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Prepared by the Committees on Justice and Human Rights *and* Youth, Women and Family Relations with Senators Sotto, Revilla, Pangilinan, Villar, Defensor-Santiago, Escudero, and Cayetano, P. as authors thereof.

**AN ACT
AMENDING REPUBLIC ACT NO. 9344 OTHERWISE KNOWN
AS THE "JUVENILE JUSTICE AND WELFARE ACT OF 2006"
AND APPROPRIATING FUNDS THEREFOR"**

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

1 **SECTION 1.** The Title of Republic Act No. 9344 is hereby amended to
2 read as follows:

3 **"AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE**
4 **JUSTICE AND WELFARE SYSTEM, CREATING THE JUVENILE**
5 **JUSTICE AND WELFARE COUNCIL UNDER THE DEPARTMENT**
6 **OF [JUSTICE] SOCIAL WELFARE AND DEVELOPMENT,**
7 **APPROPRIATING FUNDS THEREFOR, AND FOR OTHER**
8 **PURPOSES."**¹

¹ The title has to be amended to reflect the change from DOJ to DSWD. In *Cruz v. Paras*, 123 SCRA 569 (1983), the Supreme Court said that if there is a substantive amendment in the law, such must also be reflected in the title of the amended law to make the title compatible with the substance. Thus, the title also has to be amended. Otherwise, it may violate the rule in the Constitution that "Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof." (Art. VI, Sec. 26.)

1 **SEC. 2.** Section 4 of Republic Act No. 9344 is hereby amended to read
2 as follows:

3 “*SEC. 4. Definition of Terms.* - The following terms as used in this Act
4 shall be defined as follows:

5 (s) [Youth Detention Home] “**BAHAY PAG-ASA**” - refers to a 24-hour
6 child caring institution **ESTABLISHED, FUNDED AND** managed by
7 accredited local government units (LGUs) and licensed and/or accredited non
8 government organizations (NGOs) providing short term residential care for
9 children in conflict with the law **WHO ARE ABOVE FIFTEEN (15) BUT**
10 **BELOW EIGHTEEN (18)** who are awaiting court disposition of their cases or
11 transfer to other agencies or jurisdiction.

12 **A SPACE FOR THE INTENSIVE JUVENILE INTERVENTION AND**
13 **SUPPORT CENTER WILL BE ALLOCATED WITHIN THE BAHAY PAG-**
14 **ASA. THIS WILL CATER TO CHILDREN IN CONFLICT WITH THE**
15 **LAW CHARGED WITH CRIMES PENALIZED UNDER THE PHILIPPINE**
16 **LAWS WITH IMPRISONMENT OF MORE THAN TWELVE (12) YEARS.**

17 **A MULTI-DISCIPLINARY TEAM COMPOSED OF A SOCIAL**
18 **WORKER, A PSYCHOLOGIST/MENTAL HEALTH PROFESSIONAL, A**
19 **MEDICAL DOCTOR, AN EDUCATIONAL/GUIDANCE COUNSELOR**
20 **AND A BCPC MEMBER WILL WORK ON THE INDIVIDUALIZED**
21 **INTERVENTION PLAN WITH THE CHILD AND THE CHILD’S FAMILY.**

22
23

1 SEC. 3. Section 6 of Republic Act No. 9344 is hereby amended to read
2 as follows:

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

8 **A CHILD IS DEEMED TO BE FIFTEEN (15) YEARS OF AGE**
9 **ON THE DAY OF THE FIFTEENTH ANNIVERSARY OF HIS**
10 **BIRTH DATE.²**

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

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

² This addresses the confusion as to age. Many persons involved in the implementation of the law mistakenly think that “15 years of age” refers to the whole year from the time of the 15th birthday until the day before the 16th birthday. This is not correct since the law refers to those who are below 15, those who are 15 and those who are above 15 years, implying that 15 years of age refers to only one day, consistent with how age has been construed by the Supreme Court in other decisions.

1 **SEC. 4.** Section 8 of Republic Act No. 9344 is hereby amended to
2 read as follows:

3 “**SEC. 8. *Juvenile Justice and Welfare Council (JJWC).*** - A
4 Juvenile Justice and Welfare Council (JJWC) is hereby created and
5 attached to the [Department of Justice] **DEPARTMENT OF SOCIAL**
6 **WELFARE AND DEVELOPMENT**³ and placed under its
7 administrative supervision. The JJWC shall be chaired by an
8 undersecretary of the Department of Social Welfare and Development.
9 It shall ensure the effective implementation of this Act and
10 coordination among the following agencies:

11 **(a) DEPARTMENT OF JUSTICE (DOJ)**

12 ([a] b) Council for the Welfare of Children (CWC);

13 ([b] c) Department of Education (DepEd);

14 ([c] d) Department of the Interior and Local Government (DILG);

15 ([d] e) Public Attorney's Office (PAO);

16 ([e] f) Bureau of Corrections (BUCOR);

17 ([f] g) Parole and Probation Administration (PPA);

18 ([g] h) National Bureau of Investigation (NBI);

³ During the deliberations on the bills that gave rise to RA 9344, the Senate wanted the JJWC to be under the DSWD while the House of Representatives wanted it with the DOJ. Having the DSWD as the chair of the JJWC, while the secretariat was under the DOJ, was a compromise reached at the Bicameral Conference Committee. But this arrangement has contributed to the slow pace of the implementation of the law. Since under RA 9344 the keys to the effective implementation of the law are the intervention and diversion programs under the supervision of local social welfare and development officers, it is but logical that the emphasis on the welfare component also be reflected in the national level, particularly in the administrative supervision over the JJWC. With both the chairperson and the secretariat under one department, effective implementation of the RA 9344 can now be expected.

1 ([h] i) Philippine National Police (PNP);
2 ([i] j) Bureau of Jail Management and Penology (BJMP);
3 ([j] k) Commission on Human Rights (CHR);
4 ([k] l) Technical Education and Skills Development Authority
5 (TESDA);
6 ([l] m) National Youth Commission (NYC); and
7 ([m] n) Other institutions focused on juvenile justice and intervention
8 programs.

9 The JJWC shall be composed of representatives, whose ranks
10 shall not be lower than director, to be designated by the concerned
11 heads of the following departments or agencies **AND SHALL**
12 **RECEIVE EMOLUMENTS AS MAY BE DETERMINED BY THE**
13 **COUNCIL IN ACCORDANCE WITH EXISTING BUDGET AND**
14 **ACCOUNTING RULES AND REGULATIONS:**

- 15 (a) Department of Justice (DOJ);
16 (b) Department of Social Welfare and Development (DSWD);
17 (c) Council for the Welfare of Children (CWC)
18 (d) Department of Education (DepEd);
19 (e) Department of the Interior and Local Government (DILG);
20 (f) Commission on Human Rights (CHR);
21 (g) National Youth Commission (NYC); and
22 (h) Two (2) representatives from NGOs, [one] to be designated by the
23 Secretary of [Justice] [and the other] **SOCIAL WELFARE AND**

1 DEVELOPMENT [and the other.], TO BE SELECTED BASED ON
2 THE CRITERIA ESTABLISHED BY THE COUNCIL.

3 (I) DEPARTMENT OF HEALTH;

4 (J) ONE (1) REPRESENTATIVE EACH FROM THE LEAGUE OF
5 PROVINCES, LEAGUE OF CITIES AND LEAGUE OF
6 MUNICIPALITIES.

7 THERE SHALL BE A REGIONAL JUVENILE JUSTICE AND
8 WELFARE COMMITTEE (RJJWC) IN EACH REGION. THE
9 RJJWCS WILL BE UNDER THE ADMINISTRATION AND
10 SUPERVISION OF THE JUVENILE JUSTICE AND WELFARE
11 COUNCIL. THE RJJWC SHALL BE CHAIRED BY THE DIRECTOR
12 OF THE REGIONAL OFFICE OF THE DSWD. IT SHALL ENSURE
13 THE EFFECTIVE IMPLEMENTATION OF THIS ACT AT THE
14 REGIONAL AND LGU LEVELS AND THE COORDINATION
15 AMONG ITS MEMBER AGENCIES.

16 THE RJJWC WILL BE COMPOSED OF PERMANENT
17 REPRESENTATIVES WHO SHALL HAVE A RANK NOT LOWER
18 THAN AN ASSISTANT REGIONAL DIRECTOR OR ITS
19 EQUIVALENT TO BE DESIGNATED BY THE CONCERNED
20 DEPARTMENT HEADS FROM THE FOLLOWING AGENCIES
21 AND SHALL RECEIVE EMOLUMENTS AS MAY BE
22 DETERMINED BY THE COUNCIL IN ACCORDANCE WITH

1 EXISTING BUDGET AND ACCOUNTING RULES AND
2 REGULATIONS:

3 A.) DEPARTMENT OF JUSTICE;

4 B.) DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT;

5 C.) DEPARTMENT OF EDUCATION;

6 D.) DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT;

7 E.) COMMISSION ON HUMAN RIGHTS;

8 F.) DEPARTMENT OF HEALTH;

9 G.) TWO (2) REPRESENTATIVES FROM NGOs OPERATING
10 WITHIN THE REGION SELECTED BASED ON THE CRITERIA
11 ESTABLISHED BY THE COUNCIL;

12 H.) ONE (1) SECTORAL REPRESENTATIVE FROM THE
13 CHILDREN OR YOUTH SECTOR WITHIN THE REGION; AND

14 I.) ONE (1) REPRESENTATIVE FROM THE LEAGUE OF
15 PROVINCES/CITIES/MUNICIPALITIES OF THE PHILIPPINES.

16 The JJWC shall convene within fifteen (15) days from the
17 effectivity of this Act. The Secretary of [Justice] SOCIAL WELFARE
18 AND DEVELOPMENT [and the] shall determine the organizational
19 structure and staffing pattern of the JJWC.

1 IN THE IMPLEMENTATION OF THIS ACT, THE JJWC
2 SHALL CONSULT WITH THE VARIOUS LEAGUES OF LOCAL
3 GOVERNMENT OFFICIALS.⁴

4 The JJWC shall coordinate with the Office of the Court
5 Administrator and the Philippine Judicial Academy to ensure the
6 realization of its mandate and the proper discharge of its duties and
7 functions, as herein provided.”

8 SEC. 5. Section 9 of Republic Act No. 9344 is hereby amended to read
9 as follows:

10 “SEC. 9-A. *Duties and Functions of the JJWC.*— The JJWC shall
11 have the following duties and functions:

12 (a) To oversee the implementation of this Act;

13 (b) To advise the President on all matters and policies
14 relating to juvenile justice and welfare;

15 (c) To assist the concerned agencies in the review and
16 redrafting of existing policies/regulations or in the formulation of new
17 ones in line with the provisions of this Act;

18 (d) To periodically develop a comprehensive 3 to 5-year
19 national juvenile intervention program, with the participation of
20 government agencies concerned, NGOs and youth organizations;

⁴ This will address the concern of local officials that they are not being consulted in the crafting of policies on juvenile justice and welfare even if they will actually be the ones responsible for the day-to-day implementation of the law.

1 (e) To coordinate the implementation of the juvenile
2 intervention programs and activities by national government agencies
3 and other activities which may have an important bearing on the
4 success of the entire national juvenile intervention program. All
5 programs relating to juvenile justice and welfare shall be adopted in
6 consultation with the JJWC;

7 (f) To formulate and recommend policies and strategies in
8 consultation with children for the prevention of juvenile delinquency
9 and the administration of justice, as well as for the treatment and
10 rehabilitation of the children in conflict with the law;

11 (g) To collect relevant information and conduct continuing
12 research and support evaluations and studies on all matters relating to
13 juvenile justice and welfare, such as, but not limited to:

14 (1) the performance and results achieved by juvenile
15 intervention programs and by activities of the local government units
16 and other government agencies;

17 (2) the periodic trends, problems and causes of juvenile
18 delinquency and crimes; and

19 (3) the particular needs of children in conflict with the law in
20 custody.

21 The data gathered shall be used by the JJWC in the improvement
22 of the administration of juvenile justice and welfare system.

1 THE JJWC SHALL CONDUCT A STUDY ON THE AGE OF
2 DISCERNMENT OF FILIPINO CHILDREN EVERY THREE (3)
3 YEARS.⁵

4 The JJWC shall set up a mechanism to ensure that children are
5 involved in research and policy development.

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

12 (i) To initiate and coordinate the conduct of trainings for the
13 personnel of the agencies involved in the administration of the juvenile
14 justice and welfare system and the juvenile intervention program;

15 (j) To submit an annual report to the President on the
16 implementation of this Act; and

17 (k) To perform such other functions as may be necessary to
18 implement the provisions of this Act.”

19 “SEC. 9-B. DUTIES AND FUNCTIONS OF THE RJJWC:
20 THE REGIONAL JUVENILE JUSTICE AND WELFARE
21 COMMITTEE (RJJWC) SHALL HAVE THE FOLLOWING DUTIES
22 AND FUNCTIONS:

⁵ This will provide the basis for legislative review of the minimum age of criminal responsibility in section 6 of RA 9344, if such be needed.

- 1 (A) TO OVERSEE AND ENSURE THE EFFECTIVE
2 IMPLEMENTATION OF THIS ACT AT THE REGIONAL LEVEL
3 AND AT THE LEVEL OF THE LOCAL GOVERNMENT UNITS;
- 4 (B) TO ASSIST THE CONCERNED AGENCIES IN THE
5 IMPLEMENTATION AND IN COMPLIANCE WITH THE JJWC
6 ADOPTED POLICIES/REGULATIONS OR PROVIDE
7 SUBSTANTIAL INPUTS TO THE JJWC IN THE
8 FORMULATION OF NEW ONES IN LINE WITH THE
9 PROVISIONS OF THIS ACT;
- 10 (C) TO ASSIST IN THE DEVELOPMENT OF THE
11 COMPREHENSIVE 3 TO 5-YEAR LOCAL JUVENILE
12 INTERVENTION PROGRAM, WITH THE PARTICIPATION OF
13 CONCERNED LOCAL GOVERNMENT UNITS, NGOS AND
14 YOUTH ORGANIZATIONS WITHIN THE REGION AND
15 MONITOR ITS IMPLEMENTATION;
- 16 (D) TO COORDINATE THE IMPLEMENTATION OF THE
17 JUVENILE INTERVENTION PROGRAMS AND ACTIVITIES
18 BY NATIONAL GOVERNMENT AGENCIES AND OTHER
19 ACTIVITIES WITHIN THE REGION;
- 20 (E) TO OVERSEE THE PROGRAMS AND OPERATION OF THE
21 INTENSIVE JUVENILE INTERVENTION AND SUPPORT
22 CENTER ESTABLISHED WITHIN THE REGION;
- 23 (F) TO COLLECT RELEVANT REGIONAL INFORMATION AND
24 CONDUCT CONTINUING RESEARCH AND SUPPORT

1 EVALUATIONS AND STUDIES ON ALL MATTERS
2 RELATING TO JUVENILE JUSTICE AND WELFARE WITHIN
3 THE REGION, SUCH AS, BUT NOT LIMITED TO:

4 (1) PERFORMANCE AND RESULTS ACHIEVED BY
5 JUVENILE INTERVENTION PROGRAMS AND BY
6 ACTIVITIES OF THE LOCAL GOVERNMENT UNITS
7 AND OTHER GOVERNMENT AGENCIES WITHIN THE
8 REGION;

9 (2) THE PERIODIC TRENDS, PROBLEMS AND CAUSES OF
10 JUVENILE DELINQUENCY AND CRIMES FROM THE
11 LGU LEVEL TO THE REGIONAL LEVEL; AND

12 (3) THE PARTICULAR NEEDS OF CHILDREN IN
13 CONFLICT WITH THE LAW IN CUSTODY WITHIN
14 THEIR REGIONAL JURISDICTION.

15 THE DATA GATHERED SHALL BE FORWARDED BY THE
16 RJJWC TO THE JJWC ON AN ANNUAL BASIS AND AS MAY BE
17 DEEMED NECESSARY BY THE JJWC.

18 (G.) THROUGH DULY DESIGNATED PERSONS AND WITH THE
19 ASSISTANCE FO THE AGENCIES PROVIDED IN THE PRECEDING
20 SECTION, TO CONDUCT REGULAR INSPECTIONS IN DETENTION
21 AND REHABILITATION FACILITIES WITHIN THE REGION AND TO
22 UNDERTAKE SPOT INSPECTIONS ON THEIR OWN INITIATIVE IN
23 ORDER TO CHECK COMPLIANCE WITH THE STANDARDS
24 PROVIDED HEREIN AND TO MAKE THE NECESSARY REPORTS AND

1 RECOMMENDATIONS TO APPROPRIATE AGENCIES AND TO THE
2 JJWC;

3 (H) TO INITIATE AND COORDINATE THE CONDUCT OF
4 TRAININGS FOR THE PERSONNEL OF THE AGENCIES INVOLVED IN
5 THE ADMINISTRATION OF THE JUVENILE JUSTICE AND WELFARE
6 SYSTEM AND THE JUVENILE INTERVENTION PROGRAM WITHIN
7 THE REGION;

8 (I) TO SUBMIT AN ANNUAL REPORT TO THE JJWC ON THE
9 IMPLEMENTATION OF THIS ACT; AND

10 (J) TO PERFORM SUCH OTHER FUNCTIONS AS MAY BE
11 DETERMINED BY THE JJWC TO IMPLEMENT THE PROVISIONS OF
12 THIS ACT.

13 SEC. 6. Section 20 of Republic Act No. 9344 is hereby amended to read
14 as follows:

15 *"SEC. 20. Children Below the Age of Criminal Responsibility. -*
16 If it has been determined that the child taken into custody is fifteen (15)
17 years old or below, the authority which will have an initial contact
18 with the child, **IN CONSULTATION WITH THE LOCAL SOCIAL**
19 **WELFARE AND DEVELOPMENT OFFICER,**⁶has the duty to
20 immediately release the child to the custody of his/her parents or
21 guardian, or in the absence thereof, the child's nearest relative[.].**THE**

⁶ This is intended to ensure that the child will not be released without the local welfare and development officers being consulted. Once consulted, the local social welfare and development officer can now develop the appropriate intervention program for the child.

1 CHILD SHALL BE SUBJECTED TO A COMMUNITY-BASED
2 INTERVENTION PROGRAM SUPERVISED BY THE LOCAL
3 SOCIAL WELFARE AND DEVELOPMENT OFFICER, UNLESS THE
4 BEST INTEREST OF THE CHILD REQUIRES THE REFERRAL OF
5 THE CHILD TO A YOUTH [REHABILITATION CENTER] CARE
6 FACILITY⁷ OR BAHAY PAG-ASA MANAGED BY THE
7 DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT
8 (DSWD), LOCAL GOVERNMENT UNITS (LGUs), OR LICENSED
9 AND/OR ACCREDITED NGOs MONITORED BY THE DSWD.⁸

10 WHEN THE OFFENSE CHARGED IS MURDER,
11 PARRICIDE, INFANTICIDE, HOMICIDE, KIDNAPPING AND
12 SERIOUS ILLEGAL DETENTION, RAPE, ROBBERY,
13 DESTRUCTIVE ARSON, CARNAPPING, DRUG TRAFFICKING
14 OR OTHER OFFENSES PUNISHABLE BY MORE THAN TWELVE

⁷ The emphasis on community-based intervention programs is intended to ensure that commitment to a residential center, which constitutes deprivation of liberty, is a last resort and not a first option, consistent with article 37 of the UN Convention on the Rights of the Child.

DSWD suggested that the term "youth care facility" be used instead of "youth rehabilitation centers" to distinguish the two from each other. DSWD pointed out that the current regional youth rehabilitation centers (RRCYs) house children who are under suspended sentence after having been found guilty for a crime, and thus a different term should be used for a facility where children who are criminally exempt are placed. However, as defined in RA 9344, the term "youth rehabilitation center" is not exclusively for children who are under suspended sentence and can very well include various categories of centers for children in conflict with the law, with the exception of a youth detention center for those who are detained while their cases are pending in court.

⁸ This will address the concern that children who are criminally exempt are just simply released and allowed to go scot-free. A child, even if exempt, should be made to undergo an intervention program in order to prevent re-offending. This amendment also recognizes that some children who are criminally exempt may have to undergo the intervention program in a residential facility.

1 (12) YEARS, THE CHILD SHALL BE IMMEDIATELY REFERRED
2 AND SUBJECTED TO A MULTI-DISCIPLINARY INTERVENTION
3 PROGRAM UNDER THE INTENSIVE JUVENILE INTERVENTION
4 AND SUPPORT CENTER OF THE "BAHAY PAG-ASA".

5 THE MANDATORY PLACEMENT OF A CHILD, FIFTEEN
6 (15) YEARS OF AGE AND UNDER, WHO HAS COMMITTED A
7 CRIME PUNISHABLE BY MORE THAN TWELVE (12) YEARS OF
8 IMPRISONMENT SHALL BE THE SPECIAL FACILITY WITHIN
9 BAHAY PAG-ASA WHICH IS THE INTENSIVE JUVENILE
10 INTERVENTION AND SUPPORT CENTER.

11 IN ACCORDANCE WITH EXISTING LAWS, RULES,
12 PROCEDURES AND GUIDELINES, THE PROPER PETITION FOR
13 INVOLUNTARY COMMITMENT AND PLACEMENT UNDER
14 THE INTENSIVE JUVENILE INTERVENTION AND SUPPORT
15 CENTER (IJISC) SHALL BE FILED BY THE DSWD OR THE LOCAL
16 SOCIAL WELFARE AND DEVELOPMENT OFFICE WITHIN 24
17 HOURS FROM THE TIME OF THE RECEIPT OF A REPORT ON
18 THE ALLEGED COMMISSION OF A CHILD BELOW FIFTEEN (15)
19 YEARS OLD OF A CRIME PUNISHABLE BY MORE THAN
20 TWELVE (12) YEARS OF IMPRISONMENT. THE COURT WHICH
21 RECEIVED THE PETITION FOR INVOLUNTARY COMMITMENT
22 SHALL DECIDE ON THE PETITION WITHIN 72 HOURS FROM
23 THE TIME THE SAID PETITION HAS BEEN FILED BY THE

1 DSWD/LSWDO. THE COURT WILL DETERMINE THE INITIAL
2 PERIOD OF PLACEMENT OF THE CHILD WITHIN THE IJISC
3 WHICH SHALL NOT BE LESS THAN SIX (6) MONTHS. THE
4 MULTI-DISCIPLINARY TEAM OF THE IJISC WILL SUBMIT TO
5 THE COURT A CASE STUDY AND PROGRESS REPORT, TO
6 INCLUDE A PSYCHIATRIC EVALUATION REPORT AND
7 RECOMMEND THE REINTEGRATION OF THE CHILD TO
8 HIS/HER FAMILY OR THE EXTENSION OF THE PLACEMENT
9 UNDER THE IJISC. THE MULTI-DISCIPLINARY TEAM WILL
10 ALSO SUBMIT A REPORT TO THE COURT ON THE SERVICES
11 EXTENDED TO THE PARENTS/FAMILY OF THE CHILD AND
12 THE COMPLIANCE OF THE PARENTS IN THE INTERVENTION
13 PROGRAM. THE COURT WILL DECIDE WHETHER THE CHILD
14 HAS SUCCESSFULLY COMPLETED THE CENTER-BASED
15 INTERVENTION PROGRAM AND IS ALREADY PREPARED TO BE
16 REINTEGRATED WITH HIS FAMILY OR IF THERE IS A NEED
17 FOR THE CONTINUATION OF THE CENTER-BASED
18 REHABILITATION OF THE CHILD. THE COURT WILL
19 DETERMINE THE NEXT PERIOD OF ASSESSMENT OR
20 HEARING ON THE COMMITMENT OF THE CHILD.

21 [Said authority shall give notice to t] The local social welfare
22 and development officer [who will] SHALL determine the appropriate
23 programs FOR THE CHILD WHO HAD BEEN RELEASED, in
24 consultation with the child and [to] the person having custody over the

1 child. If the parents, guardians or nearest relatives cannot be located, or
2 if they refuse to take custody, the child may be released to any of the
3 following:

4 (1) a duly registered nongovernmental or religious organization;

5 (2) abarangay official or a member of the Barangay Council for the
6 Protection of Children (BCPC);

7 (3) a local social welfare and development officer; or when and where
8 appropriate, the DSWD.

9 [If the child referred to herein has been found by the Local Social
10 Welfare and Development Office to be abandoned, neglected or abused
11 by his parents, or in the event that the parents will not comply with the
12 prevention program,] **IF THE CHILD HAS BEEN FOUND BY THE
13 LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER TO
14 BE DEPENDENT, ABANDONED, NEGLECTED OR ABUSED BY
15 HIS OR HER PARENTS AND THE BEST INTEREST OF THE
16 CHILD REQUIRES THAT HE OR SHE BE PLACED IN A YOUTH
17 CARE FACILITY OR BAHAY PAG-ASA, THE CHILD'S PARENTS
18 OR GUARDIANS SHALL EXECUTE A WRITTEN
19 AUTHORIZATION FOR THE VOLUNTARY COMMITMENT OF
20 THE CHILD; PROVIDED, THAT IF THE CHILD HAS NO
21 PARENTS OR GUARDIANS OR IF THEY REFUSE OR FAIL TO
22 EXECUTE THE WRITTEN AUTHORIZATION FOR VOLUNTARY**

1 COMMITMENT, the proper petition for involuntary commitment
2 shall be IMMEDIATELY filed by the DSWD or the Local Social
3 Welfare and Development Office pursuant to Presidential Decree No.
4 603, AS AMENDED, otherwise known as "The Child and Youth
5 Welfare Code" AND THE SUPREME COURT RULE ON
6 COMMITMENT OF CHILDREN;⁹PROVIDED FURTHER, THAT
7 THE MINIMUM AGE FOR CHILDREN COMMITTED TO A
8 YOUTH CARE FACILITY OR BAHAY PAG-ASA SHALL BE
9 TWELVE (12) YEARS OLD."¹⁰

10 SEC. 20-A. REPETITION OF OFFENSES. -- A CHILD WHO
11 IS FIFTEEN YEARS OF AGE OR BELOW FIFTEEN (15) YEARS OF
12 AGE AND WHO COMMITS AN OFFENSE FOR THE THIRD TIME
13 OR OFTENER SHALL BE DEEMED A NEGLECTED CHILD
14 UNDER PRESIDENTIAL DECREE NO. 603, AS AMENDED,¹¹ AND
15 SHALL UNDERGO AN INTENSIVE INTERVENTION PROGRAM
16 SUPERVISED BY THE LOCAL SOCIAL WELFARE AND

⁹ This makes clear the standards and procedure for committing children who are criminally exempt to a residential facility. The standards - "dependent, abandoned or neglected" and "best interest of the child" are provided for in the Child and Youth Welfare Code (PD 603, as amended) and the UN Convention on the Rights of the Child, respectively. The procedure - voluntary or involuntary commitment - is provided for in Title VIII, Chapter 1 of the Child and Youth Welfare Code, as given detail in the Supreme Court's Rule on Commitment of Children (2002).

¹⁰ This is consistent with the intent of the UN Convention on the Rights of the Child, as interpreted by the UN Committee on the Rights of the Child, not to deprive a child below 12 years of age of liberty for the commission of an offense (General Comment No. 10).

¹¹ This is consistent with article 141 of the Child and Youth Welfare Code where a "neglected child" includes those who are "in moral danger" or "exposed to . . . other vices."

1 DEVELOPMENT OFFICER; PROVIDED THAT, IF THE BEST
2 INTEREST OF THE CHILD REQUIRES THAT HE OR SHE BE
3 PLACED IN A YOUTH CARE FACILITY, THE CHILD'S PARENTS
4 OR GUARDIANS SHALL EXECUTE A WRITTEN
5 AUTHORIZATION FOR THE VOLUNTARY COMMITMENT OF
6 THE CHILD; PROVIDED, THAT IF THE CHILD HAS NO
7 PARENTS OR GUARDIANS OR IF THEY REFUSE OR FAIL TO
8 EXECUTE THE WRITTEN AUTHORIZATION FOR VOLUNTARY
9 COMMITMENT, THE PROPER PETITION FOR INVOLUNTARY
10 COMMITMENT SHALL BE IMMEDIATELY FILED BY THE DSWD
11 OR THE LOCAL SOCIAL WELFARE AND DEVELOPMENT
12 OFFICE PURSUANT TO PRESIDENTIAL DECREE NO. 603, AS
13 AMENDED, AND THE SUPREME COURT RULE ON
14 COMMITMENT OF CHILDREN; PROVIDED FURTHER, THAT
15 THE MINIMUM AGE FOR CHILDREN COMMITTED TO A
16 YOUTH CARE FACILITY SHALL BE TWELVE (12) YEARS OLD.

17 SEC. 20-B. *HEINOUS CRIMES COMMITTED BY CHILDREN*
18 *WHO ARE EXEMPT FROM CRIMINAL RESPONSIBILITY.* -- A
19 CHILD WHO IS FIFTEEN YEARS OF AGE OR BELOW FIFTEEN
20 (15) YEARS OF AGE AND WHO COMMITS PARRICIDE,
21 MURDER, INFANTICIDE, KIDNAPPING AND SERIOUS
22 ILLEGAL DETENTION WHERE THE VICTIM IS KILLED OR
23 RAPED, ROBBERY WITH HOMICIDE OR RAPE, DESTRUCTIVE
24 ARSON, RAPE, OR CARNAPPING WHERE THE DRIVER OR

1 OCCUPANT IS KILLED OR RAPED SHALL BE DEEMED A
2 NEGLECTED CHILD UNDER PRESIDENTIAL DECREE NO. 603,
3 AS AMENDED, SHALL BE MANDATORILY PLACED IN A
4 SPECIAL FACILITY WITHIN THE YOUTH [REHABILITATION
5 CENTER.] CARE FACILITY OR BAHAY PAG-ASA CALLED THE
6 INTENSIVE JUVENILE INTERVENTION AND SUPPORT
7 CENTER.¹²

8 IN ACCORDANCE WITH EXISTING LAWS, RULES,
9 PROCEDURES AND GUIDELINES, THE PROPER PETITION FOR
10 INVOLUNTARY COMMITMENT AND PLACEMENT UNDER
11 THE INTENSIVE JUVENILE INTERVENTION AND SUPPORT
12 CENTER (IJISC) SHALL BE FILED BY THE DSWD OR THE LOCAL
13 SOCIAL WELFARE AND DEVELOPMENT OFFICE WITHIN 24
14 HOURS FROM THE TIME OF THE RECEIPT OF A REPORT ON
15 THE ALLEGED COMMISSION OF A CHILD BELOW FIFTEEN (15)
16 YEARS OLD OF A CRIME PUNISHABLE BY MORE THAN
17 TWELVE (12) YEARS IMPRISONMENT. THE COURT, WHERE
18 THE PETITION FOR INVOLUNTARY COMMITMENT HAS BEEN
19 FILED SHALL DECIDE ON THE PETITION WITHIN 72 HOURS
20 FROM THE TIME THE SAID PETITION HAS BEEN FILED BY THE
21 DSWD/LSWDO. THE COURT WILL DETERMINE THE INITIAL

¹² In view of the violent nature of the offense committed by the child, it may be necessary to remove the child from his community and place him in a residential facility to prevent retaliation by the victim or victim's family and also to provide for a more focused and structured program that addresses the psychosocial issues confronting the child.

1 PERIOD OF PLACEMENT OF THE CHILD WITHIN THE IJISC
2 WHICH SHALL NOT BE LESS THAN SIX (6) MONTHS. THE
3 MULTI-DISCIPLINARY TEAM OF THE IJISC WILL SUBMIT TO
4 THE COURT A CASE STUDY AND PROGRESS REPORT, TO
5 INCLUDE A PSYCHIATRIC EVALUATION REPORT AND
6 RECOMMEND THE REINTEGRATION OF THE CHILD TO
7 HIS/HER FAMILY OR THE EXTENSION FO THE PLACEMENT
8 UNDER THE IJISC. THE MULTI-DISCIPLINARY TEAM WILL
9 ALSO SUBMIT A REPORT TO THE COURT ON THE SERVICES
10 EXTENDED TO THE PARENTS/FAMILY OF THE CHILD AND
11 THE COMPLIANCE OF THE PARENTS IN THE INTERVENTION
12 PROGRAM. THE COURT WILL DECIDE WHETHER THE CHILD
13 HAS SUCCESSFULLY COMPLETED THE CENTER-BASED
14 INTERVENTION PROGRAM AND IS ALREADY PREPARED TO
15 BE REINTEGRATED WITH HIS FAMILY OR IF THERE IS A NEED
16 FOR THE CONTINUATION OF THE CENTER-BASED
17 REHABILITATION OF THE CHILD. THE COURT WILL
18 DETERMINE THE NEXT PERIOD OF ASSESSMENT OR
19 HEARING ON THE COMMITMENT OF THE CHILD.

20 SEC. 20-C. *EXPLOITATION OF CHILDREN FOR*
21 *COMMISSION OF CRIMES.* -- ANY PERSON WHO, IN THE
22 COMMISSION OF A CRIME, MAKES USE, TAKES ADVANTAGE
23 OF, OR PROFITED FROM THE USE OF CHILDREN, INCLUDING
24 ANY PERSON WHO ABUSES HIS/HER AUTHORITY OVER THE

1 CHILD OR WHO, WITH ABUSE OF CONFIDENCE, TAKES
2 ADVANTAGE OF THE VULNERABILITIES OF THE CHILD AND
3 SHALL INDUCE, THREATEN OR INSTIGATE THE
4 COMMISSION OF THE CRIME, SHALL BE IMPOSED THE
5 PENALTY PRESCRIBED BY LAW FOR THE CRIME COMMITTED
6 IN ITS MAXIMUM PERIOD.¹³

7 SEC. 20-D. *PARENTAL RESPONSIBILITY.* THE PARENT/S
8 OF A CHILD IN CONFLICT WITH THE LAW SHALL BE
9 REQUIRED TO UNDERGO PSYCHOSOCIAL, HEALTH OR ANY
10 OTHER RELATED SERVICES THAT WOULD BE DETERMINED
11 BY THE LOCAL SOCIAL WELFARE AND DEVELOPMENT
12 OFFICER OR THE MULTI-DISCIPLINARY TEAM OF THE
13 INTENSIVE JUVENILE INTERVENTION AND SUPPORT CENTER
14 TO ADVANCE THE WELFARE AND BEST INTEREST OF THE
15 CHILD AND PREVENT REOFFENDING.

16 A PARENT, AS USED IN THIS ACT, SHALL MEAN ANY OF
17 THE FOLLOWING:

18 (A) A BIOLOGICAL PARENT OF THE CHILD; OR

19 (B) AN ADOPTIVE PARENT OF THE CHILD; OR

20 (C) AN INDIVIDUAL WHO HAS CUSTODY OF THE
21 CHILD.

¹³ This addresses the concern that adult criminals and crime syndicates can be using children for the commission of criminal offenses. This provision is similar to that in the Comprehensive Dangerous Drugs Act of 2002 (RA 9165).

1 SEC. 20-E. ASSISTANCE TO VICTIMS OF OFFENSES
2 COMMITTED BY CHILDREN. - THE VICTIM OF THE OFFENSE
3 COMMITTED BY A CHILD AND THE VICTIM'S FAMILY SHALL
4 BEPROVIDED THE APPROPRIATE ASSISTANCE AND
5 PSYCHOSOCIAL INTERVENTION BY THE LOCAL SOCIAL
6 WELFARE AND DEVELOPMENT OFFICER AND THE
7 DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT.¹⁴

8 SEC. 7. Section 22 of Republic Act No. 9344 is hereby amended to
9 read as follows:

10 "SEC. 22. *Duties During Initial Investigation.* - The law
11 enforcement officer shall, in his/her investigation, determine where the
12 case involving the child in conflict with the law should be referred.

13 The taking of the statement of the child shall be conducted in the
14 presence of the following: (1) child's counsel of choice or in the absence
15 thereof, a lawyer from the Public Attorney's Office; (2) the child's
16 parents, guardian, or nearest relative, as the case may be; and (3) the
17 local social welfare and development officer. In the absence of the
18 child's parents, guardian, or nearest relative, and the local social
19 welfare and development officer, the investigation shall be conducted

¹⁴ This addresses the concern that sometimes only the needs of the child who has committed the offense is attended to by the social worker, and no assistance is given at all to the victim and the victim's family. This creates the misimpression that RA 9344 is anti-victim because it is silent on the matter. The refinement is introduced so that assistance is not limited only to situations covered under RA 7610, where the victim is child, but to all cases irrespective of the age of the victim.

1 in the presence of a representative of an NGO, religious group, or
2 member of the BCPC.

3 THE SOCIAL WORKER SHALL CONDUCT AN INITIAL
4 ASSESSMENT TO DETERMINE THE APPROPRIATE
5 INTERVENTIONS AND WHETHER THE CHILD ACTED WITH
6 DISCERNMENT, USING THE DISCERNMENT ASSESSMENT
7 TOOLS DEVELOPED BY THE DEPARTMENT OF SOCIAL
8 WELFARE AND DEVELOPMENT. THE INITIAL ASSESSMENT
9 SHALL BE WITHOUT PREJUDICE TO THE PREPARATION OF A
10 MORE COMPREHENSIVE CASE STUDY REPORT.¹⁵[After the
11 initial investigation, t] The local social worker [conducting the same
12 may] SHALL do either of the following:

- 13 a) Proceed in accordance with Section 20 if the child is
14 fifteen (15) years or below or above fifteen (15) but
15 below eighteen (18) years old, who acted without
16 discernment; and
- 17 b) (b) If the child is above fifteen (15) years old but below
18 eighteen (18) and who acted with discernment, proceed
19 to diversion under the following chapter."

¹⁵ This addresses the concern about how to determine discernment. The appropriate tool or test for determining discernment had been developed and field-tested by the DSWD and is now ready for use by local social welfare and development officers. This provision also clarifies that a case study report still needs to be done after the initial assessment. The case study report is the basis for determining the appropriate program for the child.

1 **SEC. 8.** Section 33 of Republic Act No. 9344 is hereby amended to
2 read as follows:

3 *“SEC. 33. Preliminary Investigation and Filing of Information. -*

4 The prosecutor shall conduct a preliminary investigation in the
5 following instances: (a) when the child in conflict with the law does not
6 qualify for diversion: (b) when the child, his/her parents or guardian
7 does not agree to diversion as specified in Sections 27 and 28; and (c)
8 when considering the assessment and recommendation of the social
9 worker, the prosecutor determines that diversion is not appropriate for
10 the child in conflict with the law.

11 Upon serving the subpoena and the affidavit of complaint, the
12 prosecutor shall notify the Public Attorney's Office of such service, as
13 well as the personal information, and place of detention of the child in
14 conflict with the law.

15 Upon determination of probable cause by the prosecutor, the
16 information against the child shall be filed before the Family Court
17 within forty-five (45) days from the start of the preliminary
18 investigation. **THE INFORMATION MUST ALLEGE THAT THE**
19 **CHILD ACTED WITH DISCERNMENT.”¹⁶**

¹⁶ This is to remind prosecutors that discernment has to be alleged in the information because it is required by law to be proved before a child can be held criminally liable. There is view that an information may be quashed if the information alleges that the

1 SEC. 9. Section 49 of Republic Act No. 9344 is hereby amended to read
2 as follows:

3 "SEC. 49. ESTABLISHMENT OF "BAHAY PAG-ASA" - EACH
4 PROVINCE AND HIGHLY URBANIZED CITY (THE LGUS) SHALL BE
5 RESPONSIBLE FOR BUILDING, FUNDING AND OPERATING A
6 "BAHAY PAG-ASA" WITHIN THEIR JURISDICTION FOLLOWING THE
7 STANDARDS THAT WILL BE SET BY THE DSWD AND ADOPTED BY
8 THE JJWC.

9 EVERY BAHAY PAG-ASA WILL HAVE A SPECIAL FACILITY
10 CALLED THE INTENSIVE JUVENILE INTERVENTION AND SUPPORT
11 CENTER (IJISC). THIS CENTER WILL BE ALLOCATED FOR CHILDREN
12 IN CONFLICT WITH THE LAW FIFTEEN (15) YEARS OF AGE AND
13 BELOW WHO HAVE COMMITTED A CRIME UNDER THE REVISED
14 PENAL CODE OR UNDER SPECIAL LAWS PUNISHABLE BY
15 IMPRISONMENT OF MORE THAN TWELVE (12) YEARS. THESE
16 CHILDREN WILL BE REQUIRED TO UNDERGO A MORE INTENSIVE
17 MULTI-DISCIPLINARY INTERVENTION PROGRAM. THE JJWC IN
18 PARTNERSHIP WITH THE DSWD, DOH, DEPED AND DILG, WILL
19 DEVELOP AND SET THE STANDARDS FOR THE IMPLEMENTATION
20 OF THE MULTI-DISCIPLINARY INTERVENTION PROGRAM OF THE
21 IJISC. UPON INSTITUTIONALIZATION OF THE IJISC PROGRAM,
22 THE JJWC WILL CONTINUE TO MONITOR AND PROVIDE

accused is below 18 years of age but fails to allege that the accused acted with
discernment.

1 TECHNICAL ASSISTANCE TO THE MULTI-DISCIPLINARY TEAMS
2 OPERATING THE SAID CENTERS.

3 SEC. 10. Section 10 of Republic Act No. 9344 is hereby amended to
4 read as follows:

5 "SEC. 50. *Care and Maintenance of the Child in Conflict with the*
6 *Law.* - xxxx xxxx

7 THE LGUS EXPECTED EXPENDITURES ON SERVICES
8 AND PROGRAMS FOR CHILDREN IN CONFLICT WITH THE LAW
9 SHALL BE INCLUDED IN THE LGUS ANNUAL BUDGET. HIGHLY
10 URBANIZED CITIES AND PROVINCIAL GOVERNMENTS SHOULD
11 INCLUDE A SEPARATE BUDGET FOR THE CONSTRUCTION AND
12 MAINTENANCE OF THE BAHAY PAG-ASA INCLUDING THE
13 OPERATION OF THE INTENSIVE JUVENILE INTERVENTION AND
14 SUPPORT CENTER WITHIN THE BAHAY PAG-ASA.

15 SEC. 11. Section 57 of Republic Act No. 9344 is hereby amended to
16 read as follows:

17 SEC. 57. *Status Offenses.* - Any conduct not considered an offense
18 or not penalized if committed by an adult shall not be considered an
19 offense and shall not be punished if committed by a child.

20 "SEC. 57-A. VIOLATIONS OF LOCAL ORDINANCES.
21 ORDINANCES ENACTED BY LOCAL GOVERNMENT OVER

1 STATUS OFFENSES SUCH AS BUT NOT LIMITED TO CURFEW,
2 VIOLATIONS, TRUANCY, PARENTAL DISOBEDIENCE, ANTI-
3 SMOKING AND ANTI-DRINKING LAWS, AS WELL AS LIGHT
4 OFFENSES AND MISDEMEANORS AGAINST PUBLIC ORDER
5 OR SAFETY SUCH AS, BUT NOT LIMITED TO, DISORDERLY
6 CONDUCT, PUBLIC SCANDAL, HARASSMETN,
7 DRUNKENNESS, PUBLIC INTOXICATION, CRIMINAL
8 NUISANCE, VANDALISM, GAMBLING, MENDICANCY,
9 LITTERING, PUBLIC URINATION, AND TRESPASSING, SHALL
10 BE MADE FOR THE PROTECTION OF CHILDREN. NO PENALTY
11 SHALL BE IMPOSED ON CHILDREN FOR SAID VIOLATIONS.
12 INSTEAD THE CHILD SHALL BE BROUGHT TO HIS OR HER
13 RESIDENCE OR TO THE BARANGAY HALL TO BE FETCHED BY
14 HIS OR HER PARENTS. THE CHILD SHALL ALSO BE
15 RECORDED AS A "CHILD AT RISK" AND NOT AS A "CHILD IN
16 CONFLICT WITH THE LAW". THE ORDINANCE SHALL ALSO
17 PROVIDE FOR INTERVENTION PROGRAMS, SUCH AS
18 COUNSELLING, ATTENDANCE IN GROUP ACTIVITIES FOR
19 CHILDREN, AND FOR THE PARENTS, ATTENDANCE IN
20 PARENTING EDUCATION SEMINARS.

21 **SEC. 12.** *Mandatory Registry of Children in Conflict with Law.* - The
22 DSWD shall ensure a faithful recordation of all pertinent information, such as
23 age, residence, gender, crime committed or accused of and the details of the
24 intervention or diversion, as the case may be, under which they will undergo

1 or has undergone, of all children in conflict with law to guarantee the correct
2 application of the provisions of this Act and other laws. This provision is
3 however without prejudice to Section 43 of this Act.

4 **SEC. 13.** Section 63 of the same Act is hereby amended to read as
5
6 follows:

7
8 "SEC. 63. Appropriations. - The amount necessary to carry out
9 the initial implementation of this Act shall be charged to the Office of
10 the President. [Thereafter, such sums as may be necessary for the
11 continued implementation of this Act shall be included in the
12 succeeding General Appropriations Act.] **TO ENSURE THE
13 EFFECTIVE AND MEANINGFUL IMPLEMENTATION OF THIS
14 ACT THE COUNCIL SHALL HAVE A SEPARATE ANNUAL
15 APPROPRIATION APPROVED BY THE DEPARTMENT OF
16 SOCIAL WELFARE AND DEVELOPMENT (DSWD) WHICH
17 SHALL BE PROVIDED IN THE GENERAL APPROPRIATIONS
18 ACT STARTING IN THE FISCAL YEAR IMMEDIATELY
19 FOLLOWING THE APPROVAL OF THIS ACT. THE COUNCIL
20 MAY ALSO ACCEPT CONTRIBUTIONS FROM THE PRIVATE
21 SECTOR."**

22 **SEC. 14.** *Separability Clause.* - If any provision of this Act is
23 declared invalid or unconstitutional, the provisions not affected thereby shall
24 continue to be in full force and effect.

25 **SEC. 15.** *Repealing Clause.* - All laws, decrees or rules inconsistent
26 with the provisions of this Act are hereby repealed or modified accordingly.

1 **SEC.16.** *Effectivity Clause* - This Act shall take effect fifteen (15)
2 days after the completion of its publication in the Official Gazette or at least
3 two (2) national newspapers of general circulation.

Approved,