

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

5 MAR -8 1954

SENATE
S. B. NO. 1954

RECEIVED

Introduced by SENATOR EDGARDO J. ANGARA

EXPLANATORY NOTE

This bill is restorative juvenile justice in application.

The State, consistent with its role of *parens patriae*, shall promote and protect the physical, moral, spiritual, intellectual and social well-being of the youth, including the juvenile delinquents.

Records show that number of delinquent youth and youth offenders has been constantly and aggressively increasing. The population of what legalese calls as *Children in conflict with the law (CICLs)* has doubled, for instance, from 3,814 to 6,778 from 1987 to 1989. Youth offenders are just becoming worse with the stigmatizing effects of our present criminal justice system. The jails are becoming universities for crime. When released, recidivism is an eventuality as these offenders have learned nothing constructive in their jail environment to prepare them to deal with the challenges of the outside world.

With the growth of crime, rather than its reduction and prevention, alternative mechanisms should be explored and put in place in dealing with our youth offenders that focus, not on the punishment, but on the reformation of the offender and on repairing the damage to the community as well as to the victims.

This measure is crafted in response to that. It seeks to establish a comprehensive and integrated restorative juvenile justice system in the Philippines that will institute reforms towards a just and more humanitarian treatment of our juvenile offenders in society, with a holistic approach towards rehabilitating the delinquency. Taking to mind their sensitivity and fragility, detention of our youth offenders must take on a more individualized and humane approach. They should be treated differently and detained separately from adult offenders, to allow them "space" to contemplate on their lives and the crimes they committed.

The restorative process empowers our youth offenders to take responsibility for his actions and its consequences thereto. All parties involved are encouraged to thresh out resolutions for the societal reintegration of both offender and victim.

In consonance with the provisions of the UN Convention on the Rights of the Child and the UN Standard Minimum Rules for the Administration of Juvenile Systems, this bill therefore, pursues an effort at emphasizing on the need of rehabilitating and reintegrating the juvenile offender into the mainstream society, clearly in contrast to the traditional-medieval approach of stressing solely on the punitive aspect of the offender's delinquent act.

Juvenile delinquency is both a reflection and a challenge to us all. A child-friendly justice system -- with a national office that will establish the standards for juvenile justice, including establishment of youth centers, and personnel trained on the proper handling of our youth offenders -- is the kind of political and social empowerment that will decisively address this problem.

For in the end, it is trite but it is true, the hope of the country lies in our youth.

With this, I urge my colleagues in the Chamber to rally for a more comprehensive and integrated approach on juvenile justice system in the country by approving this bill.


EDGARDO J. ANGARA
Senator

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

5 MAR -8 75:00

SENATE
1954
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Introduced by SENATOR EDGARDO J. ANGARA

**AN ACT INSTITUTING REFORMS IN OUR JUVENILE JUSTICE SYSTEM,
CREATING FOR THAT PURPOSE THE OFFICE OF JUVENILE JUSTICE AND
DELINQUENCY PREVENTION, 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 AND STRUCTURES IN THE ADMINISTRATION OF
JUVENILE JUSTICE**

**CHAPTER One.
INTRODUCTORY PROVISIONS**

SECTION 1. *Short Title.*- This Act shall be known as "***The Juvenile Justice
and Delinquency Prevention Act of 2005.***"

SEC. 2. *Declaration of State Policy.* The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civil affairs.

Conformably with Article 40 of the United Nations Convention on the Rights of the Child, the State recognizes the right of every child alleged as or accused of as having infringed the 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 or her reintegration. Whenever appropriate, the State

shall adopt measures for dealing with such children without resorting to judicial proceedings, provided that human rights and legal safeguards are fully respected.

The administration of juvenile justice shall take into consideration the cultural and religious perspective of the Filipino people, consistent with the protection of the rights of children.

SEC. 3. *Fundamental Principles on the Administration of Juvenile Justice.*-

The provisions of the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice or the "Beijing Rules," the United Nations Guidelines for the Prevention of Juvenile Delinquency or the "Riyadh Guidelines," the United Nations Rules for the Protection of Juveniles Deprived of their Liberty are hereby adopted as part of this Act. Pursuant thereto, the State shall adopt the following principles:

1. Restorative justice shall be the framework of juvenile justice system and shall consider the welfare of the child in conflict with the law as well as the interest and protection of the victim and the community;
2. *Prevention of juvenile delinquency is an essential part of crime prevention in society.* Community-based services and programs shall be developed and implemented for the prevention of juvenile delinquency;
3. The disposition taken by the competent authority on children in conflict with the law shall be in proportion to the circumstances and gravity of the offense, as well as the circumstances and the needs of the child as well as the needs of society;
4. No child shall be subjected to harsh or degrading correction or punishment measures at home, in school, or in any other institution;

5. No child shall be deprived of liberty unlawfully or arbitrarily. Deprivation of personal liberty and imprisonment shall be a disposition of last resort and for the minimum necessary period;
6. Children detained or sentenced to serve in facilities shall be guaranteed the benefit of meaningful activities and programs which serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society;
7. Neither capital punishment nor life imprisonment without possibility of parole or release shall be imposed for any crime committed by children;
8. A child deprived of liberty shall be guaranteed the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before the courts;
9. The rights of the child in conflict with the law shall be respected without discrimination, irrespective of the child's or his or her parents' or legal guardians' race, color, sex, language, religion, political beliefs and aspirations, ethnic or social origin, disability, birth or other status;
10. The dignity and the right to privacy of the child in conflict with the law or the child who is a victim of abuse shall be respected at all stages of the proceedings in order to avoid harm being caused to him or her by undue publicity or by social stigma..

SEC. 4. *Proceedings for the Best Interests of the Child.*- Proceedings before any authority shall be conducted in the best interests of the child and in such a manner as would allow the child to participate and to express himself 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. 5. *Minimum Age of Criminal Responsibility.*- A child twelve (12) years of age and below 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 this Act.

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

A child fifteen (15) years and below eighteen (18) years of age shall likewise be subjected to the appropriate proceedings as provided for in this Act.

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

SEC. 6. *Determination of Age.* The child's age shall be determined from the child's birth certificate, baptismal certificate or such other document indicative of age including, but not limited to, affidavits, medical, dental and psychological records. In the absence thereof, age may be based the child physical appearance, or the child's testimony or of other persons. All doubts shall be resolved in favor of the child's minority.

Any person contesting the age of the child may file a case in a summary proceeding for the determination of age before the Family Court, which shall decide the same within forty-eight (48) hours from filing.

SEC. 7. *Definition of Terms.* – For purposes of this Act, the term:

- a) **“Child”** shall refer to a natural person below eighteen (18) years of age;
- b) **“Child in Conflict with the Law (CICL)”** shall refer to a child who is alleged as, accused of, or adjudged as having committed an offense under Philippine laws;
- c) **“Offense”** shall refer to any act or omission punishable by law;
- d) **“Serious Offense”** shall refer to an offense punishable by imprisonment of more than six (6) years after considering the privileged mitigating circumstance of minority;
- e) **“Deprivation of liberty”** shall refer to any form of detention or imprisonment or the placement of a person in public or private custodial setting, from which the person is not permitted to leave at will, by order of any judicial or administrative authority;
- f) **“Youth Detention Homes”** shall refer to a duly-licensed and accredited child caring institution providing resident care for children in conflict with the law who are awaiting court disposition of their cases or transfer to other agencies;
- g) **“Youth Rehabilitation Center”** shall refer to an institution that receives and rehabilitates children in conflict with the law;
- h) **“Take into custody”** shall refer to the moment when the child is apprehended or otherwise deprived of liberty;
- i) **“Juvenile Justice System”** shall refer to proceedings involving a child in conflict with the law starting from being taken into custody, including diversion proceedings, court proceedings after the filing of the proper information until the disposition of the case, rehabilitation and reintegration until the termination of after-care services;
- j) **“Diversion”** shall refer to an alternative child-appropriate process of determining the responsibility and treatment of a child in conflict with law on the basis of his social, cultural economic, psychological or educational background without resorting to formal court adjudication;

- k) **“Diversion Program”** shall refer to a program that the child in conflict with the law is required to undergo in lieu of formal court proceedings;
- l) **“Community-based Program”** is a program 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;
- m) **“Initial contact with the child”** shall refer to the apprehension or taking into custody of a child in conflict with the law by a law enforcement officer or private citizen. It includes the time when the child receives a subpoena or summons in cases that do not require preliminary investigation or where there is no necessity to place the child under immediate custody;
- n) **“Restorative Justice”** is a principle whereby all parties with a stake in a particular offense come together (the victim, the offender, and the community) to restore collectively how to deal with the aftermath of the offense and its implications for the future. It seeks to obtain reparation for the victim, reconciliation of the offender, the offended and the community and reassurance to the offended that he can be reintegrated into society.
- o) **“Mediation”** shall refer to a process in which a mediator, selected by the disputing parties, facilitates communication and negotiation, and assists the parties in reaching a voluntary agreement regarding a dispute;
- p) **“Law enforcement officer”** shall refer to the agent of a person in authority as defined in Article 152 of the Revised Penal Code;
- q) **“PD 603”** otherwise known as the Child and Youth Welfare Code.

CHAPTER Two.

CREATION, MANDATE, POWERS AND FUNCTIONS OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 8. Creation of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). - To achieve the policy declared in this Act, there shall be established an Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the Department of Justice. The OJJDP shall be the lead agency in formulating policies, developing plans and programs, and coordinating the implementation of these policies, plans and programs for the improvement of the juvenile justice system and the prevention of juvenile delinquency. It shall ensure coordination among the following government entities:

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 (DepEd);
5. Department of the Interior and Local Government (DILG);
6. Department of Health (DOH);
7. Philippine National Police (PNP);
8. Bureau of Jail Management and Penology (BJMP);
9. Commission on Higher Education (CHED);
10. Commission on Human Rights (CHR);
11. Child Rights Center (CRC)
12. Technical Education and Skills Development Authority (TESDA);
13. National Youth Commission (NYC);
14. National Bureau of Investigation (NBI);
15. Local Government Units (LGUs); and
16. Such other government institutions that the OJJDP may deem necessary.

The OJJDP shall be headed by an Administrator with a rank equivalent to an Undersecretary.

SEC. 9. Powers and Functions of the OJJDP. - The OJJDP shall exercise the following powers and functions:

1. Oversee and supervise the implementation of this Act;
2. Advise the President through the Secretary of Justice on all matters and policies relating to juvenile justice and delinquency prevention programs;
3. Assist agencies concerned with the administration of juvenile justice in the development of regulations in accordance with the policies and provisions of this Act;
4. Conduct and support evaluations and studies of the performance and results achieved by delinquency programs and activities of the local government units and other government agencies, and of the prospective performance and results that might be achieved by alternate programs and activities supplementary to or in lieu of those currently being administered;
5. Coordinate the implementation of the national juvenile delinquency programs and activities by the national government agencies and other activities which may have important bearing on the success of the entire juvenile delinquency effort;
6. Periodically develop a comprehensive three (3) to five (5) year plan for juvenile justice and delinquency prevention, with the participation of government agencies concerned, non-government organizations (NGOs) and youth associations;
7. Serve as central repository of information and research in juvenile justice and delinquency prevention including statistics, data analysis on trends, problems and causes of juvenile delinquency and crime, and best practices for the improvement of the administration of juvenile justice.
8. Formulate and recommend policies and strategies in consultation with the children, and their families, other sectors and stakeholders for the prevention

of juvenile delinquency as well as treatment and rehabilitation of children in conflict with the law;

9. Conduct periodic monitoring, through duly authorized persons regarding detention, prison, and rehabilitation facilities;
10. Conduct advocacy programs including consultations and training for personnel of agencies involved in the administration of the juvenile justice system and delinquency prevention;
11. Establish linkages with local, national, and international agencies in effectively carrying out its functions under this Act;
12. Receive grants, donations and endowments for programs and projects relating to juvenile justice and delinquency prevention;
13. Publish an annual accomplishment report on the implementation of this Act; and
14. Perform such other functions as may be necessary for the effective implementation of the provisions of this Act.

SEC. 10. Program Components. - The OJJDP shall establish various program components, to wit:

1. **Research and Program Development.** - To develop knowledge on national trends in juvenile delinquency; support a program for data collection and information sharing that incorporates elements of statistical and systems development; identify how delinquency develops and the best methods for its prevention, intervention, and treatment; conduct periodic review of policies affecting juvenile justice; analyze practices and trends in the juvenile justice system; assist other agencies and organizations in developing policies and guidelines; and, initiate, integrate and recommend for funding research studies;

2. ***Training and Technical Assistance.*** - To develop training modules, provide training and technical assistance as well as conduct capacity building activities for personnel involved in the administration of juvenile justice and delinquency prevention in the national and local level, whether public or private;
3. ***Special Emphasis Program.*** - To provide discretionary funds to public and private agencies, organizations, and individuals to replicate tested approaches to delinquency prevention, treatment, and control in such pertinent areas, community-based sanctions, and the disproportionate representation of minorities in the juvenile justice system.
4. ***Local Government Relations and Assistance.*** - To support collaborative efforts by local governments to carry out the mandates of this Act by providing them formula grant funds and technical assistance and to monitor local government compliance with this Act;
5. ***Information Dissemination Unit.*** - To provide public information services on juvenile justice and delinquency prevention including publication of research and statistical reports, bulletins, and other documents; and
6. ***Coordination of National Agency Effort Program.*** - To promote interagency cooperation and coordination among national agencies with responsibilities in the area of juvenile justice. The program primarily carries out this responsibility in coordination with the Council for the Welfare of Children.

SEC. 11. *Staffing Pattern.* - The Secretary of Justice, in consultation with the Department of Budget Management, shall determine the staffing pattern and compensation structure of the officials and employees of the OJJDP.

SEC. 12. *National Vocational Training School for Juveniles.* - The DOJ, in coordination with TESDA, shall establish, as far as practicable, a National Vocational Training Schools for Juveniles, to be managed and supervised by the OJJDP. It shall develop post-care programs, vocational skills and enhance employment capabilities of the children in conflict with the law to prepare them for their eventual reintegration into mainstream society.

SEC. 13. *Child Rights Center* . - 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. There shall be established a Child Rights Center in every region of the country to ensure greater accessibility to the children.

SEC. 14. *Duties and Functions of the Child Rights Center.* - In addition to their existing duties and functions, the CRC shall also be tasked:

1. To investigate on complaints for violation of this Act and other violations of children's rights, take or support legal action or make recommendations for the prosecution of violators;
2. To provide child advocacy services; and
3. To provide a system of accreditation for NGO's and private agencies to act as child advocate in their areas.

SEC. 15. *Other institutions focused on Juvenile Justice and Delinquency Prevention.* - In addition to the child and youth welfare agencies defined under Article 117 of PD 603, institutions that can provide special services such as guidance, care, counseling and diversion services for children in need of parental

supervision as defined under Section 25 of this Act, may be established by private or public organizations.

The provisions of PD 603 on accreditation and licensing of child and youth welfare agencies shall be applicable to the above institutions. These institutions may enter into agreements with the DSWD, DOJ, PNP, LGUs or the Family Courts to provide services such as diversion programs, temporary shelter and counseling for children in conflict with the law.

Any of the above programs may be considered as diversion programs if accredited by DSWD to be such.

TITLE II JUVENILE DELINQUENCY PREVENTION

CHAPTER One. SECTORAL ROLES

SEC. 16. Sectoral Roles. The various sectors of society shall perform the following roles:

- a) **Role of the Family.** - The family is an important social institution having the primary right and duty to nurture and rear children for civic efficiency and moral development. It is in the family where values are taught and character developed which are important in delinquency prevention;
- b) **Role of the Educational System.** - Educational institutions shall work together with families, community organizations and agencies concerned with the activities of children;
- c) **Role of the Mass Media.** - The mass media shall play an active role in the promotion of child rights, delinquency prevention, and other related matters. It shall not sensationalize cases involving children in conflict with the law nor treat news features about children without regard to their privacy and human rights; and the

- d) ***Role of NGOs and/or People's Organizations.*** - NGOs and/or people's organizations shall be encouraged to utilize their capabilities and participate in the promotion of child rights, delinquency prevention and other activities relating to juvenile justice.

SEC. 17. *Establishment of Local Councils for the Protection of Children (LCPC).* – There shall be established Local Councils for the Protection of Children in local government units and strengthened, where they have already been established, within one (1) year from effectivity of this Act.

The membership of the LCPC shall be taken from responsible members of the community, including, a representative of the local government unit concerned, SK chairman and/or his duly authorized representative and a representative from an NGO or people's organization concerned with the welfare of children.

The LCPC shall coordinate with and assist the local government unit concerned in adopting a comprehensive plan on delinquency prevention and other related matters and be the primary agency to oversee its implementation.

SEC. 18. *Appointment of Local Social Welfare and Development Officer (LSWDO).* - All local government units shall have a duly licensed social welfare and development officer primarily tasked to assist children in conflict with the law.

SEC. 19. *The Sangguniang Kabataan.* - The Sangguniang Kabataan shall coordinate with the LCPCs in the formulation and implementation of delinquency prevention and diversion programs in the community.

CHAPTER Two.
COMPREHENSIVE DELINQUENCY PREVENTION PLANS

SEC. 20. *Comprehensive Juvenile Delinquency Prevention Plans (CJDPP).* –

There shall be instituted a Comprehensive juvenile delinquency prevention plans covering at least a three (3)- year period shall be instituted by local government units from the provincial level to the barangay.

The LGU concerned shall set aside such amount in their annual budget as is necessary to implement their juvenile delinquency programs.

The LGU, in coordination with the LCPCs, shall call on all sectors concerned, particularly the child focused institutions, NGOs, people's organizations, educational institutions and government entities involved in delinquency prevention to participate in the planning process and implementation of programs related to delinquency prevention. Such DJPPP shall be implemented consistent with the national program formulated and designed by the OJJDP.

There shall be an annual review and assessment of the implementation of the comprehensive delinquency prevention plans shall be reviewed and assessed yearly by the LGUs, in coordination with the LCPCs. Results thereof shall be submitted to the OJJDP not later than March 30 of the following year.

SEC. 21. *Community-based Program on Delinquency Prevention.* -

Community-based programs on delinquency prevention shall be instituted by the LGUs through the LCPCs, schools, youth organizations and other concerned institutions. The LGUs shall provide community-based services which respond to the special needs, problems, interest and concerns of children and which offer appropriate counseling and guidance to them and their families. These programs shall consist of three levels:

1. Primary prevention - includes general measures to promote social justice and equal opportunity, which tackles perceived root causes of offending;
2. Secondary prevention - includes measures to assist children at risk; and

3. Tertiary prevention - include measures to avoid unnecessary contact with the formal justice system and other measures to prevent re-offending.

TITLE III TREATMENT OF CHILDREN PRONE TO BECOME DELINQUENTS

SEC. 22. *Children Prone to Become Delinquents.* - The following children may be considered at risk or prone to become delinquents, and therefore, in need of parental supervision and care:

1. Children 12 years old and below who have committed an offense but are exempt from criminal responsibility;
2. Children used by criminals in the commission of crime;
3. Streetchildren who are either runaways, abandoned, maltreated, abused or neglected;
4. Out-of-school youths;
5. Children arrested for reasons related to armed conflict, either as a combatant, courier, guide or spy; and
6. Other children as may be recommended by the OJJDP based on their research.

SEC. 23. *Treatment of Children Prone to Become Delinquents.*

- a) ***Children Below the Age of Criminal Responsibility.*** - If it has been determined that the apprehended child is 12 years old and below, the authority having initial contact with the child has the duty to immediately refer the child to the custody of the parents. However, if the offense is serious, the child shall be referred to the LSWDO for the determination of appropriate prevention programs in consultation with the child and his parents or guardians or in the absence of the two, the child's nearest relative or family friend;

b) *Children Used by Criminals in Criminal Activities.* Once it is found that the arrested child is only being 'used' in committing the offense, the concerned authority has the duty to immediately release the child to the custody of his parents. If the offense is serious, the child shall be referred to the LSWDO for the determination of appropriate prevention programs in consultation with the child and his parents or guardians or in the absence of the two, the child's nearest relative or family friend.

c) *Streetchildren.* - The LGUs particularly in urban areas shall be required to include programs for streetchildren in their delinquency prevention programs such as temporary shelter, referral to foster homes, child-caring institutions and eventual reintegration with the family or replacement for adoption.

SEC. 24. *Duty of the Department of Social Welfare and Development (DSWD).* - If the child referred to in Section 25 hereof is found to be abandoned, neglected or abused by his parents, or in the event the parents will not comply with the intervention program, the proper petition for involuntary commitment shall be filed by the DSWD pursuant to PD 603.

TITLE IV THE JUVENILE JUSTICE SYSTEM

CHAPTER One. PRELIMINARY PROCEDURES

SEC. 25. *Initial Contact with the Juvenile Justice System.*- The initial contact of the child with the juvenile justice system occurs when he or she is either:

- a) Taken into custody by a police officer or barangay tanod; or
- b) Taken into custody by a private individual making a warrantless arrest; or
- c) Issued a summon by the Barangay Council; or

- d) Issued summons or subpoena by the prosecutor or judge of the municipal trial court, as the case may be.

SEC. 26. *Procedure of Taking the Child into Custody.* - The law enforcement officer taking the child into his custody shall:

1. *Inform the child of his/her offense in a language and manner understood by him/her;*
2. Properly identify himself/herself to the child;
3. Not employ force or make sexual advances;
4. Not use vulgar or profane words;
5. Not use handcuffs or other instruments of restraint unless absolutely necessary;
6. Notify the parents/guardians and LSWDO within eight (8) hours from the time of apprehension. The LSWDO 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; and
7. Take the child immediately after apprehension 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.

All persons other than police officers, who will take any child into custody shall also follow the same procedure. Private individuals making citizen arrest shall turn over the child to the Women and Children Protection Desk of the nearest police station in the area.

SEC. 27. *Conduct of the Initial Inquiry.* - The law enforcement officer shall, in his investigation, determine the 1) age of the child pursuant to Section 6 of this Act; and 2) where the case should be referred to.

The investigation shall be conducted in the presence of the child's parents or guardian, NGOs, religious group or LCPC member, and LSWDO.

If after initial inquiry, the authority determines that the child committed the offense, he/she shall 1) Proceed in accordance with Section 26 if the child is 12 years and below; or 2) If the child is above 12 years old, proceed to diversion if appropriate under Chapter II of this Title.

CHAPTER Two. DIVERSION SYSTEMS AND PROGRAMS

SEC. 28. *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:*

1. In crimes where the penalty is 6 years and below, the law enforcement officer or barangay chairman with the assistance of the LSWDO shall conduct mediation, family conferencing, conciliation and / or other indigenous modes of alternative dispute resolution with a view to accomplishing the objectives of restorative justice and the formulation of a diversion program. The child and his/her family and the victim and his/her family shall be present;
2. 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 appropriate diversion and rehabilitation programs;
3. For crimes where the penalty exceeds 6 years, diversion measures may be resorted to by the court.

SEC. 29. *Levels of Diversion.* - Diversion may be conducted at three levels:

- a) Katarungang Pambarangay Level;
- b) Police Level; and the
- c) Prosecution Level.

The Lupong Tagapamayapa, the Women and Children Protection Desk Officers, and the prosecutors for children are the competent authorities to conduct diversion proceedings.

SEC. 30. *Duty to Explain Process of Diversion* - The competent authorities are duty-bound to explain to the child in a language and manner known and understood by him/her the consequences of his/her acts and/or omission. The child's responsibility for the commission of any felony shall be explained to him/her with a view towards counseling and rehabilitating him/her and avoiding his/her contact with the criminal justice system as well as towards indemnifying the victim/s if necessary.

SEC. 31. *Indigenous Modes of Diversion.* - Indigenous modes of alternative dispute resolution (ADR), in harmony with international and national human rights and child rights standards, shall be resorted to and encouraged. The child's and his / her family's active participation in efforts towards dispute resolution shall be optimized. The family shall be held answerable as well as exercise care and supervision over the person of the child.

SEC. 32. *Diversion Programs, When proper.* - The diversion programs shall include adequate socio-cultural and psychological responses and services for the

child. Diversion programs shall include, but not be limited to, the following measures:

1. Written reprimand or warning 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 dispute resolution skills; (iii) values formation; and (iv) other skills which will aid the child to deal with situations which can lead to repetition of the offense;
12. Community based programs; and
13. Institutional care and custody.

Where the parties and/or the competent authorities decide that the child must undergo a diversion program, such a continuing program for the rehabilitation and re-integration of the child shall be formulated with the cooperation of the complainant and the child.

SEC. 33. Factors in Determining Diversion Program.- a) 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.

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

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

SEC. 34. *Criteria of Community-Based Programs.* - Every city and municipality shall establish a diversion program that will focus on the rehabilitation and re-integration of the child. All programs shall meet the criteria to be established by OJJDP which shall take into account the purpose of the program, the need for the consent of the child and his/her parents or legal guardians, and the participation of the child-focused agencies whether public or private.

SEC. 35. *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. The diversion program shall be effective and binding if accepted by the parties concerned. It shall be in writing and signed by the parties concerned and the appropriate authorities. The LSWDO 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 or herself to the competent authorities that imposed the diversion program at least once a month for reporting and evaluation of the effectiveness of the program.

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

SEC. 36. Custody and Supervision. - No child from initial contact until the case is filed in the Family Court shall be removed from parental supervision, whether partly or entirely, unless the circumstances of his/her case make protective custody necessary. The competent authorities conducting diversion proceedings shall immediately commit the child to the custody of the parents or legal guardian who shall be responsible for the presence of the child during the diversion proceedings. In the absence of the parents or legal guardian, the child shall be committed to the care of the nearest relative, LCPC member or the LSWDO. If necessary, the LSWDO, in coordination with DSWD may refer the child to the appropriate child-caring institution.

CHAPTER Three.
KATARUNGANG PAMBARANGAY PROCEEDINGS

SEC. 37. *Applicability.* - The pertinent provisions of BP 129, or the Katarungang Pambarangay Law, is hereby adopted and shall form part of the diversion process in the administration of juvenile justice, subject to the provisions of this Chapter. Further, these proceedings shall apply even if both parties actually reside or are found in barangays of different cities or municipalities.

SEC. 38. *Jurisdiction.* - The Katarungang Pambarangay shall have jurisdiction over offenses punishable by imprisonment not exceeding six (6) years or a fine not exceeding Thirty Thousand Pesos (P30,000.00).

SEC. 39. *Venue.*- All disputes shall be brought in the barangay where the child resides. Where the child's residence cannot be ascertained as in the case of the homeless, abandoned or streetchildren, or where the child's residence is in another place and it is not practicable for the offended party to settle the dispute in the said child's residence, the case shall be brought to the barangay where the child is generally known by people or where he or she normally frequents or to the barangay where the offense was committed taking into consideration the best interests of the child in all circumstances.

SEC. 40. *Determination of Penalty.* - In ascertaining the penalty of the offense for purposes of determining the jurisdiction of the barangay conciliation, the privileged mitigating circumstance of minority as provided in Article 68 of the Revised Penal Code shall be applied. If, after applying the mitigating circumstance of minority, the minimum penalty is imprisonment of less than six (6) years, the criminal case shall fall under the jurisdiction of the Katarungang Pambarangay.

SEC. 41. *Training of the Lupong Tagapamayapa* - In addition to the requirement provided in Sec. 399 of the Local Government Code, the members constituting the Lupon shall be provided with regular training by the LGU concerned, in cooperation with the LSWDO and NGOs specializing in children, which trainings shall include, among others, conflict management and mediation skills, paralegal seminars on laws on children and child psychology.

SEC. 42. *Referral to Diversion Programs*. - In the process of conciliation, the Lupon or the Pangkat, as the case may be, shall encourage the inclusion of community service program or other forms of diversion to be included in the settlement.

CHAPTER Four WOMEN AND CHILDREN'S PROTECTION DESK (WCPD)

SEC. 43. *Duty of the Women and Children's Protection Desk (WCPD) to Handle Cases Involving Children in Conflict with the Law* - The WCPD of the Philippine National Police shall handle the cases involving children in conflict with the law. The WCPD shall conduct an initial inquiry in accordance with Sections 31 and 32 of this Act.

After the initial inquiry, *Provided*, That the child is found to be above 12 years old and the offense does not fall under the Katarungang Pambarangay as provided in Section 43 hereof, the WCPD shall conduct further investigation of the child pursuant to Sections 51 and 52 of this Act.

SEC. 44. *Procedure In the Investigation of a Child in Conflict with the Law*.- A child shall only be investigated or his statement secured in the presence of his parents/guardian or the nearest relative, member of child-focused group, religious group, or the LSWDO and his/her counsel. In their presence, the child

shall be informed of his/her constitutional rights to remain silent and secure a competent and independent counsel of his own choice in a language that is clearly understood by the child, the parents or guardians.

If the child cannot be represented by counsel of his own choice, the WCPD shall contact the Public Attorneys Office (PAO), thus a Public Attorney maybe assigned to assist the child. Any confessions and / or admissions secured in violation of these rights are deemed inadmissible as evidence. In no case shall deceit, false promise, intimidation or harassment be employed against the child. Respect for the human rights of the child shall be of paramount consideration during the custodial investigation.

However, in cases where offenses are committed by the child together with adults, the child shall be investigated separately from the adults.

SEC. 45. *Diversion, When proper* - After investigation, if the imposable penalty for the offense is less than two (2) years imprisonment, the WCPD in consultation with the child, his/her parents or guardians and the LSWDO shall adopt the appropriate diversion program in accordance with Sections 33 to 41 of this Act.

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

SEC. 46. *Duty of WCPD 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 WCPD 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 conduct of inquest and/or preliminary investigation to determine whether or not the child should remain under custody and correspondingly charged in court. The document transmitting said records shall display the word "child" in bold letters.

CHAPTER Five.
ROLE OF THE PROSECUTORIAL ARM OF THE GOVERNMENT RELATIVE TO
CHILDREN IN CONFLICT WITH THE LAW

SEC. 47. *Duty of the Office of the Prosecutor.* - Any case involving a child in conflict with the law filed before the Office of the Prosecutor shall be referred to a Prosecutor who is specially trained to conduct inquest, preliminary investigation and prosecution of cases involving a child in conflict with the law.

SEC. 48. *Diversion From Formal Trial, When proper* - In the conduct of the preliminary investigation, the prosecutor shall take into consideration the circumstance or condition of the child alleged to have committed an offense. He shall ensure that all legal rights of the child are protected, especially the right to counsel. If the evidence warrants the filing of the charges, the proceedings, pursuant to the principle of minimum intervention, shall be diverted subject to the following conditions:

1. The child voluntarily admits the commission of the offense;
2. The child freely consented to such diversion; and,
3. The imposable penalty for the offense is six (6) years and below or a fine of P30,000.00.

SEC. 49. *Alternative to Formal Court Process.* - Where diversion is proper, the prosecutor shall, in consultation with the child, his or her parents or guardians,

the offended party and the LSWDO, determine the type of diversion programs the child shall be subjected to within 15 days from the date of referral.

SEC. 50. *Filing of Complaint or Information* - Where conditions under Section 55 of this Act are not present, the corresponding criminal complaint / information shall be filed against the child before the Family Court within sixty (60) days from the start of the preliminary investigation.

SEC. 51. *Bail* - In applying for a warrant of arrest, the prosecutor shall always recommend bail and specify the amount, taking into consideration the rules on bail. This shall apply in all cases except when the evidence of guilt of the child is strong and the imposable penalty is *reclusion perpetua* or higher even after taking into consideration all the mitigating and exempting circumstances. In cases where the offense is non-bailable, the child may still be released on recognizance in accordance with Section 63 of this Act.

SEC. 52. *Duty of the Public Attorney's Office* - In all cases where a child cannot be represented by counsel of his or her own choice, a public attorney from the Public Attorney's Office shall represent the child during all stages of the court proceeding. The assigned public attorney shall ensure that the rights of the child in conflict with the law are respected and protected. As defense counsel, he shall, in all cases allowed by law, insist that diversion proceedings be undertaken whenever a child is accused of or alleged or recognized as having committed an offense. The public attorney shall forthwith file a complaint before the Child Rights Center for the conduct of investigation in case of violation thereof.

CHAPTER Six. FAMILY COURT PROCEEDINGS

SEC. 53. *Family Courts, Procedure.* - Proceedings involving children in conflict with the law shall be governed by the Family Courts Act.

Special rules of procedure shall be implemented by the Family Court, particularly in presenting the child as a witness. During the hearing, the Family court should have information available not only on the offense but also on the child and his family, based on the findings of SSCD and may use other forms of presenting evidence. The Family Court shall have the power to suspend / terminate the proceedings at any time.

It shall likewise prioritize all cases involving children and shall dispose of the case within ninety (90) days from the time of referral.

SEC. 54. *Duties of the Social Services and Counseling Division.* - A criminal case filed with the Family Court against child in conflict with law shall be referred to the Social Services and Counseling Division (SSCD) which shall act as an intake department. The SSCD shall interview such child and his/her parents or guardians. The SSCD shall then make an evaluation based on the behavioral patterns and social history of the child in conflict with law such as:

1. The degree of the criminal sophistication exhibited by the child;
2. Whether the child can be rehabilitated before the jurisdiction of the juvenile court ceases;
3. Previous delinquent history of the child;
4. Success of previous attempts by the juvenile court to rehabilitate the child;
5. The circumstances and gravity of the offense alleged to have been committed by the child.

Based on its findings, the SSCD may make recommendations such as, but not limited to, the following actions:

1. Release of the child;

2. Referral to the social agencies or other specialists for assessment and treatment of the child;
3. Referral to diversion programs in the community; and
4. Requiring the child to face a hearing before the family court judge.

The Family Court may decide based on the recommendations of the SSCD or may interview the child together with the parents or guardians as well as the offended party before deciding. The recommendation of the SSCD shall be submitted to the Family Court within thirty (30) days from the time of referral.

SEC. 55. *Release on Recognizance.* - Where a child is detained, the Family Court may, in its discretion and taking into consideration the peculiar circumstances of the child and upon the recommendation of the prosecutor, DSWD, SSCD or LSWDO, release the child alleged to have committed an offense on recognizance to the custody of his parents or other suitable person who shall be responsible for his appearance whenever required by the court.

SEC. 56. *Pre-disposition Report.* - If the Family Court considers it necessary to make a disposition regarding a child in conflict with the law who is found guilty of an offense, it may require the SSCD to prepare and submit a pre-disposition report in respect of the child.

SEC. 57. *Suspension of Sentence.* - If after hearing, the Family Court finds that the child in conflict with the law is guilty of the offense charged, it shall determine the appropriate sentence. However, the Family Court shall automatically suspend the service of sentence.

When the child has initial contact with the juvenile justice system before he becomes 18, he should be entitled to suspension of sentence provided that he has not reached the age of 21 at the time of promulgation of such sentence.

SEC. 58. *Disposition Measures.* - Upon suspension of sentence and after considering the circumstances of the child, the Family Court shall impose, among others, any or a combination of the following disposition measures:

1. Care, guidance and supervision orders;
2. The child may be placed on probation, under supervision of the juvenile probation officer to be appointed by the OJJDP or of some accredited agency in the community while continues to live at home, attend school and follow a normal round of activities;
3. *Community service orders;*
4. The child may be ordered to compensate the victims for the harm caused by the offense particularly in property offenses;
5. Intermediate treatment and other treatment orders including commitment to a drug rehabilitation center. The Family Court may also place the child in numerous privately run facilities such as hospitals (for mental illness, alcoholism, etc.);
6. Orders to participate in group counseling and similar activities;
7. Orders for living communities or open centers;
8. Orders concerning foster care;
9. Commitment order to a Youth Rehabilitation Center if he has committed a serious offense or is a recidivist; and
10. Such other orders as may be deemed relevant and necessary.

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

SEC. 59. *Discharge of a Child in Conflict with the Law.* - Upon recommendation of the officer, appropriate center or the duly accredited child-caring institution who has custody of the child in conflict with the law and the SSCD, the Family Court shall, after due notice to all parties, dismiss the case against him who has been issued disposition measures and order the final discharge of such child if it finds that he has behaved properly and has displayed a capability to be a useful member of the community.

SEC. 60. *Return to Court of a Child in Conflict with the Law.* - If the Family Court finds that the child has not behaved properly, or has been incorrigible, 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 his continued stay in the training institution where he has been assigned is not in his best interest, he shall be brought before the Family Court for the pronouncement of judgment of conviction.

If the child in conflict with the law has reached the age of 21 years while in commitment, the Family Court shall determine whether to dismiss the case in accordance with Section 68 of this Act or to execute the judgment of conviction. In the latter case, such child may apply for probation under P.D. No. 968, unless he has already availed of the probation under the said law.

SEC. 61. *Credit of Service of Sentence.* - The child in conflict with the law shall be credited in the service of his/her sentence with the full time spent in actual commitment and detention effected under this Act.

SEC. 62. *Effect of Discharge of Child in Conflict with the Law.* - The discharge of the child in conflict with the law under Section 68 of this Act shall

obliterate his/her criminal liability as if no crime was ever committed by such child. However, discharge will not obliterate his/her civil liability which shall be enforced in accordance with law.

SEC. 63. *Appeal.* - The child can appeal from the order of the court in the same manner as appeals in criminal cases are made.

SEC. 64. *Confidentiality of Records and Proceedings.* - All records and proceedings involving children from initial contact until final disposition of the case by the Family Court shall be confidential. The public may be excluded during the proceedings and the records shall not be disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings. The competent authorities shall undertake all measures, including non-disclosure of records to the media, maintaining a separate police blotter for cases involving children and adopting a system of coding to conceal material information which lead to the child's identity.

A child in conflict with the law shall not be compelled to admit or recite any fact regarding his case or recite any fact related thereto in response to any inquiry made to him / her for any purpose.

TITLE V DETENTION, REHABILITATION AND REINTEGRATION OF CHILDREN IN CONFLICT WITH THE LAW

SEC. 65. *Objective of Institutional Treatment.* - The objective of training and treatment of children in conflict with the law placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.

SEC. 66. *Commitment Order Required.* - No child shall be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order shall be immediately entered in the register. No child shall be detained in any facility where there is no such register.

SEC. 67. *Separate Detention Facilities From Adults.* - In all detention facilities, children shall be separated from adults. They shall in no case be allowed to socialize with adult detainees, unless it is a part of a special program that has been shown to be beneficial to the children concerned.

SEC. 68. *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. Their fair treatment shall be ensured. They shall be handled exclusively by female doctors and social workers.

SEC. 69. *Detention of the Child Pending Trial.* - Children detained pending trial may be released on bail or recognizance as provided for under Sections 58 and 63 of this Act. 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 governments, pursuant to Section 8 of the Family Courts Act, in the city or municipality where the child resides.

SEC. 70. *Detention for Convicted Children in Conflict with the Law.* - A child in conflict with the law may, after conviction and upon order of the Family Court, be made to serve his/her sentence in an agricultural camp or in any institution that may be established, maintained, supervised and controlled by the Bureau of Corrections.

SEC. 71. *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.

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 interdisciplinary team composed of a social worker, psychologist, houseparents, medical staff and teachers. A quarterly report shall be submitted by the Center to the proper court on the progress of the children in conflict with the law. Based on the progress of the child in the center, a final report should be forwarded to the court for final disposition of the case.

SEC. 72. *Community-Based Rehabilitation.* - 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. They shall be released to parents, relatives or other responsible person in the community, and shall, under the supervision and guidance of the LSWDO and in coordination with their custodian, participate in any of the following community-based programs:

1. Practical skills development;
2. Socio-cultural and recreational activities;

3. Community volunteer projects;
4. Leadership training, and,
5. *Community and family welfare services among others.*

SEC. 73. *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 center 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 programs designed to facilitate social reintegration and prevent further commission of offense.

**TITLE VI
FINAL PROVISIONS**

CHAPTER One. EXEMPTING PROVISIONS

SEC. 74. *Status Offenses.* - Any conduct not considered an offense or not penalized if committed by an adult should not be considered an offense and not be punishable if committed by a child. No law or ordinance shall be passed in violation of this provision.

SEC. 75. *Offenses not Applicable to Children.* - Persons below eighteen (18) years of age shall be exempt from prosecution in the offenses of vagrancy and prostitution under Sec. 202 of the Revised Penal Code, and mendicancy under P.D. 1563 being inconsistent with the rights of the child against abuse.

**CHAPTER Two.
PROHIBITED ACTS**

SEC. 76. *Prohibition Against Labeling and Discrimination.* - 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. 77. *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 detaining in cells;
3. Employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring in irritating, corrosive or harmful substances over the body of the child in conflict with the law, or forcing him or her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity;
4. Compelling the child to perform involuntary servitude in any and all forms under any and all instances;
5. Use of children in criminal activities;
6. Coercing, inducing, defrauding, deceiving a child to admit or confess commission of a crime or enter an improvident plea of guilt; and
7. Causing undue and sensationalized publicity of any case involving a child in conflict with the law resulting in the violation of the child's rights to privacy and Section 73 of this Act.

CHAPTER Three. PENAL PROVISIONS

SEC. 78. *Violation of the Provisions of this Act or Rules or Regulations in General.* - Any person who violates any provision of this Act or any rule or regulation promulgated in accordance thereof, or commits a prohibited act as defined herein for which no specific penalty is provided by law, shall, upon conviction for each act or omission, be punished by a fine of not less than Ten Thousand Pesos (P10,000.00) but not more than Fifty Thousand Pesos (P50,000.00) or suffer imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the court, unless a higher penalty is provided for in the Revised Penal Code or special laws. If the offender is a public officer or employee, he shall, in addition to such fine and/or imprisonment, be held administratively liable.

CHAPTER Five. TRANSITORY PROVISIONS

SEC. 79. *Appropriations.* - The amount necessary for the implementation of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

An initial amount of Fifty Million Pesos (P50,000,000.00) for the purpose of setting up the OJJDP shall be taken from the proceeds of the Philippine Charity Sweepstakes Office (PCSO).

SEC. 80. *Children in Conflict with the Law 12 Years and Below.* - Upon effectivity of this Act, cases of children twelve years and below at the time of the commission of the crime shall immediately be dismissed and the child shall be released to the custody DSWD. The DSWD upon thorough assessment of the child, shall determine whether to release him or her to the custody of his or her parents, or refer him or her to prevention programs as provided under this Act. Those with

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

SEC. 81. *Children Detained Pending Trial At The Time Of The Effectivity Of This Act.* - If the child is detained pending trial, the Family Court shall also determine whether or not continued detention is necessary and, if not, determine appropriate alternative for detention. If detention is necessary and he is detained with adults, he/she shall immediately order the transfer of the child to the youth detention home.

SEC. 82. *Children Who Reach the Age of Eighteen (18) Pending Diversion and Court Proceedings.* - If a child reaches the age of eighteen (18) pending diversion and court proceedings, the appropriate diversion authority in consultation with LSWDO or the Family Court in consultation with the SSCD, as the case may be, shall determine the appropriate diversion/disposition measure. The Family Court shall specify the period during which the child shall enjoy a suspended sentence or may opt to impose the sentence taking into consideration the minority of the child as a mitigating circumstance. In this case, the child may apply for probation.

SEC. 83. *Implementing Rules And Regulations.* Except those which are reserved by the Constitution to the Supreme Court, the necessary rules and regulations for the implementation of this Act shall be jointly promulgated 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 the Children, National Youth Commission, Commission on Human Rights, Child Rights

Center, and child-focused NGOs, issue such rules and regulations within one (1) year from the effectivity thereof.

SEC. 84. *Separability Clause.* Any portion or provision of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

SEC. 85. *Suppletory Application Clause.* – The provisions of the Katarungang Pambarangay Law, and other laws not inconsistent with this Act shall have suppletory effect.

SEC. 86. *Repealing and Amendatory Clause.* – All laws, presidential decrees, executive orders, presidential proclamations, rules and regulations or parts thereof, including pertinent provisions of the Child and Welfare Code (PD 603), the Local Government Code of 1991 (RA 7160), as amended, the Revised Penal Code, Section 57 of the PNP Reform Act (RA 8551), the Probation Law (PD 968), the Special Protection of Children Against Abuse (RA 7610), and the Family Courts Act (RA 8369), are hereby repealed, superseded, amended or modified accordingly.

SEC. 87. *Effectivity Clause.* This Act shall take effect after fifteen (15) days from its full publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,