

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

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SENATE

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S.B. No. 1402

Introduced by Senator Pangilinan

EXPLANATORY NOTE

Under the Convention on the Rights of the Child, ratified by the Philippine Senate on 20 July 1990 through Resolution No. 109, the Philippines committed to "recognize 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, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society." (Article 40, Convention of the Rights of the Child)

One of the fundamental guarantees afforded children under the CRC is the set of protective rights related to the juvenile justice system (Articles 37, 39 and 40). This bill addresses this commitment to uphold the rights of the child.

While there are Philippine law, rules and regulations applicable to children in conflict with the law, prosecution and trial procedures in general do not make distinctions between adult and youth offenders facing charges before the courts. The experience of a number of youthful offenders with the various stages of the juvenile justice process reveals the occasional neglect and insensitivity by duty holders. Thus, a need to pass a law that comprehensively covers the various stages of the juvenile justice process.

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


FRANCIS N. PANGILINAN

THIRTEENTH CONGRESS OF THE)
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FIRST REGULAR SESSION)

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S. B. No. 1402

Introduced by Senator Francis N. Pangilinan

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

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

Title I.

GOVERNING PRINCIPLES
IN THE ADMINISTRATION OF JUVENILE JUSTICE

Chapter 1. Title, Policy and Definition of Terms

SECTION 1. *Title and Scope.* - This Act shall be known as the
"Juvenile Justice and Delinquency Prevention Act of 2003." It shall cover the
different stages involving children in conflict with the law from prevention to
rehabilitation and reintegration.

SEC. 2. *Declaration of State Policy.* - The State recognizes the vital
role of children and 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.

The State likewise recognizes the right of children to assistance,
including proper care and nutrition, and special protection from all forms of
neglect, abuse, cruelty and exploitation, and other conditions prejudicial to
their development.

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

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

18 Proceedings before any authority shall be conducted in the best interest
19 of the child and in a manner which allows the child to participate and to
20 express himself/herself freely. The participation of children in the program
21 and policy formulation and implementation related with juvenile justice and
22 delinquency prevention shall be ensured by the concerned government agency.

23 **SEC. 3. Definition of Terms.** - The following terms as used in this Act
24 shall be defined as follows:

25 (1) **Bail** - shall refer to the security given for the release of the
26 person in custody of the law, furnished by him/her or a
27 bondsman, to guarantee his/her appearance before any court.

1 Bail may be given in the form of corporate security, property
2 bond, cash deposit, or recognizance.

3 (2) **Child** - shall refer to a person under the age of eighteen (18)
4 years.

5 (3) **Child in Conflict with the Law** - shall refer to a child who is
6 alleged as, accused of, or adjudged as, having committed an
7 offense under Philippine laws.

8 (4) **Child at Risk** - shall refer to children who are vulnerable to, and
9 at risk of, committing criminal offenses because of personal,
10 family and social circumstances, such as, but not limited to, the
11 following:

- 12 (a) being abused, abandoned or neglected;
- 13 (b) coming from a dysfunctional or broken family;
- 14 (c) being out-of-school;
- 15 (d) being a streetchild;
- 16 (e) being a member of a gang; or
- 17 (f) living in a community with a high level of criminality or
18 drug abuse.

19 (5) **Community-based Programs** - shall refer to the programs
20 provided in a community setting developed for the purposes of
21 delinquency prevention and diversion, as well as rehabilitation of
22 the child in conflict with the law for reintegration into his/her
23 family and/or community.

24 (6) **Deprivation of liberty** - shall refer to any form of detention or
25 imprisonment, or to the placement of a child in conflict with the
26 law in a public or private custodial setting, from which the child
27 in conflict with the law is not permitted to leave at will by order
28 of any judicial or administrative authority.

- 1 (7) ***Diversion*** - shall refer to an alternative, child-appropriate process
2 of determining the responsibility and treatment of a child in
3 conflict with the law on the basis of his/her social, cultural,
4 economic, psychological or educational background without
5 resorting to formal court adjudication.
- 6 (8) ***Diversion program*** - shall refer to the program that the child in
7 conflict with the law is required to undergo after he/she is found
8 responsible for an offense without resorting to formal court
9 litigation.
- 10 (9) ***Initial contact with the child*** - shall refer to the apprehension or
11 taking into custody of a child in conflict with the law by law
12 enforcement officers or private citizens. it includes the time
13 when the child in conflict with the law receives a subpoena under
14 section 3 (b) of rule 112 of the revised rules of criminal procedure
15 or summons under section 6 (a) or sec. 9 (b) of the same rule in
16 cases that do not require preliminary investigation or where there
17 is no necessity to place the child in conflict with the law under
18 immediate custody.
- 19 (10) ***Juvenile Justice System*** - shall mean proceedings starting from
20 being taken into custody, including diversion proceedings, court
21 proceedings after the filing of the proper information until the
22 disposition of the case, rehabilitation, reintegration, until the
23 termination of after-care services.
- 24 (11) ***Offense*** - shall refer to any act or omission whether punishable
25 under special laws or felonies punishable under the Revised Penal
26 Code, as amended.
- 27 (12) ***Recognizance*** - shall refer to an undertaking in lieu of a bond
28 assumed by a parent or custodian who shall be responsible for the

1 appearance in court by the child in conflict with the law, when
2 required.

3 (13) **Records** - shall include those which may be in the files of the
4 National Bureau of Investigation and with any police department,
5 or any other government agency which may have been involved in
6 the case.

7 (14) **Serious Offense** - shall refer to an offense punishable by
8 imprisonment of more than six (6) years after considering the
9 privileged mitigating circumstance of minority.

10 (15) **Youth Detention Homes** - shall refer to a twenty-four (24) hour
11 child-caring institution providing short-term residential care for
12 youth offenders who are awaiting court disposition of their cases
13 or transfer to other agencies or jurisdiction.

14 (16) **Youth Rehabilitation Center** - shall refer to a facility that
15 provides twenty-four (24) hour group care, treatment and
16 rehabilitation services under the guidance of a trained staff where
17 residents are cared for under a structured therapeutic
18 environment with the end in view of reintegrating them in their
19 families and communities as socially functioning individuals.

20 (17) **Victimless Crimes**- shall refer to offenses where there are no
21 private offended party.

22 **Chapter 2. Framework and Principles in the Administration of Juvenile**
23 **Justice**

24 **SEC. 4. Framework of Restorative Justice.** - This Act shall adopt the
25 framework of restorative justice which requires a process of resolving conflicts
26 with the maximum involvement of the victim, reconciliation of the offender,
27 and the community. It seeks to obtain reparation for the victim, reconciliation
28 of the offender, the offended and the community and reassurance to the

1 offender that he/she can be reintegrated into society. It also enhances public
2 safety by activating the offender, the victim and the community in prevention
3 strategies.

4 This framework shall promote accountability and responsibility,
5 competency development and community safety.

6 **SEC. 5. *Rights of the Child In Conflict with the Law.*** - Every child in
7 conflict with the law shall have the following rights:

8 (1) the right to humane treatment from the time of his/her initial
9 contact with the criminal justice system, i.e., his/her
10 apprehension or being taken into custody by law enforcement
11 officers or private citizens, or his/her receipt of subpoena,
12 warrant of arrest or summons as the case may be. This includes,
13 among others, the duty of the apprehending officer or person to
14 properly identify himself/herself to the child in conflict with the
15 law; to refrain from using vulgar or profane words and from
16 sexually harassing or abusing the child in conflict with the law; to
17 avoid the display or use of any firearm or weapon or other
18 instruments of force or restraint unless absolutely necessary; to
19 notify the parents or nearest relative of the child in conflict with
20 the law and the local social welfare officer as soon as the
21 apprehension is made; and after taking the child in conflict with
22 the law to an available government medical or health officer for a
23 physical and mental examination, to hold the child in conflict
24 with the law in quarters separate from that of the opposite sex
25 and adults;

26 (2) the right to be fingerprinted and photographed in a manner that is
27 not humiliating and degrading;

- 1 (3) the right to have a complete and full case study report on
2 him/her undertaken by the social workers assigned to his/her
3 case;
- 4 (4) the right to be furnished a copy of the approved resolution in the
5 preliminary investigation conducted by the prosecutor;
- 6 (5) the right to bail and recognizance, in appropriate cases;
- 7 (6) the right to diversion if he/she is qualified and he/she voluntarily
8 avails of the same;
- 9 (7) in addition to the constitutional rights of a person accused of a
10 crime, the right to testify as a witness in his/her own behalf
11 under the rule on examination of the child witness;
- 12 (8) the right to have his/her privacy respected fully at all stages of
13 the proceedings;
- 14 (9) the right to be imposed a judgment in proportion to the gravity of
15 the offense where his /her best interests, the rights of the victim
16 and the needs of society under the principle of restorative justice
17 are all taken into consideration by the court;
- 18 (10) the right to have restrictions on his/her personal liberty limited to
19 the minimum, and where discretion is given by law to the judge
20 to determine whether to impose fine or imprisonment, the
21 imposition of fine preferred as the more appropriate penalty;
- 22 (11) the right not to be imposed corporal punishment;
- 23 (12) in general, the right to automatic suspension of sentence;
- 24 (13) the right to probation as alternative to imprisonment, if qualified
25 under the probation law;
- 26 (14) the right to confidentiality of the proceedings and records and to
27 the sealing thereof;

- 1 (15) the right to be free from liability for perjury, concealment or
2 misrepresentation;
- 3 (16) the right against branding or labeling with derogatory appellations
4 such as criminal, delinquent, prostitute or vagrant;
- 5 (17) the right against discriminatory remarks and practices,
6 particularly with respect to his/her social or economic status,
7 physical or ethnic origin; and
- 8 (18) other rights as provided under existing laws and rules.

9 The State further adopts the provisions of the United Nations Standard
10 Minimum Rules for the Administration of Juvenile Justice or "Beijing Rules",
11 United Nations Guidelines for the Prevention of Juvenile Delinquency or the
12 "Riyadh Guidelines", and the United Nations Rules for the Protection of
13 Juveniles Deprived of Liberty.

14 **SEC. 6. Responsibilities of Child in the Administration of Justice -**

15 Every child in conflict with the law shall have the following responsibilities:

- 16 (1) to obey the rules of the facility where the child in conflict with
17 the law is staying; and
- 18 (2) to respect the rights of other people living with the child in
19 conflict with the law.

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

24 A child above twelve (12) years but below fifteen (15) years of age shall
25 likewise be exempt from criminal liability and be subjected to a delinquency
26 prevention program, unless he/she has acted with discernment, in which case,
27 such child shall be subjected to the appropriate proceedings in accordance
28 with this Act.

1 A child at least fifteen (15) years old but below eighteen (18) years of
2 age shall likewise be subjected to the appropriate proceedings as provided for
3 in this Act.

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

7 **SEC. 8. Determination of Age.** - The child's age may be determined
8 from the child's birth certificate, baptismal certificate or any other pertinent
9 documents. In the absence of these documents, age may be based on
10 information from the child him/herself, testimonies of other persons, the
11 physical appearance of the child and other relevant evidence. In case of doubt
12 as to the age of the child, it shall be resolved in his/her favor.

13 Any person contesting the age of the child in conflict with the law prior
14 to the filing of the information in any appropriate court may file a case in a
15 summary proceeding for the determination of age before the Family Court
16 which shall decide the case within twenty four (24) hours from receipt of the
17 appropriate pleadings of all interested parties.

18 If a case has been filed against the child in conflict with the law and is
19 pending in the appropriate court, the person shall file a motion to determine
20 the age of the child in the same court where the case is pending. Pending
21 hearing on the said motion, proceedings on the main case shall be suspended.

22 **TITLE II.**
23 **STRUCTURES IN THE ADMINISTRATION OF**
24 **JUVENILE JUSTICE AND DELINQUENCY PREVENTION**

25 **SEC. 9. Office of the Juvenile Justice and Delinquency Prevention**
26 **(OJJDP).**- An Office of Juvenile Justice and Delinquency Prevention (OJJDP) is
27 hereby created and established under the Department of Justice headed by an
28 Administrator, who shall be appointed by the President, upon the

1 recommendation of the Secretary of Justice, to oversee the implementation of
2 this Act and to ensure coordination among the following agencies:

- 3 (1) Council for the Welfare of Children (CWC);
- 4 (2) Department of Social Welfare and Development (DSWD);
- 5 (3) Department of Education (DepEd)];
- 6 (4) Department of the Interior and Local Government (DILG);
- 7 (5) Public Attorney's Office (PAO);
- 8 (6) Bureau of Corrections (BUCOR);
- 9 (7) Parole and Probation Administration (PPA);
- 10 (8) National Bureau of Investigation (NBI);
- 11 (9) Philippine National Police (PNP);
- 12 (10) Bureau of Jail Management and Penology (BJMP);
- 13 (11) Commission on Human Rights (CHR);
- 14 (12) Technical Education and Skills Development Authority (TESDA);
- 15 (13) National Youth Commission (NYC); and
- 16 (14) Other institutions focused on juvenile justice and delinquency
17 prevention.

18 The OJJDP shall coordinate with the Office of the Court Administrator
19 and the Philippine Judicial Academy to ensure the realization of its mandate
20 and the proper discharge of its duties and functions, as herein provided.

21 The OJJDP shall be created within one (1) year from the effectivity of
22 this Act. The Secretary of Justice shall determine the organizational structure
23 and staffing pattern of the Office.

24 **SEC. 10. Duties and Functions of the OJJDP.** - The OJJDP shall have
25 the following duties and functions:

- 26 (1) To oversee and supervise the implementation of this Act;

- 1 (2) To advise the President through the Secretary of Justice on all
2 matters and policies relating to juvenile justice and delinquency
3 prevention;
- 4 (3) To assist agencies concerned with the administration of juvenile
5 justice in the development of regulations in accordance with the
6 policies and provisions of this Act;
- 7 (4) To periodically develop a comprehensive three (3) to five (5)-year
8 national juvenile delinquency prevention program, with the
9 participation of government agencies concerned, non-government
10 organizations (NGOs) and youth organizations;
- 11 (5) To coordinate the implementation of the national juvenile
12 delinquency programs and activities by national government
13 agencies and other activities which may have an important
14 bearing on the success of the entire juvenile delinquency effort.
15 All programs relating to juvenile justice and delinquency
16 prevention shall be adopted in consultation with the OJJDP;
- 17 (6) To formulate and recommend policies and strategies in
18 consultation with children themselves for the prevention of
19 juvenile delinquency and the administration of justice, as well as
20 for the treatment and rehabilitation of the child in conflict with
21 the law;
- 22 (7) To collect relevant information and conduct a continuing research
23 and support evaluations and studies on all matters relating to
24 juvenile justice, such as, but not limited to:
- 25 (a) the performance and results achieved by delinquency
26 prevention programs and by activities of the local
27 government units and other government agencies;

- 1 (b) the periodic trends, problems and causes of juvenile
- 2 delinquency and crime; and
- 3 (c) the particular needs of juveniles in custody.

4 The data gathered shall be used by the OJJDP in the
5 improvement of the administration of juvenile justice.

6 The OJJDP shall set up a mechanism to ensure that children
7 themselves are involved in research and policy development.

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

14 (9) To initiate and coordinate the conduct of trainings for the
15 personnel of the agencies involved in the administration of the
16 juvenile justice system and delinquency prevention;

17 (10) To submit an annual report to the President, through the
18 Secretary of Justice, on the implementation of this Act; and

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

21 **SEC. 11. Policies and Procedures on Juvenile Delinquency Prevention**

22 .- All government agencies provided in Section 9 shall, with the assistance of
23 the OJJDP and within one (1) year from the effectivity of this Act, draft
24 policies and procedures consistent with the standards set in the law. These
25 policies and procedures shall be modified accordingly in consultation with the
26 OJJDP upon the completion of the national juvenile delinquency prevention
27 program as provided under Section 10 (4).

1 shall be established in all levels of local government and strengthened, where
2 they have already been established, within one (1) year from the effectivity of
3 this Act. The membership of these local councils shall be taken from
4 responsible members of the community, including a representative of the
5 youth, a representative of the local government unit concerned, and a
6 representative from an NGO or private agency concerned with the welfare of
7 children.

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

11 **SEC. 17. *Appointment of Local Social Welfare and Development***
12 ***Officer.*** All local government units shall appoint a duly licensed social worker
13 as its local social welfare and development officer tasked to assist children in
14 conflict with the law.

15 **SEC. 18. *The Sangguniang Kabataan.*** The *Sangguniang Kabataan* (SK)
16 shall coordinate with the LCPCs in the formulation and implementation of
17 delinquency prevention and diversion programs in the community.

18 Chapter 2. Comprehensive Delinquency Prevention Plans

19 **SEC. 19. *Development of Comprehensive Juvenile Delinquency***
20 ***Prevention Plans.*** - Comprehensive juvenile delinquency prevention plans
21 covering at least a three (3) - year period shall be instituted in local
22 government units from the barangay to the provincial level.

23 The local government units shall set aside an amount necessary to
24 implement their respective juvenile delinquency programs in their annual
25 budget.

26 The local government unit, in coordination with the LCPC, shall call on
27 all sectors concerned, particularly the child-focused institutions, NGOs,
28 people's organizations, educational institutions and government agencies

1 involved in delinquency prevention to participate in the planning process and
2 implementation of programs related to delinquency prevention. Such
3 delinquency prevention plans and programs shall be implemented consistent
4 with the national program formulated and designed by the OJJDP.

5 The implementation of the comprehensive delinquency prevention plans
6 shall be reviewed and assessed yearly by the local government units in
7 coordination with the LCPCs. Results of the assessment shall be submitted by
8 the provincial and city governments to the OJJDP not later than March 30 of
9 the year.

10 **SEC. 20. *Community-Based Program on Delinquency Prevention.***-

11 Community-based programs on delinquency prevention shall be instituted by
12 the local government units through the LCPCs, schools, youth organizations and
13 other concerned agencies. These local government units shall provide
14 community-based services which respond to the special needs, problems,
15 interests and concerns of children and which offer appropriate counseling and
16 guidance to them and their families. These programs shall consist of three (3)
17 levels.

18 (1) **Primary prevention.** - includes general measures to promote
19 social justice and equal opportunity, which tackle perceived root
20 cause of offending;

21 (2) **Secondary prevention** - includes measures to assist children at
22 risk;

23 (3) **Tertiary prevention** - include measures to avoid unnecessary
24 contact with the formal justice system and other measures to
25 prevent reoffending

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28

**Title IV
TREATMENT OF
CHILDREN BELOW AGE OF CRIMINAL RESPONSIBILITY**

1 only after all other methods of control have been exhausted and
2 have failed;

3 (5) Refrain from subjecting the child in conflict with the law to
4 greater restraint than is necessary for his/her apprehension;

5 (6) Avoid violence or unnecessary force;

6 (7) Determine the age of the child pursuant to section 7 of this act;
7 and

8 (8) Notify the parents/guardians and local social welfare and
9 development officer immediately upon apprehension and not later
10 than eight (8) hours therefrom. The Local Social Welfare
11 Development Officer shall explain to the child and his/her
12 parents/guardians the consequences of his/her act with a view
13 towards counseling and rehabilitation, diversion from the criminal
14 justice system, and reparation, if appropriate.

15 (9) Take the child immediately to the proper medical or health
16 officer for a thorough physical and mental examination. The
17 examination results shall be kept confidential unless otherwise
18 ordered by the Family Court. Whenever the medical treatment is
19 required, steps shall be immediately undertaken to provide the
20 same.

21 (10) If detention of the child in conflict with the law is necessary, to
22 secure him/her in quarters separate from that of the opposite sex
23 and adult offenders.

24 *Provided, that,* a child in conflict with the law shall only be
25 searched by a law enforcement officer of the same gender.

26 **SEC. 23. Duties During Initial Investigation** - The law enforcement
27 officer shall, in his/her investigation, determine where the case involving the
28 child in conflict with the law should be referred.

1 The investigation shall be conducted in the presence of the following:
2 (1) child's counsel of choice or in the absence thereof, a lawyer from the
3 Public Attorney's Office; (2) the child's parents, guardian, or nearest relative,
4 as the case may be; and (3) the Local Social Welfare and Development Officer.
5 In the absence of child's parents, guardian, or nearest relative, and the Local
6 Social Welfare and Development Officer, the investigation shall be conducted
7 in the presence of a representative of a non government organization, religious
8 group, or member of the Barangay Council for the Protection of Children
9 (BCPC).

10 After the initial investigation, the authority conducting the same may do
11 either of the following:

- 12 (1) Proceed in accordance with Section 20 if the child is twelve (12)
13 years old and below; or
- 14 (2) If the child is above 12 years old, proceed to diversion under the
15 following chapter.

16 Chapter 2. Diversion

17 **SEC. 24. *System of Diversion.*** - Children in Conflict with the Law shall
18 undergo diversion programs without undergoing court proceedings subject to
19 the conditions hereinafter provided:

- 20 (1) Where the imposable penalty for the crime committed is not more
21 than six (6) years imprisonment, the law enforcement officer or
22 *Punong Barangay* with the assistance of the local social welfare
23 development officer or other members of the LCPC shall conduct
24 mediation, family conferencing and conciliation and, where
25 appropriate, adopt *indigenous modes of conflict resolution* in
26 accordance to the best interest of the child with a view to
27 accomplishing the objectives of restorative justice and the

1 formulation of a diversion program. The child and his/her family
2 shall be present;

3 (2) In Victimless Crimes where the imposable penalty is not more
4 than six (6) years imprisonment, the Local Social Welfare and
5 Development Officer shall meet with the child and his/her parents
6 or guardians for the development of the appropriate diversion and
7 rehabilitation program, in coordination with the BCPC;

8 (3) Where the imposable penalty for the crime committed exceeds six
9 (6) years imprisonment, diversion measures may be resorted to by
10 the court.

11 **SEC. 25. *Stages Where Diversion May Be Conducted.*** - Diversion may
12 be conducted at the *Katarungang Pambarangay*, the police investigation or the
13 inquest or preliminary investigation.

14 **SEC. 26. *Contract of Diversion.*** - If during the conferencing, mediation
15 or conciliation, the child voluntarily admits the commission of the act, a
16 diversion program shall be developed when appropriate and desirable as
17 determined under Section 28. Such admission shall not be used against the
18 child in any subsequent judicial, quasi-judicial or administrative proceedings.
19 The diversion program shall be effective and binding if accepted by the parties
20 concerned. It shall be in writing and signed by the parties concerned and the
21 appropriate authorities. The local social welfare development officer shall
22 supervise the implementation of the diversion program. The diversion
23 proceedings shall be completed within forty-five (45) days. The period of
24 prescription of the offense shall be suspended during this forty-five day period.

25 The child shall present himself/herself to the competent authorities that
26 imposed the diversion program at least once a month for reporting and
27 evaluation of the effectiveness of the program.

1 Failure to comply with the terms and conditions of the contract of
2 diversion, as certified by the local social welfare development officer, shall
3 give the offended party the option to institute the appropriate legal action.

4 The period of prescription of the offense shall be suspended during the
5 effectivity of the diversion program, but not exceeding a period of two years.

6 **SEC. 27. Duty of Punong Barangay When There Is No Diversion.-**

7 Where the offense does not fall under Section 23 (a) and (b), or if the child,
8 his/her parents or guardian or the offended party do not consent to a
9 diversion, the *Punong Barangay* handling the case shall forward the records of
10 the case of the child to the law enforcement officer, prosecutor or the
11 appropriate court, as the case may be.

12 **SEC. 28. Duty of Law Enforcement Officer When There Is No**

13 **Diversion.** - Where the offense does not fall under Section 23 (a) and (b), or if
14 the child, his/her parents or guardian or the offended party do not consent to a
15 diversion, the Women and Children's Protection Desk of the Philippine National
16 Police, or other law enforcement officer handling the case shall forward the
17 records of the case of the child under custody to the prosecutor or judge
18 concerned for the conduct of inquest and/or preliminary investigation to
19 determine whether or not the child should remain under custody and
20 correspondingly charged in court. The document transmitting said records shall
21 display the word "CHILD" in bold letters.

22 **SEC. 29. Factors in Determining Diversion Program.-** In determining
23 whether diversions is appropriate and desirable, the following factors shall be
24 taken into consideration:

- 25 (1) The nature and circumstances of the offense charged;
26 (2) The frequency and the severity of the act;
27 (3) The circumstances of the accused child (e.g. age, maturity,
28 intelligence, etc.);

- 1 (4) The influence of the family and environment on the growth of the
- 2 child;
- 3 (5) The reparation of injury to the victim;
- 4 (6) The weight of the evidence against the child;
- 5 (7) The safety of the community; and
- 6 (8) The best interest of the child.

7 **SEC. 30. Formulation of Diversion Program** - In formulating a
8 diversion program, the individual characteristics and the peculiar
9 circumstances of the Child in Conflict with the Law shall be used to formulate
10 an individualized treatment. The following factors shall be considered in
11 formulating a diversion program of the child:

- 12 (1) The child's feelings of remorse for the offense he/she committed;
- 13 (2) The parents' or legal guardians' ability to guide and supervise the
- 14 child;
- 15 (3) The victim's view about the propriety of the measures to be
- 16 imposed; and
- 17 (4) The availability of community based programs for rehabilitation
- 18 and reintegration of the child.

19 **SEC. 31. Components of Diversion Program.** - The diversion program
20 shall include adequate socio-cultural and psychological responses and services
21 for the child. At the different stages where diversion may be resorted to, the
22 following diversion programs may be agreed upon:

- 23 (1) At the level of the *Punong Barangay*, the law enforcement officer,
- 24 the prosecutor and the appropriate court:
 - 25 (a) Restitution of property;
 - 26 (b) Reparation of the damage caused;
 - 27 (c) Indemnification for consequential damages;
 - 28 (d) Written or oral apology;

- 1 (e) Care, Guidance and Supervision Orders;
- 2 (f) Counseling for the Child in Conflict with the Law and the
- 3 family;
- 4 (g) Attendance in trainings, seminars and lectures on:
- 5 (i) anger management skills;
- 6 (ii) problem solving and/or conflict resolution skills;
- 7 (iii) values formation; and
- 8 (iv) other skills which will aid the child to deal with
- 9 situations which can lead to repetition of the
- 10 offense;
- 11 (h) Participation in available community-based programs,
- 12 including community service; or
- 13 (i) Participation in educational, vocational and life skills
- 14 programs.
- 15 (2) At the level of the law enforcement officer, the prosecutor and
- 16 the appropriate court:
- 17 (a) confiscation and forfeiture of the proceeds or instruments
- 18 of the crime;
- 19 (3) At the level of the appropriate court:
- 20 (a) Written or oral reprimand or citation;
- 21 (b) Fine;
- 22 (c) Payment of the cost of the proceedings; or
- 23 (d) Institutional care and custody.

24 **Chapter 3. Prosecution**

25 **SEC. 32. Duty of the Prosecutor's Office.-** There shall be a specially

26 trained prosecutor to conduct inquest, preliminary investigation and

27 prosecution of cases involving a Child in Conflict with the Law.

1 **SEC. 33. Preliminary Investigation and Filing of Information.**- The
2 prosecutor shall conduct a preliminary investigation in the following instances:
3 (a) when the child in conflict with the law does not qualify for diversion; (b)
4 when the parties do not agree to diversion as specified in Sec. 27 and sec. 28;
5 (c) when considering the assessment and recommendation of the social worker,
6 the prosecutor determines that diversion is not appropriate for the child in
7 conflict with the law.

8 Upon determination of probable cause by the prosecutor, the
9 information against the child shall be filed before the Family Court within
10 forty-five (45) days from the start of the preliminary investigation.

11 **Chapter 4. Court Proceedings**

12 **SEC. 34. Bail.** - For purposes of recommending the amount of bail, the
13 privileged mitigating circumstance of minority shall be considered.

14 **SEC. 35. Release on Recognizance.**- Where a child is detained, the
15 court may, in its discretion and taking into consideration the peculiar
16 circumstances of the child and upon the recommendation of the court social
17 worker, the DSWD, the Local Social Welfare and Development Officer or the
18 Social Services and Counseling Division (SSCD), release the child alleged to have
19 committed an offense on recognizance to the custody of his/her parents or
20 other suitable person, as determined by the court, who shall be responsible for
21 his/her appearance whenever required by the court.

22 **SEC. 36. Diversion measures.** - Where the maximum penalty imposed
23 by law for the offense with which the Child in Conflict with the Law is charged
24 is imprisonment of not more than twelve (12) years, regardless of the fine or
25 fine alone regardless of the amount, and before arraignment of the Child in
26 Conflict with the Law, the court shall determine whether or not diversion is
27 appropriate.

1 **SEC. 37. *Automatic Suspension of Sentence.***- Pursuant to the Family
2 Courts Act, once the child is found guilty of the offense charged, the court
3 shall promulgate sentence and ascertain any civil liability which may have
4 resulted from the offense committed by the Child in Conflict with the Law.
5 However, the sentence shall be suspended without need of application.

6 **SEC. 38. *Various Disposition Measures.***- Upon suspension of sentence
7 and after considering the various circumstances of the child, the court shall
8 impose the appropriate disposition measures, including, but not limited to any
9 or a combination of the following:

- 10 (1) Care, guidance and supervision orders;
- 11 (2) Probation;
- 12 (3) Community service orders;
- 13 (4) Financial penalties, compensation and restitution;
- 14 (5) Intermediate treatment and other treatment orders;
- 15 (6) Orders to participate in group counseling and similar activities;
- 16 (7) Orders for living communities or open centers;
- 17 (8) Commitment order to youth rehabilitation center of the DSWD and
18 other centers for children in conflict with the law authorized by
19 the secretary of the DSWD; or,
- 20 (9) Educational, vocational and life skills programs.

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

23 **SEC. 39. *Discharge of the Child in Conflict with the Law.***- Upon the
24 recommendation of the SSCD, the court shall dismiss the case against the child
25 whose sentence has been suspended and against whom disposition measures
26 have been issued, and shall order the final discharge of the child if it finds that
27 the objective of the disposition measures have been fulfilled.

1 The discharge of the Child in Conflict with the Law shall not affect the
2 civil liability resulting from the commission of the offense, which shall be
3 enforced in accordance with law.

4 **SEC. 40. *Return of Child in Conflict With the Law to Court.***- If the
5 court finds that the objective of the disposition measures imposed upon the
6 Child in Conflict with the Law have not been fulfilled, or the Child in Conflict
7 with the Law has willfully failed to comply with the conditions of his/her
8 disposition or rehabilitation program, the Child in Conflict with the Law shall
9 be brought before the court for execution of the judgment .

10 If said Child in Conflict with the Law has reached the age of eighteen
11 (18) years old while under suspended sentence, the court shall determine
12 whether to discharge the child in accordance with this Act, to order execution
13 of sentence, or to extend the suspended sentence for a certain specified period
14 or until the child reaches the maximum age of twenty one (21) years.

15 **SEC. 41. *Credit in Service of Sentence.*** - The Child in Conflict with the
16 Law shall be credited in the services of his/her sentence with the full time
17 spent in actual commitment and detention under this Act.

18 **SEC. 42. *Probation as an Alternative to Imprisonment.***- The court
19 may, after it shall have convicted and sentenced a Child in Conflict with the
20 Law, and upon application at any time, place him/her on probation in lieu of
21 service of his/her sentence taking into account the best interest of the child.
22 For this purpose, Sec. 4 of Presidential Decree No. 968 is hereby amended
23 accordingly.

24 **Chapter 5. Confidentiality of Records and Proceedings**

25 **SEC. 43. *Confidentiality of Records and Proceedings.***- All records and
26 proceedings involving Children in Conflict with the Law from initial contact
27 until final disposition of the case shall be considered privileged and
28 confidential. The public shall be excluded during the proceedings and the

1 records shall not be disclosed directly or indirectly to anyone by any of the
2 parties or the participants in the proceedings for any purpose whatsoever,
3 except to determine if the Child in Conflict with the Law may have his
4 sentence suspended or if he may be granted probation under the probation
5 law, or to enforce the civil liability imposed in the criminal action.

6 The component authorities shall undertake all measures to protect this
7 confidentiality of proceedings, including non-disclosure of records to the
8 media, maintaining a separate police blotter for cases involving Children in
9 Conflict with the Law and adopting a system of coding to conceal a material
10 information which will lead to the child's identity. Records of a Child in
11 Conflict with the Law shall not be used in subsequent proceedings for cases
12 involving the same offender as an adult, except when beneficial for the
13 offender and upon his/her written consent.

14 A person who has been in conflict with the law as a child shall not be
15 held under any provision of law, to be guilty of perjury or of concealment or
16 misrepresentation by reason of his/her failure to acknowledge the case or
17 recite any fact related thereto in response to any inquiry made to him/her for
18 any purpose.

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Title VI.
DETENTION, REHABILITATION AND REINTEGRATION

21 **SEC. 44. *Objective of Institutional Treatment.***- The objective of
22 training and treatment of children in conflict with the law temporarily placed
23 in institutions is to provide care, protection, education, competency
24 development and life skills, with the view of assisting them to assume socially
25 constructive and productive roles in society.

26 **SEC. 45. *Commitment Order Required.***- No child shall be received in
27 any detention, rehabilitation or training facility without a valid commitment
28 order issued by the court after a hearing for the purpose. The details of this
29 order shall be immediately entered in a register exclusively for Children in

1 Conflict with the Law. No child shall be detained in any facility where there is
2 no such register.

3 **SEC. 46. *Separate Detention Facilities From Adults.*** - In all
4 detention, rehabilitation or training facilities, children shall be separated from
5 adults unless they are members of the same family. Under controlled
6 conditions, the Child in Conflict with the Law may be brought together with
7 carefully selected adults as part of a special program that has been determined
8 by the head of the facility to be beneficial for the child in conflict with the
9 law.

10 **SEC. 47. *Female Offenders.***- Female children in conflict with the law
11 placed in an institution shall be given special attention as to their personal
12 needs and problems. They shall be handled by female doctors, correction
13 officers and social workers.

14 **SEC. 48. *Gender-Sensitivity Training.*** No personnel of rehabilitation,
15 detention and training facilities shall handle children in conflict with the law
16 without having undergone gender-sensitivity training.

17 **SEC. 49. *Detention of the Child Pending Trial.***- Children detained
18 pending trial may be released on bail or recognizance as provided for under
19 Sections 34 and 35. In all other cases and whenever possible, detention
20 pending trial may be replaced by the alternative measures, such as close
21 supervision, intensive care or placement with a family or in an educational
22 setting or home. Institutionalization or detention of the child pending trial
23 shall be used only as a measure of last resort and for the shortest possible
24 period of time.

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

1 In the absence of Youth Detention Homes, the Child in Conflict with the
2 Law may be committed to the care of the DSWD, a Youth Detention Center, or
3 a local rehabilitation center recognized by the government in the province, city
4 or municipality within the jurisdiction of the court. The center or agency
5 concerned shall be responsible for the child's appearance in court whenever
6 required.

7 **SEC. 50. *Establishment of Youth Homes by Private Organizations.***-
8 Youth Homes may also be established by private and non-government
9 organizations licensed and accredited by the DSWD, in consultation with the
10 OJJDP.

11 **SEC. 51. *Care and Maintenance of the Child in Conflict with the Law.***
12 The DSWD, the local government unit concerned, or the private and non-
13 government organizations licensed and accredited by the DSWD shall shoulder
14 the expenses for the care and maintenance of the child under their
15 institutional care.

16 **SEC. 52. *Confinement of Convicted Children in Agricultural Camps***
17 ***and other Training Facilities.*** - A Child in Conflict with the Law may, after
18 conviction and upon order of the court, be made to serve his/her sentence, in
19 lieu of confinement in a regular penal institution, in an agricultural camp and
20 other training facilities that may be established, maintained, supervised and
21 controlled by the Bureau of Corrections.

22 **SEC. 53. *Duties Of Detention, Rehabilitation and Training***
23 ***Personnel.***- In the performance of their duties, personnel of detention,
24 rehabilitation and training facilities shall respect and protect the human
25 dignity and fundamental human rights of all children under their care.

26 **SEC. 54. *Rehabilitation of Children in Conflict with the Law.***-
27 Children in conflict with the law, whose sentences are suspended may, upon

1 order of the court, undergo any or a combination of the following disposition
2 measures best suited to the rehabilitation and welfare of the child:

3 (1) Residential or community-based rehabilitation in the DSWD Youth
4 Rehabilitation Center, any DSWD-accredited NGO Youth
5 Rehabilitation Center, Parole and Probation provincial and city
6 field offices, or in the community;

7 (2) Care, guidance and supervision orders;

8 (3) Community service orders;

9 (4) Drug and alcohol treatment; or

10 (5) Participation in group counseling and similar activities.

11 **SEC. 55. Youth Rehabilitation Center.**- The Youth Rehabilitation
12 Center shall provide twenty-four (24) hour group care, treatment and
13 rehabilitation services under the guidance of a trained staff where residents
14 are cared for under a structured therapeutic environment with the end in view
15 of reintegrating them in their families and communities as socially functioning
16 individuals. A quarterly report shall be submitted by the Center to the proper
17 court on the progress of the children in conflict with the law. Based on the
18 progress of the youth in the centers, a final report will be forwarded to the
19 court for final disposition of the case.

20 **SEC. 56. Objectives of Community Based Programs.**- The objectives of
21 a community-based programs are as follows:

22 (1) Prevent disruption in the education or means of livelihood of the
23 Child in Conflict with the Law in case he/she is studying, working
24 or attending vocational learning institutions;

25 (2) Prevent separation of the Child in Conflict with the Law from
26 his/her parents/guardians to maintain the support system
27 fostered by their relationship and to create greater awareness of
28 their mutual and reciprocal responsibilities;

1 (3) Facilitate the rehabilitation and mainstreaming of the Child in
2 Conflict with the Law and encourage community support and
3 involvement; and

4 (4) Minimize the stigma that attaches to the Child in Conflict with the
5 Law by preventing jail detention.

6 **SEC. 57. *Criteria of Community-Based Programs.***- Every local
7 government unit shall establish community-based programs that will focus on
8 the rehabilitation and re-integration of the child. All programs shall meet the
9 criteria to be established by OJJDP which shall take into account the purpose
10 of the program, the need for the consent of the child and his/her parents or
11 legal guardians, and the participation of the child-centered agencies whether
12 public or private.

13 Community-based programs shall consist of, but shall not be limited to
14 community service.

15 **SEC. 58. *Community-Based Rehabilitation.*** - The Child in Conflict with
16 the Law, whose sentences are suspended may, upon order of the court,
17 undergo rehabilitation in the community. The Child in Conflict with the Law
18 will be released to parents, relatives or any other responsible person in the
19 community. Under the supervision and guidance of the Local Social Welfare
20 Development Officer, and in coordination with his/her parents/guardian, the
21 Children in Conflict with the Law shall participate in any of the following
22 community-based programs:

23 (1) Competency and life skills development;

24 (2) Socio-cultural and recreational activities;

25 (3) Community volunteer projects;

26 (4) Leadership training, and,

27 (5) Community and family welfare services, among others.

1 Chapter 2. Prohibited Acts

2 SEC. 62. *Prohibition Against Labeling.* - In the conduct of the
3 proceedings beginning from the initial contact with the child, the competent
4 authorities must refrain from branding or labeling children as young criminals,
5 juvenile delinquents, prostitutes or attaching to them in any manner any other
6 derogatory names. Likewise, no discriminatory remarks and practices shall be
7 allowed particularly with respect to the child's class or ethnic origins.

8 SEC. 63. *Other Prohibited Acts.* - The following and any other similar
9 acts shall be considered prejudicial and detrimental to the psychological,
10 emotional, social, spiritual, moral and physical health and well-being of the
11 Child in Conflict with the Law and therefore, prohibited:

- 12 (1) Employment of threats of whatever kind and nature;
13 (2) Employment of abusive, coercive and punitive measures such as
14 cursing, beating, stripping, and solitary confinement;
15 (3) Employment of degrading, inhuman and cruel forms of
16 punishment such as shaving the heads, pouring irritating,
17 corrosive or harmful substances over the body of the Child in
18 Conflict with the Law, or forcing him/her to walk around the
19 community wearing signs which embarrass, humiliate, and
20 degrade their personality and dignity;
21 (4) Compelling the child to perform involuntarily servitude in any and
22 all forms under any and all instances.

23 Chapter 3. Penal Provision

24 SEC. 64. *Violation of the Provisions of this Act or Rules or*
25 *Regulations in General.* - Any person who violates any provision of this code or
26 any rule or regulation promulgated in accordance thereof shall, upon
27 conviction for each act or omission, be punished by a fine of not more than Six
28 Thousand Pesos (PHP6,000.00) or suffer imprisonment of not less than eight (8)

1 years but not more than ten (10) years, or both such fine and imprisonment at
2 the discretion of the court, unless a higher penalty is provided for in the
3 Revised Penal Code or Special Laws. If the offender is a public officer or
4 employee, he/she shall, in addition to such fine and/or imprisonment, be held
5 administratively liable and shall suffer the penalty of perpetual absolute
6 disqualification.

7 **Chapter 4. Appropriation Provision**

8 **SEC. 65. Appropriations.** - The amount necessary for the
9 implementation of this Act shall be included in the General Appropriations Act
10 of the year following its enactment into law and thereafter.

11 An initial amount of Ten Million Pesos (PHP10,000,000,00) for the
12 purpose of setting up the OJJDP shall be taken from the proceeds of the
13 Philippine Charity Sweepstakes Office.

14 **Title VIII.**
15 **TRANSITORY PROVISIONS**

16 **SEC. 66. Children in Conflict with the Law 12 Years Old and Below.-**
17 Upon effectivity of this Act, cases of children twelve years old and below at the
18 time of the commission of the crime shall immediately be dismissed and the
19 child shall be referred to the appropriate Local Social Welfare and
20 Development Officer. The Local Social Welfare and Development Officer, upon
21 thorough assessment of the child, shall determine whether to release him/her
22 to the custody of his/her parents, or refer him/her to prevention programs as
23 provided under this act. Those with suspended sentences and undergoing
24 rehabilitation at the youth rehabilitation center shall likewise be released,
25 unless it is contrary to the best interest of the child.

26 **SEC. 67. Children Detained Pending Trial.-** If the child is detained
27 pending trial, the Family Court shall also determine whether or not continued
28 detention is necessary and, if not, determine appropriate alternatives for
29 detention. If detention is necessary and he/she is detained with adults, the

1 **SEC. 72. Effectivity.** - This Act shall take after fifteen (15) days from its
2 publication in at least two (2) national newspaper of general circulation.

Approved,