

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

SENATE  
S. No. 2084

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INTRODUCED BY HON. MANNY VILLAR

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**EXPLANATORY NOTE**

The Council for the Welfare of Children reported that from 1995 to 2000, a total of 52,756 children have been in conflict with the law in the Philippines. Many of these cases involved detention of minors, often in the same cell as adult offenders. More than half of the crimes for which minors are charged are not serious offenses. These include petty theft, sniffing of glue or solvent, vagrancy and violation of curfew hours.

Many cases involving children are not reviewed immediately. Thus, many children experience detention in sub-standard conditions for long periods of time before their cases are finally resolved.

At present, the law is inflexible, and when applied, throws children into the glacially slow judicial system. A child or young adult may be picked up for a petty crime, but thrown in jail with hardened offenders, who subject the children to ridicule or abuse, or introduce them to drug abuse, or recruit them into criminal syndicates and gangs. Thus, these children thrown into our overcrowded and dangerous jails, instead of being rehabilitated becomes more susceptible in becoming a hardened criminal.

The "Child Protection Through A Comprehensive Juvenile System Act of 2005" aims to bring a more creative, and humane attitude toward juvenile offenders by resorting to the principles of Restorative Justice. This is an approach to crime that does not rely on simply subjecting the accused to the full harshness and impersonal workings of the law, but instead emphasizes the ways in which crime hurts relationships in the community. This framework is ideal for young offenders, who may break the law out of desperation or from not being fully aware of the harmful effects of their actions. It involves the community in figuring out why the young do wrong, and in making amends for the harm caused by the wrong deed. Young offenders get to understand the wrong they did and best of all, are then made to make amends in a positive and immediate manner.

In light of the foregoing considerations, approval of this measure is earnestly recommended.

  
MANNY VILLAR

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AN ACT  
PROVIDING SPECIAL PROTECTION TO CHILDREN/JUVENILES IN  
CONFLICT WITH THE LAW BY ESTABLISHING A COMPREHENSIVE  
JUVENILE JUSTICE SYSTEM AND DELINQUENCY PREVENTION  
PROGRAM, CREATING THE OFFICE OF THE JUVENILE JUSTICE AND  
DELINQUENCY PREVENTION UNDER THE DEPARTMENT OF JUSTICE,  
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES.

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

Title I.  
GOVERNING PRINCIPLES

Chapter 1  
Title, Policy and Definition of Terms

SEC. 1. *Short Title and Scope.* - This Act shall be known as the  
"Child Protection Through A Comprehensive Juvenile Justice System Act  
of 2005." It shall cover the different stages involving children in conflict with  
the law from prevention to rehabilitation and reintegration.

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

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

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, provided 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 measures 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. Whenever appropriate, children who are capable of forming and expressing their own views shall be allowed to participate in the program and policy formulation and implementation related with juvenile justice and delinquency prevention, and their views shall be given due weight in accordance with their age and maturity.

Finally, the State shall apply the principles of restorative justice in all its laws, policies and programs applicable to children/juveniles in conflict with the law.

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

- a) *Best Interests of the Child* - refers to the totality of the circumstances and conditions as are most congenial to the survival, protection, and feelings of security of the child and most encouraging to his physical, psychological, and emotional development. It also means the least detrimental available alternative for safeguarding the growth and development of the child.
- b) *Child* - refers to a person under the age of eighteen (18) years.
- c) *Child in Conflict with the Law* - refers to a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws.
- d) *Children at Risk* - refer to children who are vulnerable to, and at risk of, committing criminal offenses because of personal, family and social circumstances, such as, but not limited to, the following:

- 1) being abused, abandoned or neglected;
- 2) coming from a dysfunctional or broken family;
- 3) being out-of-school;

- 4) being a streetchild;
  - 5) being a member of a gang;
  - 6) living in a community with a high level of criminality or drug abuse; or
  - 7) Living in situations of armed-conflict.
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- e) *Community-based Programs* - refers to the programs provided in a community setting developed for the purpose of delinquency prevention and diversion, as well as rehabilitation of the child/juvenile in conflict with the law for reintegration into his/her family and/or community.
  - f) *Court* - refers to a Family Court or, in places where there are no Family Courts, any Regional Trial Court.
  - g) *Deprivation of liberty* - refers to any form of detention or imprisonment, or to the placement of a child/juvenile in conflict with the law in a public or private custodial setting, from which the child/juvenile in conflict with the law is not permitted to leave at will by order of any judicial or administrative authority.
  - h) *Diversion* - shall refer to an alternative, child-appropriate process of determining the responsibility and treatment of a child/juvenile in conflict with the law on the basis of his/her social, cultural, economic, psychological or educational background without resorting to formal court adjudication.
  - i) *Diversion program* - shall refer to the program that the child/juvenile in conflict with the law is required to undergo after he/she is found responsible for an offense without resorting to formal court litigation.
  - j) *Initial contact with the child* - refers to the apprehension or taking into custody of a child/juvenile in conflict with the law by law enforcement officers or private citizens. It includes the time when the child/juvenile alleged to be in conflict with the law receives a subpoena under Section 3 (b) of Rule 112 of the Revised Rules of Criminal Procedure or summons under Section 6 (a) or Section 9 (b) of the same rule in cases that do not require preliminary investigation or where there is no necessity to place the child/juvenile alleged to be in conflict with the law under immediate custody.
  - k) *Intervention* - refers to a series of activities that are designed to address issues that caused the child to commit an offense. It may take the form of an individualized treatment program which may include counseling, skills training, education, and other activity that will enhance his/her psychological, emotional, and psycho-social well being.
  - l) *Juvenile in Conflict with the Law* - refers to a child who at the time of the commission of the offense is above twelve (12) years of age but below eighteen (18) years of age.

- m) *Juvenile Justice System* - refers to a system of dealing with children/juveniles in conflict with the law which provides for a child-appropriate proceedings 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, reintegration, until the termination of after-care services.
- n) *Law Enforcement Officer* - refers to the person in authority or his/her agent as defined in Article 152 of the Revised Penal Code.
- o) *Records* - include those which may be in the files of the National Bureau of Investigation and with any police department, or any other government agency which may have been involved in the case.
- p) *Restorative Justice*. - refers to an approach to crime that emphasizes the ways in which crime hurts relationships between people who live in a community. It requires a process of resolving conflicts with the maximum involvement of the victim, the offender and the community, and focuses on the accountability of the offender, the impact of the crime on the victim and the community, and their ways in which offenders can repair the harm they have done. 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. It also enhances public safety by activating the offender, the victim and the community in juvenile delinquency prevention strategies.
- q) *Serious Offense* - refers to an offense punishable by imprisonment of more than six (6) years.
- r) *Youth Detention Homes*. - refers to an accredited child-caring institutions established by the local government units, DSWD and private/non-government organizations providing short-term residential care for children/juveniles in conflict with the law who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction.
- s) *Youth Rehabilitation Center* - refers to a facility that provides twenty-four (24) hour care, treatment and rehabilitation services under the guidance of a trained staff where residents are cared for under a structured therapeutic environment with the end in view of reintegrating them in their families and communities as socially functioning individuals.
- t) *Victimless Crimes*- refer to offenses where there are no private offended parties.
- u) *Halfway Homes*. - refer to residential homes where aftercare services shall be made available to children/juveniles in conflict with the law who have completed their rehabilitation process from the youth rehabilitation centers as provided under this Act.

Chapter 2  
Framework and Principles in the Administration of Juvenile Justice

SEC. 4. *Rights of the Child/Juvenile In Conflict with the Law.* - Every child/juvenile in conflict with the law shall have the following rights, including but not limited to:

- a) the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;
- b) the right not to be imposed capital punishment or life imprisonment without the possibility of release;
- c) the right not to be deprived of his or her liberty unlawfully or arbitrarily, detention or imprisonment being a disposition of last resort which shall be for the shortest appropriate period of time;
- d) the right to be treated with humanity and respect for the inherent dignity of the human persons, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances. Likewise female children/juveniles in conflict with law shall have the right to be given special attention as to their personal needs and problems and should be separated from other male children/juveniles in conflict with law in cases of deprivation of liberty. They shall likewise be handled by female doctors, correction officers and social workers;
- e) 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 a court or other competent, independent and impartial authority, and to a prompt decision on any such action;
- f) the right to bail and recognizance, in appropriate cases;
- g) the right to testify as a witness in his/her own behalf under the rule on examination of the child witness;
- h) the right to have his/her privacy respected fully at all stages of the proceedings;
- i) the right to be imposed a judgment in proportion to the gravity of the offense where his /her best interests, the rights of the victim and the needs of society under the principle of restorative justice are all taken into consideration by the court;

- j) the right to have restrictions on his/her personal liberty limited to the minimum, and where discretion is given by law to the judge to determine whether to impose fine or imprisonment, the imposition of fine preferred as the more appropriate penalty;
- k) in general, the right to automatic suspension of sentence;
- l) the right to probation as alternative to imprisonment, if qualified under the probation law;
- m) the right to be free from liability for perjury, concealment or misrepresentation;
- n) other rights as provided under existing laws and rules.

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. 5. *Minimum Age of Criminal Responsibility.* - A child twelve (12) years of age or under at the time of the commission of an offense shall be exempt from criminal liability. However, he/she shall be subjected to an appropriate intervention program pursuant to this Act.

A child above twelve (12) years but below fifteen (15) years of age shall likewise be exempt from criminal liability and be subjected to an appropriate intervention program, unless the court has determined that the prosecution has proven that the child has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

A child at least fifteen (15) years old but 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 RA 8369 otherwise known as the "Family Courts Act of 1997", and other relevant laws.

SEC. 6. *Determination of Age.* - The child's age may be determined from the child's birth certificate, baptismal certificate or any other pertinent documents. In the absence of these documents, age may be based on information from the child himself/herself, testimonies of other persons, dental records and/or examination, the physical appearance of the child and other relevant evidence. In case of doubt as to the age of the child, it shall be resolved in favor of the minority of the child.

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

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

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

SEC. 7. *Office of the Juvenile Justice and Delinquency Prevention (OJJDP).*- An Office of Juvenile Justice and Delinquency Prevention (OJJDP) is hereby created and established under the Department of Justice headed by an Undersecretary designated by the Secretary of Justice, to oversee the implementation of this Act and to ensure coordination among the following agencies:

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

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

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

SEC. 8. *Duties and Functions of the OJJDP.* - The OJJDP shall have the following duties and functions:



- a) To assist the concerned agencies in the review and redrafting of existing policies/regulations or formulating a new one in line with the provisions of this Act;
- b) To develop a comprehensive 3 to 5 year National Juvenile Delinquency Prevention Program integrating therein the redrafted/formulated policies/regulations;
- c) To formulate and recommend policies and strategies for the prevention of juvenile delinquency as well as the treatment and rehabilitation of the child/juvenile in conflict with the law;
- d) In the adoption of a comprehensive national juvenile delinquency prevention plan and the formulation of policies and strategies, it shall collect relevant information, conduct continuing research and support evaluations and studies on all matters relating to juvenile justice, such as, but not limited to:
  1. the performance and results achieved by the delinquency prevention programs and by the activities of the local government units and other government agencies;
  2. the periodic trends, problems and causes of juvenile delinquency;
  3. the particular needs of juveniles in custody.
- e) To oversee and supervise the implementation of this Act. In carrying out this function, it is to:
  1. conduct regular inspections of detention and rehabilitation facilities, through duly designated persons and with the assistance of the concerned agencies; provided, spot inspections may be undertaken to check compliance with the standards provided herein;
  2. 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 prevention effort;
  3. conduct trainings for the personnel of the agencies involved in the administration of the juvenile justice system and delinquency prevention.
- f) To advise the President, through the Secretary of Justice, on all matters and policies relating to juvenile justice and delinquency prevention; and to submit an annual report on the implementation of this Act.
- g) To perform such other functions as may be necessary to implement the provisions of this Act.

SEC. 9. *Child Rights Center (CRC)*. - The Commission on Human Rights (CHR) through its existing Child Rights Center shall ensure that the status, rights and interests of children are given paramount consideration and upheld in accordance with the Constitution and international instruments on human rights. CHR shall strengthen the monitoring of government compliance of all treaty obligations including the timely and regular submission of reports before the treaty bodies as well as implementation and dissemination of recommendations and conclusions by government agencies as well as NGOs and civil society.

SEC. 10. *Policies and Procedures on Juvenile Delinquency Prevention*. - All government agencies provided in Section 7 shall, with the assistance of the OJJDP and within one (1) year from the effectivity of this Act, review, redraft or formulate policies and procedures consistent with the standards set in the law. These policies and procedures shall be modified accordingly in consultation with the OJJDP upon the completion of the National Juvenile Delinquency Prevention Program as provided under Section 8(2).

Title III.  
PREVENTION OF JUVENILE DELINQUENCY

Chapter 1  
The Role of the Different Sectors

SEC. 11. *The Family*. The family shall be responsible for the primary nurturing and rearing of children which is critical in delinquency prevention.

SEC. 12. *The Educational 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. In cases where children in conflict with the law are taken into custody or detained in rehabilitation centers, they should be provided the opportunity to continue learning under an alternative learning system with basic literacy program or non-formal education accreditation equivalency system.

SEC. 13. *The Role of the Mass Media*. The mass media shall play an active role in the promotion of child rights, and delinquency prevention by relaying consistent messages through a balanced approach. Media practitioners shall, therefore, have the duty to maintain the highest critical and professional standards in reporting and covering cases of children/juveniles in conflict with the law. In all publicity concerning children, the best interests of the child should be the primordial and paramount concern. Any undue, inappropriate and sensationalized publicity of any case involving a child in conflict with the law is hereby declared a violation of his/her rights.

SEC. 14. *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 the effectivity of this Act. Membership in the LCPC shall be taken from responsible members of the community including a representative from the youth, as well as representatives of government and private agencies 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. 15. *Appointment of Local Social Welfare and Development Officer.* All local government units shall appoint a duly licensed social worker as its local social welfare and development officer tasked to assist children in conflict with the law.

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

## Chapter 2 Comprehensive Delinquency Prevention Plans

SEC. 17. *Development of Comprehensive Juvenile Delinquency Prevention Plans.* - Comprehensive juvenile delinquency prevention plans covering at least a three (3) - 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 LCPC, shall call on all sectors concerned, particularly the child-focused institutions, NGOs, people's organizations, 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 LCPCs. Results of the assessment shall be submitted by the provincial and city governments to the OJJDP not later than March 30 of the year.

SEC. 18. *Community-Based Program on Delinquency Prevention.*- Community-based programs on delinquency prevention shall be instituted by the local government units through the LCPCs, schools, youth organizations and other concerned agencies. These local government units shall provide community-based services which respond to the special needs, problems,

interests and concerns of children and which offer appropriate counseling and guidance to them and their families. These programs shall consist of three (3) levels.

- (1) Primary prevention. - includes general measures to promote social justice and equal opportunity, which tackle perceived root cause of offense;
- (2) Secondary prevention - includes measures to assist children at risk;
- (3) Tertiary prevention - includes measures to avoid unnecessary contact with the formal justice system and other measures to prevent the commission of another offense.

Title IV  
TREATMENT OF  
CHILDREN BELOW AGE OF CRIMINAL RESPONSIBILITY

SEC. 19. *Children Below Age of Criminal Responsibility.* - If it has been determined that the child taken into custody 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, or if they refuse to take custody, the child may be released to a duly registered non-governmental or religious organization or to a *barangay* official or a member of the Barangay Council for the Protection of Children, or to the Local Social Welfare and Development Officer or when and where appropriate, the DSWD. If the child referred to in Section 24 has been found by the Local Social Welfare and Development Office to be abandoned, neglected or abused by his parents, or in the event that the parents will not comply with the prevention program, the proper petition for involuntary commitment shall be filed by the DSWD or the Local Social Welfare and Development Office pursuant to P.D. 603.

Title V.  
JUVENILE JUSTICE SYSTEM

Chapter I  
Initial Contact with the Child

SEC. 20. *Procedure for Taking the Child into Custody.* From the moment a child is taken into custody, the law enforcement officer shall:

- (1) Inform the child/juvenile of the reason for such custody and advise him/her of his/her constitutional rights in a language or dialect understood by him/her;
- (2) Properly identify himself/herself and present proper identification to the child/juvenile;
- (3) Refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the child/juvenile in conflict with the law;
- (4) Refrain from using discriminatory remarks and practices, particularly with respect to the child's/juvenile's social or economic status, physical or ethnic origin;
- (5) Avoid displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and only after all other methods of control have been exhausted but have failed;
- (6) Refrain from subjecting the child/juvenile in conflict with the law to greater restraint than is necessary for his/her apprehension;
- (7) Avoid using humiliating or degrading procedures for taking fingerprints or photographs of the child/juvenile in conflict with the law;
- (8) Avoid violence or unnecessary force;
- (9) Notify the parents/guardians and Local Social Welfare and Development Officer immediately upon apprehension but not later than eight (8) hours therefrom. The Local Social Welfare Development Officer shall explain to the child/juvenile and his/her parents/guardians the consequences of his/her act with a view towards counseling and rehabilitation, diversion from the criminal justice system, and reparation, if appropriate;
- (10) Take the child/juvenile immediately to the proper medical or health officer for a thorough physical and mental examination. The examination results shall be kept confidential unless otherwise ordered by the Family Court. Whenever the medical treatment is required, steps shall be immediately undertaken to provide the same;
- (11) If detention of the child/juvenile in conflict with the law is necessary, he/she should be secured in quarters separate from that of the opposite sex and adult offenders;
- (12) Immediately request the Local Social Welfare and Development Officer to undertake a complete and full case study report on the child/juvenile in conflict with the law;

- (13) Ensure the confidentiality of the proceedings and records and to the sealing thereof;
- (14) Determine the age of the child pursuant to Section 7 of this Act;
- (15) As far as practicable, allow the child/juvenile in conflict with the law to be searched by a law enforcement officer of the same gender.

SEC. 21. *Duties During Initial Investigation* – The investigation shall be conducted in the presence of the following: (1) child's counsel of choice or in the absence thereof, a lawyer from the Public Attorney's Office; (2) the child's parents, guardian, or nearest relative, as the case may be; and (3) the Local Social Welfare and Development Officer. In the absence of the child's parents, guardian, or nearest relative, and the Local Social Welfare and Development Officer, the investigation shall be conducted in the presence of a representative of a non-government organization, religious group, or member of the Barangay Council for the Protection of Children (BCPC).

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

- (1) Proceed in accordance with Section 19 if the child is twelve (12) years old and below; or
- (2) If the child is above 12 years old, proceed to diversion under Title V, Chapter 2 of this Act.

The law enforcement officer shall, in his/her investigation, determine where the case involving the child in conflict with the law shall be referred to.

## Chapter 2 Diversion

SEC. 22. *System of Diversion*. – Children/Juveniles in Conflict with the Law shall undergo diversion programs without undergoing court proceedings subject to the conditions hereinafter provided:

- a) Where the imposable penalty for the crime committed is not more than six (6) years imprisonment, the law enforcement officer or the *Punong Barangay* with the assistance of the Local Social Welfare Development Officer or other members of the LCPC, shall conduct mediation, family conferencing and conciliation and, where appropriate, adopt indigenous modes of conflict resolution in accordance to the best interest of the child/juvenile with a view to accomplishing the objectives of restorative justice and the formulation of a diversion program. The child/juvenile and his/her family and the private complainant shall be present;
- b) In Victimless Crimes where the imposable penalty is not more than six (6) years imprisonment, the Local Social Welfare and Development Officer shall meet with the child/juvenile and his/her parents or guardians for

the development of the appropriate diversion and rehabilitation program, in coordination with the BCPC;

- c) Where the imposable penalty for the crime committed exceeds six (6) years imprisonment, diversion measures may be resorted to only by the court.

SEC. 23. *Where Diversion May Be Conducted.* - Diversion may be conducted at the *Katarungang Pambarangay*, the police investigation or the inquest or preliminary investigation .

SEC. 24. *Contract of Diversion.* - If during the conference, mediation or conciliation, the child/juvenile voluntarily admits the commission of the act, a diversion program shall be developed when appropriate and desirable as determined under Section 29. Such admission shall not be used against the child/juvenile in any subsequent judicial, quasi-judicial or administrative proceedings. The diversion program shall be effective and binding if accepted by the child/juvenile, the child's parents and the complainant. It shall be in writing and signed by the child/juvenile, the child's parents, the complainant 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 of prescription of the offense shall be suspended until the completion of the diversion proceedings but not to exceed forty-five (45) days.

The child/juvenile shall present himself/herself to the competent authorities that conducted 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 offended party the option to institute the appropriate legal action.

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

SEC. 25. *Duty of Punong Barangay When There Is No Diversion.*- Where the offense does not fall under Section 23 (a) and (b), Section 22 (1) and (2) or if the child/juvenile, his/her parents or guardian or the offended party does not consent to a diversion, the *Punong Barangay* handling the case shall, within three (3) days from determination of the absence of jurisdiction over the case or termination of the diversion proceedings, as the case maybe, forward the records of the case of the child/juvenile to the law enforcement officer, prosecutor or the appropriate court, as the case may be. Upon the issuance of the corresponding document certifying either that no agreement has been reached by the parties or that the offended party does not consent to a diversion, the case shall be filed according to the regular process.

SEC. 26. *Duty of Law Enforcement Officer When There Is No Diversion.* - Where the offense does not fall under Section 22 (1) and (2) or if the child/juvenile, his/her parents or guardian or the offended party does not consent to a diversion, the Women and Children's Protection Desk of the

Philippine National Police, or other law enforcement officer shall, within three (3) days from determination of the absence of jurisdiction over the case or termination of diversion proceedings, forward the records of the case of the child/juvenile under custody to the prosecutor or judge concerned. The prosecutor or the judge, as the case maybe, shall conduct inquest and/or preliminary investigation to determine whether or not the child/juvenile should remain under custody and correspondingly be charged in court. The document transmitting said records shall display the word "CHILD/JUVENILE" 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 child/juvenile in conflict with the law (e.g. age, maturity, intelligence, etc.);
- (4) The influence of the family and environment on the growth of the child/juvenile in conflict with the law;
- (5) The reparation of injury to the victim;
- (6) The weight of the evidence against the child/juvenile;
- (7) The safety of the community; and
- (8) The best interest of the child/juvenile in conflict with the law.

SEC. 28. *Formulation of Diversion Program* - In formulating a diversion program, the individual characteristics and the peculiar circumstances of the child/juvenile in conflict with the law shall be used to formulate an individualized treatment. The following factors shall be considered:

- (1) The child's feelings 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 view 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. 29. *Kinds of Diversion Program.* - The diversion program shall include adequate socio-cultural and psychological responses and services for the child. At the different stages where diversion may be resorted to, diversion programs may be agreed upon, such as, but not limited to:

(a) At the level of the *Punong Barangay*:

- (1) Restitution of property;
- (2) Reparation of the damage caused;
- (3) Indemnification for consequential damages;
- (4) Written or oral apology;



- (5) Care, Guidance and Supervision Orders;
  - (6) Counseling for the Child in Conflict with the Law and the family;
  - (7) Attendance in trainings, seminars and 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;
  - (8) Participation in available community-based programs, including community service; or
  - (9) Participation in educational, vocational and life skills programs.
- (b) At the level of the law enforcement officer and the prosecutor:
- (1) Diversion programs specified under paragraph (a)(1-9) above;
  - (2) Confiscation and forfeiture of the proceeds or instruments of the crime;
- (c) At the level of the appropriate court:
- (1) Diversion programs specified under paragraphs (a) and (b) above;
  - (2) Written or oral reprimand or citation;
  - (3) Fine;
  - (4) Payment of the cost of the proceedings; or
  - (5) Institutional care and custody.

### Chapter 3 Prosecution

SEC. 30. *Preliminary Investigation and Filing of Information.*- The prosecutor shall conduct a preliminary investigation in the following instances: (a) when the child/juvenile in conflict with the law does not qualify for diversion; (b) when the parties do not agree to diversion as specified in Sections 25 and 26; (c) when considering the assessment and recommendation of the social worker, the prosecutor determines that diversion is not appropriate for the child/juvenile in conflict with the law. The prosecutor shall ensure that a child/juvenile in conflict with the law is assisted by a social worker.

SEC. 31. *Duty of the Prosecutor's Office.* - Prosecutors shall be trained to conduct inquest, preliminary investigation and prosecution of cases involving a child/juvenile in conflict with the law.

Upon determination of probable cause by the prosecutor, the information against the child/juvenile in conflict with the law shall be filed before the Family Court within forty-five (45) days from the start of the preliminary investigation.

The child/juvenile in conflict with the law may be placed under the custody of the parents or the social worker concerned.

#### Chapter 4 Court

SEC. 32. *Bail.* - For purposes of recommending the amount of bail, the privileged mitigating circumstance of minority shall be considered.

SEC. 33. *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 court, social worker, the DSWD, the Local Social Welfare and Development Officer or the Social Services and Counseling Division (SSCD), release the child alleged to have committed an offense on recognizance to the custody of his/her parents or other suitable person, as determined by the court, who shall be responsible for his/her appearance whenever required by the court.

SEC. 34. *Detention of the Child Pending Trial.* - Children detained pending trial may be released on bail or recognizance as provided for under Sections 32 and 33. In all other cases and whenever possible, detention pending trial may be replaced by the 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 will always be detained in the youth detention homes established by local governments, pursuant to Section 8 of the Family Courts Act, in the city or municipality where the child resides.

In the absence of a youth detention home, the child/juvenile in conflict with the law may be committed to the care of the DSWD or a local rehabilitation center recognized by the government in the province, city or municipality within the jurisdiction of the court. The center or agency concerned shall be responsible for the child's appearance in court whenever required.

SEC. 35. *Diversion measures.* - Where the maximum penalty imposed by law for the offense with which the child/juvenile in conflict with the law is charged is imprisonment of not more than twelve (12) years, regardless of the fine or fine alone regardless of the amount, and before arraignment of the child/juvenile in conflict with the law, the court shall determine whether or not diversion is appropriate.

SEC. 36. *Automatic Suspension of Sentence.*- Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child/juvenile in conflict with the law under suspended sentence: Provided, however, suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.

SEC. 37. *Various Disposition Measures.*- Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures, as provided in the Rules on Juveniles in Conflict with the Law.

SEC. 38. *Discharge of the Child/Juvenile in Conflict with the Law.*- Upon the recommendation of the social worker who has custody of the child/juvenile in conflict with the law, the court shall dismiss the case against the child whose sentence has been suspended and against whom disposition measures have been issued, and shall order the final discharge of the child if it finds that the objective of the disposition measures have been fulfilled.

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

SEC. 39. *Return of Child/Juvenile in Conflict With the Law to Court.*- If the court finds that the objective of the disposition measures imposed upon the child/juvenile in conflict with the law has not been fulfilled, or the child/juvenile in conflict with the law has willfully failed to comply with the conditions of his/her disposition or rehabilitation program, the child/juvenile in conflict with the law shall be brought before the court for promulgation of sentence.

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

SEC. 40. *Credit in Service of Sentence.* - The Child/Juvenile in Conflict with the Law shall be credited in the services of his/her sentence with the full time spent in actual commitment and detention under this Act.

SEC. 41. *Probation as an Alternative to Imprisonment.*- The court may, after it shall have convicted and sentenced a child/juvenile in conflict with the law, and upon application at any time, place him/her on probation in lieu of service of his/her sentence taking into account the best interest of the child. For this purpose, Section 4 of Presidential Decree No. 968 is hereby amended accordingly.

## Chapter 5 Confidentiality of Records and Proceedings

SEC. 42. *Confidentiality of Records and Proceedings.*- All records and proceedings involving Children/Juveniles in Conflict with the Law from initial contact until final disposition of the case shall be considered privileged and confidential. The public shall 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 for any purpose whatsoever, except to determine if the Child/Juvenile in Conflict with the Law may have his sentence suspended or if he may be granted probation under the probation law, or to enforce the civil liability imposed in the criminal action.

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

A person who has been in conflict with the law as a child 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/her for any purpose.

### Title VI. DETENTION, REHABILITATION AND REINTEGRATION

SEC. 43. *Objective of Rehabilitation and Reintegration.* - The objective of rehabilitation and reintegration of children/juveniles in conflict with the law is to provide them with interventions, approaches, and strategies that will enable them to improve their social functioning skills with the end goal of reintegration to their families and become productive members of their communities.

SEC. 44. *Separate Facilities From Adults.* - In all rehabilitation or training facilities, children shall be separated from adults unless they are members of the same family.

SEC. 45. *Establishment of Youth Homes by Private Organizations.* - Youth Homes established by private and non-government organizations shall be licensed and accredited by the DSWD: *Provided*, That the standards for accreditation of youth homes shall be formulated by the DSWD in consultation with the OJJDP: *Provided, further*, That the DSWD shall submit a periodic

report and/or list of licensed and accredited private and non-government organizations to OJJDP.

SEC. 46. *Care and Maintenance of the Child/Juvenile in Conflict with the Law.* - The expenses for the care and maintenance of children/juveniles in conflict with the law under institutional care shall be borne by his/her parents or those persons liable to support him/her: *Provided*, That in case his/her parents or those persons liable to support him/her cannot pay all or part of said expenses, the municipality in which the offense was committed shall pay one-third (1/3) of said expenses or part thereof; the province to which the municipality belongs shall pay one-third (1/3) and the remaining one-third (1/3) shall be borne by the National Government. Chartered cities shall pay two-thirds (2/3) of said expenses; however, in case a chartered city cannot pay said expenses, part of their internal revenue allotments in the amount corresponding to the unpaid portion shall be withheld and applied to the settlement of said obligation: *Provided, further*, That in the event that the child/juvenile in conflict with the law is not a resident of the municipality/city where the offense was committed, the Court, upon its determination, may require the city/municipality where the child/juvenile in conflict with the law resides to shoulder the cost.

SEC. 47. *Confinement of Convicted Children in Agricultural Camps and other Training Facilities.* - A Child/Juvenile 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 and other training facilities that may be established, maintained, supervised and controlled by the Bureau of Corrections.

SEC. 48. *Rehabilitation of Children/Juveniles in Conflict with the Law.*- Children/juveniles in conflict with the law, whose sentences are suspended may, upon order of the Court, undergo any or a combination of the disposition measures best suited to the rehabilitation and welfare of the child, including but not limited to:

- (1) social services;
- (2) homelife services;
- (3) formal, non-formal and informal education;
- (4) health services;
- (5) livelihood and skills training;
- (6) socio-cultural and recreational activities;
- (7) spiritual enrichment;
- (8) community participation;
- (9) drug and/or alcohol treatment;
- (10) leadership training and/or
- (11) competency and life skills development.

SEC. 49. *Youth Rehabilitation Center.*- The Youth Rehabilitation Center shall provide twenty-four (24) hour group care, treatment and rehabilitation services under the guidance of a trained staff where residents are cared for under a structured therapeutic environment with the end view of reintegrating them in their families and communities as socially functioning individuals. A quarterly report shall be submitted by the Center to the proper

court on the progress of the child/juveniles 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 the final disposition of the case.

SEC. 50. *Objectives of Community Based Programs*- The objectives of community-based programs are as follows:

- (1) Prevent disruption in the education or means of livelihood of the Child/Juvenile in Conflict with the Law in case he/she is studying, working or attending vocational learning institutions;
- (2) Prevent separation of the Child/Juvenile in Conflict with the Law from his/her parents/guardians to maintain the support system fostered by their relationship and to create greater awareness of their mutual and reciprocal responsibilities;
- (3) Facilitate the rehabilitation and mainstreaming of the Child/Juvenile in Conflict with the Law and encourage community support and involvement; and
- (4) Minimize the stigma that attaches to the Child/Juvenile in Conflict with the Law by preventing jail detention.

SEC. 51. *Criteria of Community-Based Programs*. - All local government units shall establish community-based rehabilitation and reintegration programs for children/juveniles in conflict with the law in their respective areas of jurisdiction: *Provided*, That to ensure implementation of such programs, the same should be included in their public investment plan.

SEC. 52. *After Care Support Services for Children in Conflict with the Law*.- Children/Juveniles 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 released to the custody of their family or relatives, or in their absence, to a duly accredited and/or licensed half-way homes. They shall be provided after-care services by the Local Social Welfare and Development Officer for a period of at least six (6) months. The service includes counseling and other community-based services designed to facilitate social reintegration, prevent the commission of another offense and become productive members of the community.

Title VII.  
GENERAL PROVISIONS

Chapter 1  
Exempting Provisions

SEC. 53. *Status Offenses.*- Any conduct that is not considered as an offense or not penalized if committed by an adult shall likewise not be considered as an offense or punishable if committed by a child.

SEC. 54. *Offenses Not Applicable To Children.* - Persons below eighteen years of age shall be exempt from prosecution for the offenses of vagrancy and prostitution under Section 202 of the Revised Penal Code, mendicancy under P.D. 1563, and sniffing of rugby under P.D. 1619, such prosecution being inconsistent with the U.N. Convention on the Rights of the Child; *Provided*, That said persons shall undergo appropriate rehabilitation, counseling and treatment program: *Provided, further*, That adults who are found to be involved and/or make use of said persons in the commission of these offenses shall be prosecuted based on existing laws and legislations.

## Chapter 2 Prohibited Acts

SEC. 55. *Prohibition Against Labeling and Shaming.* - 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. 56. *Other Prohibited Acts.* - The following and any other similar acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the Child/Juvenile in Conflict with the Law 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 irritating, corrosive or harmful substances over the body of the Child/Juvenile 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 involuntarily servitude in any and all forms under any and all instances.

Chapter 3  
Penal Provision

SEC. 57. *Violation of the Provisions 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 shall, upon conviction for each act or omission, be punished by a fine of not less than Twenty Thousand Pesos (P20,000.00) but not more than Fifty Thousand Pesos (P50,000.00) or suffer imprisonment of not less than eight (8) years but not more than ten (10) years, 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/she shall, in addition to such fine and/or imprisonment, be held administratively liable and shall suffer the penalty of perpetual absolute disqualification.

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SEC. 58. *Exemption from the Application of Death Penalty.* - The provisions of the Revised Penal Code, R.A. No. 9165, and other special laws notwithstanding, no death penalty shall be imposed upon children/juveniles in conflict with the law.

Chapter 4  
Appropriations

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 of Ten Million Pesos (PHP10,000,000.00) for the purpose of setting up the OJJDP shall be taken from the proceeds of the Philippine Charity Sweepstakes Office.

Title VIII,  
TRANSITORY PROVISIONS

SEC. 60. *Children/Juveniles in Conflict with the Law 12 Years Old and Below.*- Upon effectivity of this 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 referred to the appropriate Local Social Welfare and Development Officer. The Local Social Welfare and Development Officer, upon thorough assessment of the child, shall determine whether to release him/her to the custody of his/her parents, or refer him/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/she is detained with adults, the court shall immediately order the transfer of the child to a youth detention home.

SEC. 62. *Children who reached 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 disposition. In case the appropriate court executes the judgment of conviction, and unless the Child in Conflict with the Law has already availed of probation under P.D. 603 or other similar laws, the child may apply for probation if qualified under the provisions of the Probation Law or P. D. 968.

Title IX.  
FINAL PROVISIONS

SEC. 63. *Rule Making Power.* - Except that which is reserved by the Constitution to the Supreme Court, the rule making power under this Act shall be exercised by the Department of Justice. The Department of Justice shall, in consultation with the Department of Social Welfare and Development, the Department of the Interior and Local Government, Philippine National Police, Council for the Welfare of Children, National Youth Commission, National Anti-Poverty Commission-Children Basic Sector, Commission on the Human Rights, and a representative from licensed and accredited non-government organizations implementing programs for children/juveniles in conflict with law, issue the necessary rules and regulations for the implementation of the provisions of this Act within one (1) 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 other 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 parts 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 newspaper of general circulation.

Approved,