

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session *ml*)

OFFICE OF THE CLERK
SENATE
REPUBLIC OF THE PHILIPPINES

SENATE

17 OCT 11 P4:00

S. B. No. 1603

Introduced by SENATOR FRANKLIN M. DRILON

AN ACT

LOWERING THE AGE OF CRIMINAL RESPONSIBILITY, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9344, OTHERWISE KNOWN AS THE "JUVENILE JUSTICE AND WELFARE ACT OF 2006", AS AMENDED

EXPLANATORY NOTE

Opinions on the subject of the minimum age of criminal responsibility ("MACR") continue to divide the nation. While the proposal to amend the MACR draws sharp criticism from some, public opinion strongly favors criminal reform since the policy of treating minors as incapable of committing crimes no longer necessarily reflects modern sensibilities. In fact, there remains no global consensus as to the minimum age at which a person may be charged with and convicted of a criminal offense.

Notwithstanding a United Nations Committee on the Rights of the Child's recommendation of an "absolute minimum" age of 12 for criminal responsibility, several countries' MACR remain well below the threshold. Scotland can hand out criminal convictions to eight-year-olds. In the rest of the United Kingdom, ten-year-olds can be tried for a crime. This British colonial legacy is also apparent in the relatively low MACRs seen in South Africa, Australia and New Zealand. Similarly, Nigeria, India, Pakistan and Bangladesh are among the 21 countries that set a MACR of seven years old, the lowest national age globally.

While we believe that the proper way to deal with youth offenders includes their rehabilitation and reintegration as productive members of society, we must balance this with the need to inspire public confidence that the youth justice system will deal with offenders not only justly but also effectively. The proposed amendment will provide our justice system the necessary flexibility to deal with young offenders without necessarily foreclosing the opportunity for care and reintegration.

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


FRANKLIN M. DRILON

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LOWERING THE AGE OF CRIMINAL RESPONSIBILITY, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9344, OTHERWISE KNOWN AS THE "JUVENILE JUSTICE AND WELFARE ACT OF 2006", AS AMENDED

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

1 Section 1. Section 6 of Republic Act No. 9344, as amended, is hereby further
2 amended to read as follows:

3 "SEC. 6. *Minimum Age of Criminal Responsibility.* – A child [fifteen
4 (15)] **UNDER TWELVE (12)** years of age [or under] at the time of the
5 commission of the offense shall be exempt from criminal liability. However,
6 the child shall be subjected to an intervention program pursuant to Section 20
7 of this Act.

8 "A child is deemed to be [fifteen (15)] **TWELVE** years of age on the
9 day of the [fifteenth] **TWELFTH** anniversary of his/her birthdate.

10 "A child [above fifteen (15)] **TWELVE** years **OF AGE** but below
11 [eighteen (18)] **FIFTEEN (15)** years of age shall likewise be exempt from
12 criminal liability [and] **BUT SHALL** be subjected to an intervention program,
13 unless he/she has acted with discernment, in which case, such child shall be
14 subjected to the appropriate proceedings in accordance with this Act.

15 "The exemption from criminal liability herein established does not
16 include exemption from civil liability, which shall be enforced in accordance
17 with existing laws."

18 Sec. 2. Sections 20 of Republic Act No. 9344, as amended, is hereby further
19 amended to read as follows:

1 "SEC. 20. *Children Below the Age of Criminal Responsibility.* – If it has
2 been determined that the child taken into custody is [fifteen (15)] **UNDER**
3 **TWELVE (12)** years **OF AGE** [old or below], the authority which will have an
4 initial contact with the child, in consultation with the local social welfare and
5 development officer, has the duty to immediately release the child to the
6 custody of [his/her parents or guardian, or in the absence thereof, the child's
7 nearest relative] **THE LOCAL SOCIAL WELFARE AND DEVELOPMENT**
8 **OFFICER.** The child shall be subjected to a community-based intervention
9 program supervised by the local social welfare and development officer,
10 unless the best interest of the child requires the referral of the child to a
11 youth care facility or "Bahay Pag-asa" managed by LGUs or licensed and/or
12 accredited NGOs monitored by the DSWD.

13 "[The local social welfare and development officer shall determine the
14 appropriate programs for the child who has been released, in consultation
15 with the child and the person having custody over the child. If the parents,
16 guardians or nearest relatives cannot be located, or if they refuse to take
17 custody, the child may be released to any of the following:]

18 "[(a) A duly registered nongovernmental or religious organization;]

19 "[(b) A barangay official or a member of the Barangay Council for the
20 Protection of Children (BCPC);]

21 "[(c) A local social welfare and development officer; or, when and
22 where appropriate, the DSWD.]

23 "If the child has been found by the local social welfare and
24 development officer to be dependent, abandoned, neglected or abused by
25 his/her parents and the best interest of the child requires that he/she be
26 placed in a youth care facility or "Bahay Pag-asa", the child's parents or
27 guardians shall execute a written authorization for the voluntary commitment
28 of the child: *Provided,* That if the child has no parents or guardians or if they
29 refuse or fail to execute the written authorization for voluntary commitment,
30 the proper petition for involuntary commitment shall be immediately filed by
31 the DSWD or the Local Social Welfare and Development Office (LSWDO)
32 pursuant to Presidential Decree No. 603, as amended, otherwise known as

1 "The Child and Youth Welfare Code" and the Supreme Court rule on
2 commitment of children: *Provided, further,* That the minimum age for children
3 committed to a youth care facility or "Bahay Pag-asa" shall be [twelve (12)]
4 **NINE** years old."

5 Sec. 3. Section 20-A of Republic Act No. 9344, as amended, is hereby further
6 amended to read as follows:

7 "SEC. 20-A. *Serious Crimes Committed by Children Who Are Exempt*
8 *From Criminal Responsibility.* – A child who is above [twelve (12)] **NINE**
9 years of age [up to fifteen (15)] **BUT UNDER TWELVE (12)** years of age
10 and who commits parricide, murder, infanticide, kidnapping and serious illegal
11 detention where the victim is killed or raped, robbery, with homicide or rape,
12 destructive arson, rape, or carnapping where the driver or occupant is killed
13 or raped or offenses under Republic Act No. 9165 (Comprehensive Dangerous
14 Drugs Act of 2002) punishable by more than twelve (12) years of
15 imprisonment, shall be deemed a neglected child under Presidential Decree
16 No. 603, as amended, and shall be mandatorily placed in a special facility
17 within the youth care faculty or "Bahay Pag-asa" called the Intensive Juvenile
18 Intervention and Support Center (IJISC).

19 "In accordance with existing laws, rules, procedures and guidelines,
20 the proper petition for involuntary commitment and placement under the
21 IJISC shall be filed by the local social welfare and development officer of the
22 LGU where the offense was committed, or by the DSWD social worker in the
23 local social welfare and development officer's absence, within twenty-four
24 (24) hours from the time of the receipt of a report on the alleged commission
25 of said child. The court, where the petition for involuntary commitment has
26 been filed shall decide on the petition within seventy-two (72) hours from the
27 time the said petition has been filed by the DSWD/LSWDO. The court will
28 determine the initial period of placement of the child within the IJISC which
29 shall not be less than one (1) year. The multi-disciplinary team of the IJISC
30 will submit to the court a case study and progress report, to include a
31 psychiatric evaluation report and recommend the reintegration of the child to
32 his/her family or the extension of the placement under the IJISC. The multi-

1 disciplinary team will also submit a report to the court on the services
2 extended to the parents and family of the child and the compliance of the
3 parents in the intervention program. The court will decide whether the child
4 has successfully completed the center-based intervention program and is
5 already prepared to be reintegrated with his/her family or if there is a need
6 for the continuation of the center-based rehabilitation of the child. The court
7 will determine the next period of assessment or hearing on the commitment
8 of the child."

9 Sec. 4. Section 20-B of Republic Act No. 9344, as amended, is hereby further
10 amended to read as follows:

11 "SEC. 20-B. *Repetition of Offenses.* – A child [who is] above [twelve
12 (12)] **NINE** years of age [up to fifteen (15)] **BUT UNDER TWELVE (12)**
13 years [of age] **OLD** [and] who commits an offense for the second time or
14 oftener[: *Provided*, That the child] **AND WHO** was previously subjected to a
15 community-based intervention program, shall be deemed a neglected child
16 under Presidential Decree No. 603, as amended, and shall undergo an
17 intensive intervention program supervised by the local social welfare and
18 development officer[:]. [*Provided, further*, That, if the best interest of the
19 child requires that he/she] **THE CHILD SHALL** be placed in a youth care
20 facility or "Bahay Pag-asa"[, the child's parents or guardians shall execute a
21 written authorization for the voluntary commitment of the child: *Provided*,
22 *finally*, That if the child has no parents or guardians or if they refuse or fail to
23 execute the written authorization for voluntary commitment,] **UPON THE**
24 **FILING OF** the proper petition for involuntary commitment [shall be
25 immediately filed] by the DSWD or the LSWDO pursuant to Presidential
26 Decree No. 603, as amended."

27 Sec. 5. Section 22 of Republic Act No. 9344, as amended, is hereby further
28 amended to read as follows:

29 "SEC. 22. *Duties During Initial Investigation.* – The law enforcement
30 officer shall, in his/her investigation, determine where the case involving the
31 child in conflict with the law should be referred.

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

9 “The social worker shall conduct an initial assessment to determine the
10 appropriate interventions and whether the child acted with discernment, using
11 the discernment assessment tools developed by the DSWD. The initial
12 assessment shall be without prejudice to the preparation of a more
13 comprehensive case study report. The local social worker shall do either of
14 the following:

15 “(a) Proceed in accordance with Section 20 if the child is [fifteen (15)]
16 **UNDER TWELVE** years **OF AGE** [or below] or [above fifteen (15)]
17 **TWELVE (12)** but below [eighteen (18)] **FIFTEEN (15)** years old,
18 who acted without discernment; and

19 “(b) If the child is [above fifteen (15)] **TWELVE** years old but below
20 [eighteen (18)] **FIFTEEN** and who acted with discernment, proceed to
21 diversion under the following chapter.”

22 Sec. 6. *Implementing Rules and Regulations.* – The Juvenile Justice and
23 Welfare Council (JJWC) shall within thirty (30) days from the effectivity of this Act
24 promulgate the necessary rules and regulations to effectively implement the
25 provisions of this Act.

26 Sec. 7. *Separability Clause.* – If any portion or provision of this Act is declared
27 unconstitutional, the remainder of this Act not affected thereby shall remain in force
28 and effect.

29 Sec. 8. *Repealing Clause.* – Any law, presidential decree or issuance,
30 executive order, letter of instruction, rule or regulation inconsistent with the
31 provisions of this Act is hereby repealed or modified accordingly.

1 Sec. 9. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days
2 from the date of its publication in the Official Gazette or a newspaper of general
3 circulation.

Approved.