

THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
FIRST REGULAR SESSION)

SENATE
OFFICE OF THE SECRETARY

'04 AUG -4 P 3:43

RECEIVED BY: _____

SENATE

S.B. NO. 1666

Introduced by Senator Magsaysay, Jr.

EXPLANATORY NOTE

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. The said mandate of the State which is supposedly accorded with transcendental importance has become illusory by want of established institution to carry out said noble intention of the State.

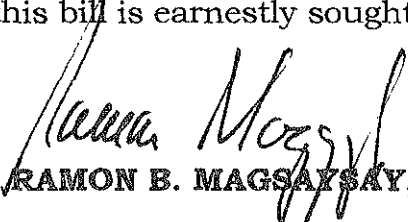
The saddening escalation of crime rate in the country involving children is not a question of facts, in the daily news we are confronted with shocking reality where minor are caught red handed committing crimes of high degree and not being remorseful for what they have done. This actuation of the minor who seems not to be bothered by the penalty may be a clear manifestation that they are not aware of the possible consequences of their acts, this is explainable because a human being, in his tender age, cannot be expected to assimilate the intricacies of life in the society. Hence, they should not be placed in equal footing with the men of right age, who commit crimes without a tinge of guilt and with the highest form of depravity.

Unfortunately, that is not the case, the downtrodden plight of these children, which should be alleviated and resolved with, is even exacerbated by incarcerating them in the same cell where the hardened convicts are situated. The mandate of the State to place the erring children in a reformatory is defeated by their evident incarceration,

because in that cell, they are not being reformed but being hardened through the influence of the hardened convicts. This reality seems to escape the highest priority of the government, while the minor continue to languish in jail and shatter their future, we seem also to have forgotten the State's mandate of affording highest priority to the children being the future leaders of our country.

While we have the Child and Welfare Code (PD 603, as amended), the same is a failure in terms of delivering the noble intention of the State to reform the erring minor, upon careful cursory of said law, it reveals that the law is ambiguous as far as implementation and reformatory procedures are concerned. This explains the reasons why some minor are suffering in jail while others are in the custody of DSWD, there is an eminent loopholes in the law that need to be addressed with.


Hence, to uphold to the noble vision of the State to afford proper care and protection to the children from the evils of society, and by giving the erring children the right reformatory institution to address their problem, the immediate passage of this bill is earnestly sought.


RAMON B. MAGSAYSAY, JR

13TH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

'04 AUG -4 P3:43

SENATE
S.B. No. 1666

RECEIVED BY: _____ 

Introduced by Senator Magsaysay, Jr.

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

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

TITLE I.
GOVERNING PRINCIPLES IN THE
ADMINISTRATION OF JUVENILE JUSTICE

CHAPTER I. 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 2004". 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 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.

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. It shall ensure that children are dealt with in a manner appropriate to their well-being by providing for, among others, a variety of disposition such as care, guidance and supervision orders, counseling, probation, foster care, educational and vocational training programs and other alternatives to institutional care.

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

Proceedings before any authority shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express himself/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. 3. Definition of Terms - The following terms as used in this Act shall be defined as follows:

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

- b) **Child in conflict with the law** - shall refer to a person below eighteen (18) years of age who is alleged as, accused of, or adjudged as having committed an offense under Philippine law.
- c) **Offense** - shall refer to any act or omission punishable by law.
- d) **Serious Offense** - shall refer to an offense punishable by imprisonment of more than six (6) years after considering the privileged mitigating circumstance of minority.
- e) **Deprivation of liberty** - shall refer to any form of detention or imprisonment or the placement of a person in public or private custodial setting, from which the person is not permitted to leave at will, by order of any judicial, administrative, authority.
- f) **Youth Detention Homes** - shall refer to an institution that receives and rehabilitates children in conflict with the law.
- g) **Youth Rehabilitation Center** - shall refer to the moment when the child is arrested or detained.
- h) **Take into custody** - shall refer to the moment when the child is arrested or detained
- i) **Detention** - shall refer to the effective limitation of the liberty of movement.
- j) **Juvenile Justice System** - shall mean proceedings starting from being taken into custody, including diversion proceedings, court proceeding after the filing of the proper information until the disposition of the case, rehabilitation, reintegration, until the termination of after-care services.
- k) **Diversion** - shall refer to an alternative child-appropriate process of determining a child's responsibility as well as in determining the measures to be undertaken by the child in conflict with the law.

- l) **Diversion program** - shall refer to programs that the child is required to undergo after he/she is found responsible for an offense without resorting to formal court litigation.
- m) **Community-based Programs** - shall refer to the programs provided in a community setting developed for the purpose of delinquency prevention, rehabilitation and preparation of the child for re-integration into his/her family and/or the community.
- n) **Initial contact with the child** - shall refer to the moment the child comes into contact with the juvenile justice system when he/she is taken into the custody by any law enforcement officer.

CHAPTER II. FRAMEWORK AND PRINCIPLES IN THE ADMINISTRATION OF JUVENILE JUSTICE

SEC. 4. Framework of Restorative Justice - This Act shall adopt the framework of restorative justice which aims at rehabilitating the child, providing restitution in favor of the victim and fostering peace in the community. This framework shall promote accountability, competency development and community safety.

SEC. 5. Fundamental Principles In the Administration of Juvenile Justice and Delinquency Prevention - The State adopts the following fundamental principles:

1. Juvenile justice and delinquency prevention are essential aspects of the promotion of child welfare.
2. Formal agencies of social control should only be utilized as a means of last resort. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time. 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 needs of the child as well as the needs of society.

3. Children detained in facilities shall be guaranteed the benefit of meaningful activities and programs which would 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.
4. Children deprived of personal liberty shall not for any reason related to their status be denied the civil, political, social, economic and cultural rights to which they are entitled under national or international law.
5. The care of children in conflict with the law and the preparation for their return to society are social services of great importance. Appropriate agencies and community organizations shall constantly seek to increase the awareness of the public towards these ends.
6. Community-based services and programs shall be developed and implemented for the prevention of juvenile delinquency.
7. The privacy of children in conflict with the law and the confidentiality of proceedings involving them shall be respected at all times. Media reports shall be factual, objective and non-judgmental.
8. No child shall be unlawfully or arbitrarily deprived of his/her liberty.
9. No child shall be subjected to harsh or degrading treatment or punishment at home, school or any other institution.
10. Neither capital punishment nor life imprisonment without possibility of parole or release shall be imposed for any crime committed by children.

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

SEC. 6. Minimum Age of Criminal Responsibility - A child twelve (12) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, he/she shall be subjected to a delinquency prevention program pursuant to Section 19 and 20 of this Act.

A child above twelve (12) years but below fifteen (15) years of age shall likewise be exempt from criminal liability and he/she shall be subjected to a delinquency prevention program pursuant to Sec. 19 and 20 of this Act, unless he/she has acted with discernment, in which case, such child shall be proceeded against in accordance with this Act.

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

SEC. 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 such as affidavits. In the absence of these documents, age may be based on information from the child himself, testimonies of other person, the physical appearance of the child and other relevant evidence, including medical and dental records. In case of doubt as to the age of the child, it shall be resolved in his/her favor.

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,

Any person contesting the age of the child may file a case in a summary proceeding for the determination of age before the Family Court which shall, after notice, decide the case within twenty-four (24) hours from its receipt of the appropriate pleadings of all interested parties.

SEC. 8. Rights of an Accused Child - Every child alleged as or accused of having infringed the penal law shall have the rights as provided under existing laws and rules.

TITLE II. STRUCTURES IN THE ADMINISTRATION OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 9. Office of the Juvenile Justice and Delinquency Prevention (OJJDP) - An office of Juvenile Justice and Delinquency Prevention is hereby created and established under the Department of Justice headed by an Administrator, who shall be appointed by the President, upon the recommendation of the Secretary of Justice, to oversee the implementation of this Act and ensure coordination among the following agencies:

1. Council for the Welfare of Children (CWC);
2. Department of Justice (DOJ);
3. Department of Social Welfare and Development (DSWD);
4. Department of Education, Culture and Sports (DECS);
5. Department of the Interior and Local Government (DILG);
6. Philippine National Police (PNP);
7. Bureau of Jail Management and Penology (BJMP);
8. Commission on Human Rights (CHR);
9. Technical Education and Skills Development Authority (TESDA);
10. National Youth Commission (NYC); and
11. Other institutions focused on juvenile justice and delinquency prevention.

It shall be created within one year from the effectivity of this Act. The Secretary of Justice shall determine the organizational structure and staffing pattern of the Office.

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

1. To oversee and supervise the implementation of this Act;
2. To advise the President through the Secretary of Justice on all matters and policies relating to juvenile justice and delinquency prevention;
3. To assist agencies concerned with the administration of juvenile justice in the development of regulations in accordance with policies and provisions of this Act;
4. To conduct and support evaluations and studies of the performance and results achieved by delinquency prevention programs and activities of the local government units and other government agencies, and of the prospective performance and results that might be achieved by alternate programs and activities supplementary to or in lieu of those currently being administrated;
5. To coordinate the implementation of the national juvenile delinquency ~~programs and activities~~ by national government agencies and other activities which may have an important bearing on the success of the entire juvenile delinquency effort;
6. To periodically develop a comprehensive three to five year plan for juvenile justice, with the participation of government agencies concerned, NGOs and youth organizations;
7. To collect relevant information and conduct a continuing research in relation to juvenile justice, analyze the data gathered for use in the improvement of the administration of juvenile justice and set up a

mechanism to ensure that children themselves are involved in research and policy development;

8. To review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody;
9. To formulate and recommend policies and strategies in consultation with children themselves for the prevention of juvenile delinquency as well as treatment and rehabilitation of children in conflict with the law;
10. To conduct inspections, through duly designated persons, on a regular basis in detention and rehabilitation facilities and to undertake spot inspection on their own initiative;
11. To conduct trainings for the personnel of the agencies involved in the administration of the juvenile justice system and delinquency prevention;
12. To publish an annual report on the implementation of this Act;
13. To perform such other functions as may be necessary to implement the provisions of this Act.

SEC. 11. Child Rights Center (CRC) - The existing Child Rights Center of the Commission on Human Rights shall ensure that the status, rights and interests of children are upheld in accordance with the Constitution and international instruments on human rights.

TITLE III. PREVENTION OF JUVENILE DELINQUENCY

CHAPTER I. THE ROLE OF THE DIFFERENT SECTORS

SEC. 12. The Family - The family shall be responsible for the primary *nurturing and rearing* of children which is important in delinquency prevention.

SEC. 13. The Education System - Educational institutions shall work together with families, community organizations and agencies in the prevention of juvenile delinquency and in the rehabilitation and reintegration of children in conflict with the law.

SEC. 14. The Role of the Mass Media - The mass media shall play an active role in the promotion of child rights, delinquency prevention, and others by relaying consistent messages through a balanced approach.

SEC. 15. Establishment and Strengthening of Local Councils for the Protection of Children - Local Councils for the Protection of Children (LCPCs) shall be established in all levels of local government and strengthened, where they have already been established, within one (1) year from effectivity of this Act.

The membership of these local councils shall be taken from responsible members of the community, including a representative of the youth, a representative of the local government unit concerned, and a representative from a non-government organization (NOG) 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. 16. Appointment of Local Social Welfare and Development Officer - All local government units shall designate a social worker as social welfare and development officers primarily tasked to assist children in conflict with the law.

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

CHAPTER II. COMPREHENSIVE DELINQUENCY

PREVENTION PLANS

SEC. 18. Development of Comprehensive Juvenile Delinquency Prevention Plans - Comprehensive juvenile delinquency prevention plans covering at least a three-year period shall be instituted in local government units from the *barangay* to the provincial level.

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

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 organization, educational institutions and government agencies involved in delinquency prevention to participate in the planning process and implementation of programs related to delinquency prevention. Such delinquency prevention plans and programs shall be implemented consistent with the national program formulated and designed by the OJJDP.

The implementation of the comprehensive delinquency prevention plans shall be reviewed and assessed yearly by the local government units in coordination with the local councils for the protection of children. Result of the assessment shall be submitted to the OJJDP every March 30 of the year.

SEC. 19. Community-based Program on Delinquency Prevention - Community-based programs on delinquency prevention shall be instituted by the local government units through the local councils for the protection of children, schools, youth organization and other concerned agencies. These local government units shall provide community-based services which respond to the special needs, problems, interest and concerns of young persons and

which offer appropriate counseling and guidance to them and their families.

These programs shall consist of three levels.

- a) **Primary prevention** - includes general measures to promote social justice and equal opportunity, which tackles perceived root causes of offending.
- b) **Secondary prevention** - includes measures to assist children at risk.
- c) **Tertiary prevention** - include measures to avoid unnecessary contact with the formal justice system and other measures to prevent reoffending.

TITLE IV. TREATMENT OF CHILDREN BELOW THE AGE OF CRIMINAL RESPONSIBILITY

SEC. 20. Children Below the Age of Criminal Responsibility - If it has been determined that the arrested child is twelve (12) years old or below, the authority having initial contact with the child has the duty to immediately release the child to the custody of his/her parents or guardian or in the absence of the two, the child's nearest relative, giving notice to the local social welfare and development officer who will determine the appropriate programs in consultation with the child and the person having custody over the child. If the parents, guardians or nearest relatives cannot be located, the child shall be turned over to the DSWD or local social welfare and development officer.

If the child referred to in Section 25 hereof has been found to be abandoned, neglected and abused by his parents, or in event that the parents will not comply with the prevention program, the proper petition for involuntary commitment shall be filed by the DSWD pursuant to P.D. 603.

TITLE V. JUVENILE JUSTICE SYSTEM

CHAPTER I. INITIAL CONTACT WITH THE CHILD

SEC. 21. Procedure of Taking the Child into Custody - From the moment a child is taken into custody by the law enforcement officer, he/she shall:

1. Inform the child of his/her offense in a language understood by him/her;
2. Properly identify himself/herself to the child;
3. Not employ force or sexual advances during such proceedings;
4. Not use vulgar or profane words;
5. Not use handcuffs or other instrument of restraint unless absolutely necessary;
6. Notify the parents/guardians and local social welfare and development officer within eight (8) hours from the time of arrest. The local social welfare development officer shall explain to the child and his/her parents/guardians the consequences of the act with a view towards counseling and rehabilitation, diversion from the criminal justice system, and reparation, if appropriate.
7. Take and child immediately after arrest to the proper medical or health officer for a thorough physical and mental examination. Whenever the medical treatment is required, steps shall be immediately undertaken to provide the same.

SEC. 22. Initial Inquiry; duties - The law enforcement officer shall, in his investigation, determine the following:

- a) The age of the child pursuant to Section 7 of this Act; and
- b) Where the case should be referred to.

The investigation shall be conducted in the presence of the child's parents or guardian, local social welfare and development officer, the nearest relative, NGOs, religious group or BCPC member

After the initial inquiry, the authority conducting initial inquiry may do either of the following:

- a) Proceed in accordance with Section 20 if the child is 12 years old and below;
- b) If the child is above 12 years old, but below 15 years old and acted with discernment, proceed to diversion under the pertinent of this Act.

CHAPTER II. DIVERSION

SEC. 23. System of Diversion - Children in conflict with the law shall be referred to alternative measures without undergoing court proceedings subject to the conditions hereinafter provided:

- a) In crimes where the penalty is 6 years and below, the law enforcement officer or *barangay* chairman with assistance from the local social welfare development officer shall conduct mediation, family conferencing and conciliation and indigenous modes of conflict resolution with a view to diversion program. The child and his/her family and the victim and his/her family shall be present;
- b) In victimless crimes where the penalty is 6 years and below, the LSWDO shall meet with the parents and the child for the development of the appropriate diversion and rehabilitation program;
- c) For crimes where the penalty exceeds 6 years, diversion measures may be resorted to by the court.

SEC. 24. Stage Where Diversion May Be Conducted - Diversion may be conducted at the Katarungan Pambarangay, police investigation or the inquest or preliminary investigation.

SEC. 25. Contract of Diversion - If during the conferencing, mediation or conciliation, the child voluntarily admits the commission of the

act, a diversion program shall be developed. Such admission cannot be used against the child in any subsequent judicial or administrative proceedings.

It shall be in writing and signed by the parties concerned and the appropriate authorities. The local social welfare development officer shall supervise the implementation of the diversion program. The diversion proceedings shall be completed within forty-five (45) days. The period for prescription shall be suspended during this forty-five day period.

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

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

SEC. 26. Duty of Police When There Is No Diversion - Where the offense does not fall under the preceding paragraph or if the child, his parents or guardian do not consent to a diversion, the CYRU or the police officer handling the case shall forward the records of the case of the child under custody to the prosecutor or judge concerned for the should remain under custody and correspondingly charged in court. The document transmitting said records shall display the word "child" in bold letters.

SEC. 27. Factors in Determining Diversion Program - In determining whether diversion is appropriate and desirable, the following factors shall be taken into consideration:

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

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

In formulating a diversion program, the individual characteristics and the peculiar circumstances of the child shall be used to formulate an individualized treatment. The following factors shall be considered in formulating a diversion program of the child:

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

The diversion program shall include adequate socio-cultural and psychological responses and services for the child. Diversion programs shall include, but not be limited to, the following:

1. Written or oral reprimand or citation;
2. Restitution of property;
3. Reparation of the damage caused;
4. Indemnification of consequential damages;
5. Confiscation and forfeiture of the proceeds or instruments of the crime;
6. Fine;
7. Payment of cost of the proceedings;

8. Written or oral apology;
9. Guidance and supervision orders;
10. Counseling for the child and the family;
11. Trainings, seminars, lectures on: (i) anger management skills; (ii) problem solving and/or conflict resolution skills; (iii) values formation; and, (iv) other skills which will aid the child to deal with situations which can lead to repetition of the offense;
12. Available community based programs;
13. Institutional care and custody; and
12. Educational, vocational and life skills programs.

CHAPTER III. PROSECUTION

SEC. 28. Duty of the Prosecutor's Office - There shall be a specially trained prosecutor to conduct inquest, preliminary investigation and prosecution of cases involving a child in conflict with the law.

SEC. 29. Filing of Complaint or Information - Where there is no diversion, the information against the child shall be filed before the Family Court *within forty-five (45) days* from the start of the preliminary investigation.

SEC. 30. Application for Warrant of Arrest; Bail - For purposes of recommending the amount of bail, the privilege mitigating circumstance of minority shall be considered.

CHAPTER IV - COURT PROCEEDINGS

SEC. 31. Release on Recognizance - Where a child is detained, the court may, in its discretion and taking into consideration the peculiar circumstances of the child and upon the recommendation of the DSWD, local social welfare and development officer or 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.

SEC. 32. Diversion measures - The court shall endeavor to resort to diversion measures.

SEC. 33. Automatic Suspension of Sentence - Pursuant to the Family Courts Act, once the child is found guilty of the offense charged, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred. However, the sentence shall be suspended without need of application.

SEC. 34. Various Disposition Measures - Upon suspension of sentence and after considering the various circumstances of the child, the court shall imposed, among others, any or combination of the following disposition, measures:

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

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

SEC. 35. Discharge of Child in Conflict with the Law - Upon recommendation of a duly authorized officer, an appropriate center or the duly accredited child caring 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 behaved properly and has displayed the capability to be a useful member of the community.

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

SEC. 36. Return of Child in Conflict With the Law to Court - If the court finds that the child has not behaved properly, or has not shown the capability of becoming a useful member of society, or has willfully failed to comply with the conditions of his disposition or rehabilitation program, or should his/her continued stay in the training institution where he/she has been assigned be found inadvisable, he/she shall be brought before the court for the pronouncement of judgment of conviction.

If said child in conflict with the law has reached the age of eighteen years (18) while under suspended sentence, the court shall determine whether to discharge the child in accordance with Section 35 of this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reached the maximum age of twenty one (21) years.

SEC. 37. 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 affected under this Act.

SEC. 38. Probation as an Alternative to Imprisonment - The court may, after it shall have convicted and sentenced a child in conflict with the law and upon application at any time, place him/her on probation in lieu of service of his sentence taking into account the best interest of the child.

CHAPTER V.

CONFIDENTIALITY OF RECORDS AND PROCEEDINGS

SEC. 39. Confidentiality of Records and Proceedings - All records and proceedings involving children from initial contact until final disposition of the case of the family court shall be confidential. The public may be excluded during the proceedings and the records shall not be disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings.

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

A child in conflict with the law shall not be held under any provision of law, to be guilty of perjury or of concealment or misrepresentation by reason of his/her failure to acknowledge the case or recite any fact related thereto in response to any inquiry made to him for any purpose.

TITLE VI. DETENTION, REHABILITATION AND REINTEGRATION

SEC. 40. Objective of Institution Treatment - The objective of training and treatment of children in conflict with the law placed in institution 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. 41. Commitment Order Required - No child shall be received in any detention facility without a valid commitment order issued by the court after a hearing for the purpose. The details of this order shall be immediately

entered in the register. No child shall be detained in any facility where there is no such register.

SEC. 42. 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, it is part of a special program that has been shown to be beneficial to the children concerned.

SEC. 43. Female Offenders - Female children in conflict with the law placed in an institution deserve special attention as to their personal needs and problems. They shall in no case be allowed to socialize with adult detainees, unless it is part of a special program that has been shown to be beneficial to the children concerned. They shall be handled exclusively by female doctors and social workers.

SEC. 44. Detention of the Child Pending Trial - Children detained pending trial may be released on bail or recognizance as provided for under Section 32 and 34. In all other cases and whenever possible, detention pending trial may be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home. Institutionalization or detention of the child pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

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

SEC. 45. Establishment of Youth Homes by Private Organizations - Youth homes may also be established by licensed private and non-government organizations accredited by the DSWD.

SEC. 46. Care and Maintenance of the Child in Conflict with the Law - The parents or other person liable to support the child shall pay the expenses for the care and maintenance of the child under institutional care. The disposition measure shall include the proportion of support if the parents or those liable to support the child shall not be capable of paying the whole amount. The rest shall be paid by the institution maintaining such a facility. If the parents of the child are indigents, the DSWD or the local government unit concerned shall shoulder such expenses.

SEC. 47. Detention for Convicted Children in Conflict with the Law - A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp that may be established, maintained, supervised and controlled by the Bureau of Corrections.

SEC. 48. 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.

SEC. 49. Rehabilitation of Children in Conflict with the Law - Children in conflict with the law, whose sentences are suspended may, upon order of the court, undergo residential or community-based rehabilitation in the DSWD Youth Rehabilitation Center or any DSWD accredited NGO youth rehabilitation center or in the community.

SEC. 50. Youth Rehabilitation Center - The Youth Rehabilitation Center shall provide psycho-social activities for rehabilitation of children in conflict with the law. It shall likewise provide twenty-four (24) hours residential services through an inter-disciplinary team composed of a social workers, psychologist, houseparents, medical staff and teachers. A quarterly report shall be submitted by the Center to the proper court or the progress of the children in conflict with the law. Based on the progress of the youth in the

centers, a final report will be forwarded to the court for final disposition of the case.

SEC. 51. Criteria of Community-Based Programs - Every city and municipality shall establish program, through the local government unit, that will focus on the rehabilitation and re-integration of the child.

SEC. 52. Criteria of Community-Based Programs - The children in conflict with the law, whose sentences are suspended may, upon order of the court, undergo rehabilitation in the community under custody supervision. The children in conflict with the law will be released to parents, relatives or other responsible person in the community. Under the supervision and guidance of the City/Municipality/Provincial Social Welfare Development Officer, and in coordination with his/her custodian, the children in conflict with the law shall participate in any of the following community-based programs.

1. Practical skills development;
2. Social-cultural and recreational activities;
3. Community volunteer projects;
4. Community and family welfare services among others.

Based on the progress of the youth in the centers, a final report will be forwarded to the court for final disposition of the case.

Where community based programs are provided as a diversion measure under Chapter II Title V, the programs enumerated above shall be made available to the child in conflict with the law.

SEC. 53. After Care Support Services for Children in Conflict with the Law - Children in conflict with the law whose cases had been dismissed by the proper court because of good behavior as per recommendation of the DSWD social worker and/or any accredited NGO youth rehabilitation shall be provided after-care services by the City/Municipal/Provincial Social Welfare and Development Office for a period of at least six (6) months. The service includes counseling and other community-based designed to facilitate social reintegration, prevent commission and other community-based designed to facilitate social reintegration, prevent commission of offense/crime and become productive members of the community.

TITLE VII. GENERAL PROVISION
CHAPTER I. EXEMPTING PROVISIONS

SEC. 54. Status Offenses - Any conduct not considered an offense or not penalized if committed by an adult shall not be considered an offense and shall not be punishable if committed by a child. No laws and ordinances shall be passed in violation of this provision.

SEC. 55. Offenses Not Applicable to Children - Persons below eighteen years of age shall be exempt from prosecution in the offenses of vagrancy and prostitution under Section 202 of the Revised Penal Code, and mendicancy under P.D. 1563 being inconsistent with the rights of the child against abuse.

CHAPTER II. PROHIBITED ACTS

SEC. 56. Prohibition Against Labeling - In the conduct of the proceedings beginning from the initial contact with the child, the competent authorities must refrain from branding or labeling children as young criminals, juvenile delinquents, prostitutes or attaching to them in any manner any other derogatory names. Likewise, no discriminatory remarks and practices shall be allowed particularly with respect to the child's class or ethnic origins.

SEC. 57. Other Prohibited Acts - The following acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child alleged as, accused of or recognized as having committed an offense and therefore, prohibited:

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

CHAPTER III. PENAL PROVISION

SEC. 58. Violation of the Provision of this Act or Rules or Regulations in General. - Any person who violates any provision of this Code or any rule or regulation promulgated in accordance thereof, for which no specific penalty is provided by law, shall, upon conviction for each act or omission, be punished by a fine of not more than One Thousand Pesos (P1,000) or suffer imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the court, unless a higher penalty is provided for in the Revised Penal Code or special laws. If the offender is a public officer or employee, he shall, in addition to such fine and/or imprisonment, be held administrative liable.

CHAPTER IV - APPROPRIATION PROVISION

SEC. 59. 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 Ten Million Pesos for the purpose of setting up the OJJDP shall taken from the proceeds of the Philippine Charity Sweepstakes Office.

TITLE VIII. TRANSITORY PROVISIONS

SEC. 60. Children in Conflict with the Law 12 Years Old and Below - Upon effectivity of the Act, cases of children twelve years old and below at the time of the commission of the crime shall immediately be dismissed and the child shall be released to the custody of DSWD. The DSWD upon thorough assessment of the child, shall determine whether to release him/her to the custody his/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. 61. Children Detained Pending Trial - If the child is detained pending trial, the Family Court shall also determine whether or not continued detention is necessary and, if not, determine appropriate alternatives for detention. If detention is necessary and he is detained with adults, the court shall immediately order the transfer of the child to the youth detention home.

SEC. 62. Children Who Reach the Age of 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 LSWDO or the Family Court in consultation with the SSCD, as the case may be, shall determine the appropriate diversion/disposition measures. The Family Court shall specify the period during which the child shall enjoy a suspended sentence or may opt to impose the sentence taking into consideration the minority of the child as a mitigating circumstances. In this case, the child may apply for probation.

TITLE IX. FINAL PROVISIONS

Sec. 63. Rule Making Power - Except that which is reserve by the Constitution to the Supreme Court, the rule making power under this Act shall be jointly exercised by the Department of Justice and Department of Social Welfare and Development. Said Departments shall, in consultation with the Department of the Interior and Local Government, Philippine National Police, Council for the Welfare of Children, National Youth Commission, Commission on Human Rights, and child-focused NGO, issue the necessary rules and regulations for the implementation of the provisions of this Acts within one year from the effectivity thereof.

SEC. 64. Separability Clause - If, for any reason, any section or provision of this Act is declared unconstitutional or invalid by a competent court, the order sections or provisions hereof not affected by such declaration shall remain in full force and effect.

SEC. 65. Repealing Clause - All existing laws, orders, decrees, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 66. Effectivity - This Act shall take effect after fifteen (15) days from its publication in at least two (2) national newspapers of general circulation.

Approved,