the assessment shall be submitted to the OJJDP.

SEC. 29. *Delinquency Prevention Programs.* – Delinquency prevention programs which may be implemented by the local government units through the local councils for the protection of children, schools, youth organizations and other concerned agencies shall consist of three levels:

- a) *Primary prevention* 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* 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* 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 should be pursued primarily in the overall interest of the child and guided by fairness and equity.

SEC. 30. *Children in Need of Parental Supervision and Guidance.* – The following children may be considered as in need of parental supervision and care and are at risk of prone to become delinquents:

- (a) Children below twelve (12) years old who have committed an offense but are exempt from criminal responsibility;
- (b) Children used by criminals in the commission of crime;
- (c) Street children who may be runaways, abandoned, maltreated, abused and neglected; and
- (d) Those recommended by the OJJDP based on their research.

SEC. 31. *Treatment of Children Below the Age of Criminal Responsibility.* – Once it is found out the arrested child is below twelve (12) years old, 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 is serious, the child shall be referred to the local social welfare officer for the determination of appropriated prevention programs in consultation with the child and anytime having custody over his/her person.

SEC. 32. *Use of Children in Criminal Activities.* – Once it is found 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 parents. If the offense is serious, 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. 33. *Definition of Serious Offense.* - For the purpose of the two preceding sections, serious offense/offenses are those with the penalty of *prison correccional*.

SEC. 34. *Streetchildren.* – The local government units particularly in urban areas shall be required to include programs for streetchildren 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. 35. *Duty of DSWD.*- If the child referred to Sec. 29, 30 and 32 is found to be abandoned, neglected and abused by his parents, or in the 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 P.D. 603.

PART III JUVENILE JUSTICE SYSTEM

CHAPTER I INITIAL CONTACT WITH THE CHILD

SEC. 36. *Initial Contact with the Child.*- The child comes into an initial contact with the juvenile justice system when he/she is:

- (a) taken into custody by a police officer or barangay tanod;

- (b) taken into custody by a private individual making a citizen's arrest;
- (c) issued summons by the Barangay Council; and
- (d) issued summons by the prosecutor or judge of the municipal trial court as the case may be.

The provision of this title shall apply from initial contact with the child until the final disposition of the case in court.

SEC. 37. *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:

- (a) Immediately inform the child of the reason for such custody and advise the child of his or her legal rights in a language that is understood by the child;
- (b) He or she shall identify himself to the child and present an identification paper if he/she is not on uniform;
- (c) Not employ unnecessary force or sexual advances during such proceedings;
- (d) Not use vulgar or profane words;
- (e) Not use handcuffs or other instruments of restraint on the child unless absolutely necessary;
- (f) Notify the local social welfare and development officer within six (6) hours, as far as practicable, from the time the apprehension is made, who shall in turn notify the parents or guardians within another six (6) hours from such custody; and,
- (g) 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. 38. *Initial Inquiry* – The authority who has initial contact with the child shall conduct an initial inquiry to determine the following:

- (a) The age of the child pursuant to Section 7 of this Act;
- (b) 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. 39. *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 29 if the child is below twelve (12) years old;
- (b) If the child is above twelve (12) years old, he may be referred to the following:

- (i) *Katarungang Pambarangay*, if the imposable penalty for the offense is equal to or less than one (1) year or a fine not exceeding Five thousand pesos (P5,000.00);
- (ii) Child and Youth Relations Unit, as provided in Chapter II (D), if the prescribed penalty for the offense charged exceeds one (1) year, 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

A. COMMON PROVISIONS ON DIVERSION

SEC. 40. *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. 41. *Levels of Diversion.* - Diversion shall be conducted at three levels namely:

(a) *Katarungang Pambarangay*,

(b) Police,

(c) And prosecution.

The *Lupong Tagapamayapa*, the CYRU and the prosecutors for children are the competent authorities to conduct diversion proceedings.

SEC. 42. *Duty to Inform of Child of His/Her Offense* – The competent authorities are duty-bound to explain to the child in language known and understood by him/her the consequences of his/her acts and/or omission. The child's responsibility for the commission of any felony shall be explained to him/her with a view towards counseling and rehabilitating him/her, and avoiding his/her contact with the criminal justice system and indemnifying the victim/s if necessary.

SEC. 43. *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. 44. *Termination of Case* – If the competent authorities determine that the child did not commit the offense charged, the case shall be terminated and a decision to that effect shall be written and explained to both parties.

SEC. 45. *Confession or Admission of Offense* – If the child voluntarily admits or confesses to the commission of the offense charged, the competent authorities shall decide on the diversion programs to be undertaken by the child. Any admission or confession of the child shall be signed by the child and countersigned by the parents, legal guardian and/or local social welfare and development officer, the nearest relative, a member of child-focused group, or BCPC member. They shall see to it that the confession of the child is voluntarily executed.

If the child does not admit or confess to the commission of the offense and the weight of the evidence presented shows that the child conclusively committed the offense, the competent

authorities shall endeavor to make the child realize his responsibility and obligation arising from the commission of the offense as well as the impossible penalties.

During any stage of the diversion proceedings, any admission or confession of a child for an offense shall be inadmissible in evidence against the child in any proceeding should the diversion proceedings fail.

SEC. 46. *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. The officer violating this provision shall be held administratively liable.

SEC. 46.A. *Prohibited Acts.* – Any and all acts and practices which are prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child shall be prohibited.

Any violations shall be penalized with *prison mayor* and/or a fine of not less than Five thousand Pesos (P5,000.00) but not more than Twenty thousand Pesos (P20,000.00).

B. DIVERSION PROGRAMS

SEC. 47. *Diversion Programs; When proper.* – Where the parties and/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. 48. *Factors in Determining Diversion Program* – In determining whether diversion is appropriate and desirable, the following factors shall be taken into consideration:

- a) The nature and circumstances of the offense charged;
- b) The frequency and the severity of its occurrence;
- c) The character and reputation of the child;
- d) The circumstances of the accused child (e.g. age, maturity, intelligence, etc.);
- e) The influence of the family and environment on the growth of child;
- f) The emotional relief of the victim;
- g) The weight of the evidence against the child; and
- h) The safety of the community.

SEC. 49. *Criteria for Formulating Diversion Programs* – In formulating a diversion programs, 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 for the child:

- a) The child's feelings of remorse for the offense he or she committed;
- b) The parent's or legal guardians' ability to guide and supervise the child;
- c) The victim's views about the propriety of the measures to be imposed; and

- d) The availability of community based programs for rehabilitation and reintegration of the child.

SEC. 50. *Diversion Programs* – The diversion program shall include adequate socio-cultural and psychological responses and services for the child. Diversion programs can include, but are not limited to, the following:

- a) written or oral reprimand or citation;
- b) restitution of property;
- c) reparation of the damage caused;
- d) indemnification of consequential damages;
- e) confiscation and forfeiture of the proceeds or instruments of the crime;
- f) fine;
- g) payment of cost of the proceedings;
- h) written or oral apology;
- i) guidance and supervision orders;
- j) counseling for the child and the family;
- k) trainings, seminars, lectures on: (1) anger management skills; (2) problem solving and/or conflict resolution skills; (3) values formation; and (4) other skills which will aid the child to deal with situations which can lead to repetition of the offense;
- l) community based programs available in the community; and
- m) institutional care and custody.

SEC. 51. *Criteria of Community Based Programs* – Every city and municipality shall establish programs, through the local government unit, that will focus on the rehabilitation and re-integration of the child. All programs shall meet the following criteria to be established by OJJDP.

SEC. 52. *Community Based Programs* – Community based programs shall consist of, but shall not be limited to, the following:

- a. Community service; and
- b. Membership in civic and/or religious organizations.

SEC. 53. *Conditions for Diversion Program* – In all cases where a child is required to undergo a diversion program, the following conditions shall be mandatory:

- a. A contract of diversion shall be signed by the authority concerned and the child containing the diversion programs to be undergone by the child;
- b. The child shall present himself or herself to the competent that imposed the diversion program at least once a month for reporting and evaluation of the effectiveness of the program;
- c. The child shall cooperate and faithfully comply with the conditions in the contract;
- d. Competent authorities and /or the local social welfare and development officer shall visit the child's home for surprise visits;
- e. 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, morals and good customs.

C. KATARUNGANG PAMBARANGAY PROCEEDINGS

SEC. 54. *Applicability* – The Katarungang Pambarangay Law is hereby adopted and shall apply as part of the diversion process of the administration of juvenile justice. Further, these proceedings will apply even if both parties actually reside or are in barangays of different cities or municipalities.

SEC. 55. *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 (P5,000.00).

SEC. 56. *Determination of Penalty* – In determining the penalty of the offense for purposes of determining the jurisdiction of the barangay conciliation, the privileged mitigating circumstances of minority shall be applied as provided in Sec. 68 of the revised Penal Code. In such a case, after having applied the mitigating circumstance of the minority and the minimum penalty is imprisonment of less than one (1) year, the criminal case shall fall under the jurisdiction of Katarungang Pambarangay.

SEC. 57. *Trainings of the Lupong Tagapamayapa* – In addition to the requirement provided in Sec. 399 of the LGC, 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.

SEC. 58. *Venue* – (a) All disputes shall be brought in the barangay where child resides.

(b) Where the child's residence cannot be ascertained as in the case of the homeless, abandoned or streetchildren, 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 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. 59. *Assistance of Child by Parents, etc.* – Aside from the requirement under Sec. 87 that all proceedings should be in the presence of the person's enumerated therein, any agreement resulting in the Barangay Conciliation shall also be signed by the child with the assistance of the said persons. Otherwise, such documents shall be null and void.

SEC. 60. *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. 61. *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.

D. CHILD AND YOUTH RELATIONS UNIT

SEC. 62. *Designation of Officer or Unit to Handle Cases Involving Children in Conflict with the Law* - The Philippine National Police shall designate a Child and Youth Relations Officer or Unit (CYRO OR CYRU) to handle cases involving children in conflict with the law.

SEC. 63. *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 Sec. 36.

SEC. 64. *Duty of the CYRU* – After the initial inquiry, if the child is found to be twelve (12) years old and above and the offense does not fall under the Katarungang Pambarangay as provided under Sec. 54, the CYRU or the CYRO shall conduct further investigation of the child pursuant to the preceding Sections.

SEC. 65. *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 of 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 competent and independent counsel of his own choice, if he/she does not have one yet, in a language that is clearly understood by the child, the parents or guardian.

If the child cannot be represented by counsel of his own choice, the CYRU or the CYRO shall contact a member of the Public Defenders for Children, as provided in Chapter II (F); to assist the child. Any confessions and admissions in violation of these rights are inadmissible as evidence against the child. In no case should deceit, false promises, intimidation or harassment be employed against the child. Respect for the human rights of the child shall be of paramount consideration during the custodial investigation.

SEC. 66. *Subject of the Investigation of Child in Conflict with the Law* - The police should investigate the facts of the offense thoroughly to include the following:

- a. Facts of the offense, including all details necessary to sustain a petition in court;
- b. Record of any police action;
- c. Record of any previous court or social agency action;
- d. Attitude of the child, his/her parents, and the complainant toward the act; and,
- e. Adjustment of the child in the home, school and community.

SEC. 67. *Diversion; When proper* - After investigation, if the imposable penalty for the offense is less than two (2) years imprisonment, CYRU/CYRO 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 Sec. 46 to 52.

In cases when a child has no parent or legal guardian, the nearest relative, a member of a child focused group, a religious group or the BCPC, shall act as his legal guardian. If found to be neglected, abandoned and abused, aside from the above dispositions, the DSWD shall file a petition for involuntary commitment under P.D. 603.

SEC. 68. *Duty of the CYRU When there is no Diversion* - Where the offense does not fall under the preceding paragraph or if the child, his parents or guardians 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.

E. SPECIAL PROSECUTOR'S OFFICE

SEC. 69. *Duty of the Prosecutor's Office* – Any case involving a child in conflict with the law before the Prosecutor's Office shall be referred to the special prosecutor/task force for children in conflict with the law.

SEC. 70. *Diversion From Formal Trial, When proper* – The special prosecutor shall conduct a preliminary investigation taking into consideration the circumstance of the child alleged to have committed an offense.

In the proceedings, he shall insure that the legal rights of the child are protected, such as the right to counsel. If the evidence warrants the filing of the charges, the special prosecutor pursuant to the principle of the minimum intervention shall be diverted subject to the following conditions:

- a. The child voluntarily admits the commission of the offense;
- b. The child freely consented to such diversion; and,
- c. The impossible penalty for the offense does not exceed four (4) years imprisonment.

SEC. 71. *Alternative to Formal Court Process* – Where diversion is proper, the 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 (60) days from the date of referral.

SEC. 72. *Filing of Complaint or Information* – Where conditions under Sec. 75 for diversion is 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. 73. *Application for Warrant of Arrest; Bail* – In applying for a warrant of arrest, the Special Prosecutor shall always recommend bail and specify the amount taking into consideration the rules on bail. This shall apply in all cases even if the offense is classified as non-bailable.

SEC. 74. *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 Special prosecutor, DSWD, local social welfare and development officer of 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.

F. PUBLIC DEFENDERS FOR CHILDREN

SEC. 75. *Public Defenders for Children* - In all cases where a child cannot be represented by competent and independent counsel of his or her own choice, a representative of the Public Defenders for Children shall represent the child during all stages of the proceedings.

SEC. 76. *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 Office of the Ombudsman for Children for the conduct of investigators.

CHAPTER III COURT PROCEEDINGS

SEC. 77. *Duty of the Social Services and Counseling Division.* - Once the case of a juvenile offender is referred to the Family Court, the SSCD shall provide appropriate social services to the child and recommend the proper social action as mandated by the Family Courts Act.

SEC. 78. *Settlement and Plea Bargaining* - The Court shall explore possibilities of settlement and plea-bargaining as a law diversion measures.

SEC. 79. *Procedure before the Family Court* - A system of adjudication for juvenile offenders which takes into account their peculiar circumstances shall be implemented by Family Courts pursuant to the Family Courts Act.

SEC. 80. *Suspended Sentence Automatic* - Pursuant to the Family Court 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. 81. *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:

- a. Care, guidance and supervision orders;
- b. Probation;
- c. Community service orders;
- d. Financial penalties, compensation and restitution;
- e. Intermediate treatment and other treatment orders;
- f. Orders to participate in group counseling and similar activities;
- g. Orders for living communities or Open centers; or,
- h. Commitment order to youth Rehabilitation Center.

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

SEC. 82. *Discharge of Child in Conflict with the Law* - Upon recommendation of a duly authorized officer, an appropriate center of 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.

SEC. 83. *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 (18) years while in commitment, the court shall determine whether to dismiss the case in accordance with Sec. 81 of

this Act to pronounce judgment of conviction or to extend the suspended sentence specifying the period thereof.

SEC. 84. *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.

SEC. 85. *Effect of Discharge of Child in Conflict with the Law* - The discharge of a child under Sec. 81 of this Act shall obliterate his civil liability for damages.

CHAPTER IV ASSISTANCE OF PARENTS, COUNSEL, CUSTODY, AND CONFIDENTIALITY

SEC. 86. *Assistance of Parents, Guardian and/or Social Worker* - In all diversion and court proceedings, the participation of the parents, of not inimical to the interest of the child, or legal guardian and the local social welfare and development officer shall be mandatory.

SEC. 87. *Right of the Child to Counsel.* - During custodial investigation, the child shall have the right to be represented by counsel. The arresting officer, prosecutor or judge shall ensure that the child is effectively represented by counsel before proceeding with any investigation or trial. Any confession or admission made by a child in any proceeding without the assistance of counsel shall be null and void.

SEC. 88. *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. 89. *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 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.

PART IV. DETENTION AND REINTEGRATION

SEC. 90. *Objective of Institutional Treatment* - The objective of training and treatment of juveniles 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. 91. *Commitment Order Required* - No child shall be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. 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. 92. *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 a part of a special program that has been shown to be beneficial to the children concerned.

SEC. 93. *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 by no means receive less care, protection, assistance, treatment and training than male children in conflict with the law. Their fair treatment shall be ensured. They shall be handled exclusively by female doctors and social workers.

SEC. 94. *Detention of the Child Pending Trial* - Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an education 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 Sec. 8 of the Family Courts Act, in the city or municipality where the child resides.

SEC. 95. *Establishment of Detention Home by Private Organizations* - Detention homes may also be established by private and non-government organizations.

SEC. 96. *Care and Maintenance of 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.

SEC. 97. *Detention for Convicted Juveniles* - In lieu of confinement in a regular penal institution, a child in conflict with the law may be made to serve his sentence in an agricultural camp that may be established, maintained, supervised and controlled by the Bureau of Corrections.

SEC. 98. *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.

PART V PROVISIONS

SEC. 99. *Status Offenses* - Any conduct not considered an offense or not penalized of committed by an adult should not be considered an offense and not penalized if committed by child. No laws and ordinances shall be passed in violation of this provision.

SEC. 100. *Offenses not applicable to children* - Persons below eighteen (18) years of age shall be exempt from prosecution in the offenses of vagrancy and prostitution under Sec. 202 of the Revised Penal Code, and mendicancy under P.D. 1563 being inconsistent with the rights of the child against abuse.

SEC. 101. *Liability of Officers* - Any official who fails to do his/her duty in accordance with this Act shall be administratively and criminally liable in accordance with existing civil service laws, rules and regulations.

SEC. 102. *Budget for Prevention Programs* - Ten percent (10%) of the budget of the local government units (LGUs) shall be allocated for juvenile delinquency prevention programs as may be formulated and implemented in the local government unit.

SEC. 103. *Appropriations* - The amount necessary for the implementation of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter. An initial amount of Ten Million Pesos (P10,000,000.00) for the purpose of setting up the OJJDP shall be taken from the proceeds of the Lotto.

PART VI TRANSITORY PROVISIONS

SEC. 104. *Children in Conflict with the Law Below Twelve (12)* - Upon effectivity of this Act, cases of children below twelve (12) years old at the time of the commission of the crime shall immediately be dismissed and the child shall be released to the custody 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 alternative for detention. If detention is necessary and he is detained with adults, he/she shall immediately order the transfer of the child to the youth detention home.

SEC. 106. *Children Who Reach the Age of Eighteen (18) Pending Diversion and Court Proceedings* - If a child reaches the age of eighteen (18) pending diversion and court proceedings, the appropriate diversion authority in consultation with LSWDP or the Family Court in consultation with the SSCD, as the case may be, shall determine the appropriate diversion/disposition measure. 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.

SEC. 107. *Promulgation of Implementing Rules and Regulations.* - The Department of Justice and Department of Social Welfare and Development shall formulate the implementing rules and regulations of this Act in coordination with the Supreme Court, the Department of the Interior and Local Government, Philippine National Police, Public Attorney's Office, Council for the Welfare of Children, Bureau of Jail Management and Penology, National Bureau of Investigation, National Youth Commission, Commission on Human Rights, and child-focused NGOs.

The implementing rules and regulations shall be issued within one year from the effectivity of this Act.

SEC. 108. *Repealing Clause.* - All existing laws, orders, decrees, rules and regulations or issuances inconsistent with the provisions of this Act are hereby amended or repealed accordingly.

SEC. 109. *Effectivity.* - This Act shall take effect after fifteen (15) days from its publication in at least two (2) national newspapers of general circulation.

Approved,