

SENATE
S.B. No. 5

'19 JUL -1 A9 :42

Introduced by **SENATOR VICENTE C. SOTTO III**

AN ACT
LOWERING THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY
AMENDING FOR THE PURPOSE SECTIONS 6, 20, 20-A, 20-B AND 22 OF
REPUBLIC ACT NO. 9344, AS AMENDED, OTHERWISE KNOWN AS "THE
JUVENILE JUSTICE AND WELFARE ACT OF 2006", AND FOR OTHER
PURPOSES

EXPLANATORY NOTE

Lately, videos involving minors while committing crimes are going viral – a 15-year-old beating to death with a piece of wood another minor; a group of “street children” caught dragging an old man out of a public utility jeepney to get his purse; and minors stealing jeepney driver’s income. Moreover, news headlines in the recent years have the same tenor – 14-year-old boy beats older sister to death¹; youngest surrenderer started drugs at 8²; drug war lists 20,584 kids as ‘users, pushers, runners’³. These current events put in the limelight the implementation and effectivity of Republic Act No. 9344, as amended, otherwise known as “The Juvenile Justice and Welfare Act of 2006.”

In 2017, President Rodrigo Duterte calls on Congress to lower age of criminal liability “to ensure that the Filipino youth would accept responsibility for their actions and be subjected to government intervention

¹ <https://newsinfo.inquirer.net/895406/14-year-old-boy-beats-elder-sister-to-death-in-aklan>

² <https://www.philstar.com/the-freeman/cebu-news/2016/08/16/1614010/youngest-surrenderer-started-drugs-8>

³ <https://news.abs-cbn.com/focus/09/21/16/drug-war-lists-20584-kids-as-users-pushers-runners>

programs.”⁴ This is consistent with President Duterte’s goal to curb criminality in the country.

According to the study conducted by the Child Rights International Network (CRIN)⁵, the average minimum age of criminal responsibility in the African region is 11, as well as in the Asian region; while for the American and European regions, it is 13. Furthermore, based on the same website, the minimum age of criminal liability is set at the federal and state level in the United States. At the state level, 33 states set no minimum age of criminal responsibility, theoretically allowing a child to be sentenced to criminal penalties at any age. Of the States that do set a minimum age of criminal responsibility, North Carolina has the lowest at seven years, while Wisconsin has the highest at ten years old.

Due to continuing challenge in the implementation of RA 9344, as amended, the aforesaid law must be further amended to lower the minimum age of criminal liability in order to adapt to the changing times. The State must ensure that those children in conflict with the law who are currently exempted from criminal liability who take advantage of the same must not be given the same privilege.

In view of the foregoing, the approval of this bill is highly recommended.



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⁴ <https://news.abs-cbn.com/news/05/06/17/dutertes-stance-on-lowering-age-of-criminal-liability-unchanged-palace>

⁵ <https://www.crin.org/en/home/ages>

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PURPOSES

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

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

"SEC. 6. Minimum Age of Criminal Responsibility. - A CHILD BELOW EIGHTEEN (18) YEARS BUT ABOVE TWELVE (12) YEARS OF AGE AT THE TIME OF THE COMMISSION OF THE CRIME SHALL BE CRIMINALLY LIABLE AND BE SUBJECTED TO THE APPROPRIATE PROCEEDINGS IN ACCORDANCE WITH THIS ACT, UNLESS PROVEN THAT HE/SHE ACTED WITHOUT DISCERNMENT, IN WHICH CASE, SUCH CHILD SHALL BE EXEMPT FROM CRIMINAL LIABILITY AND SHALL BE SUBJECTED TO THE APPROPRIATE INTERVENTION PROGRAM.

A CHILD IS DEEMED TO BE TWELVE (12) YEARS OF AGE ON THE DAY OF THE TWELFTH ANNIVERSARY OF HIS/HER BIRTH DATE.

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

SECTION 2. Section 20 of Republic Act No. 9344, as amended, is hereby further amended to read as follows:

*"SEC. 20. Children Below the Age of Criminal Responsibility. - If it has been determined that the child taken into custody is **TWELVE***

(12) years old or below, the authority which will have an initial contact with the child, in consultation with the local social welfare and development officer, has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative. The child shall be subjected to a community-based intervention program supervised by the local social welfare and development officer, unless the best interest of the child requires the referral of the child to a youth care facility or 'Bahay Pag-asa' managed by LGUs or licensed and/or accredited NGOs monitored by the DSWD.

"The local social welfare and development officer shall determine the appropriate programs for the child who has been released, 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 any of the following:

- "(a) A duly registered nongovernmental or religious organization;
- "(b) A barangay official or a member of the Barangay Council for the Protection of Children (BCPC);
- "(c) A local social welfare and development officer; or, when and where appropriate, the DSWD.

"If the child has been found by the local social welfare and development officer to be dependent, abandoned, neglected or abused by his/her parents and the best interest of the child requires that he/she be placed in a youth care facility or 'Bahay Pag-asa', the child's parents or guardians shall execute a written authorization for the voluntary commitment of the child: Provided, That if the child has no parents or guardians or if they refuse or fail to execute the written authorization for voluntary commitment, the proper petition for involuntary commitment shall be immediately filed by the DSWD or the Local Social Welfare and Development Office (LSWDO) pursuant to Presidential Decree No. 603, as amended, otherwise known as 'The Child and Youth Welfare Code' and the Supreme Court rule on commitment of children: Provided, further, That the minimum age for children committed to a youth care facility or 'Bahay Pag-asa' shall be **NINE (9)** years old."

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

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

14 x x x"

15 **SECTION 4.** Section 20-B of Republic Act No. 9344, as amended, is
16 hereby further amended to read as follows:

17 "SEC. 20-B. *Repetition of Offenses.* – A child who is above **NINE (9)**
18 years of age up to **TWELVE (12)** years of age and who commits an
19 offense for the second time or oftener: *Provided,* That the child was
20 previously subjected to a community-based intervention program,
21 shall be deemed a neglected child under Presidential Decree No.
22 603, as amended, and shall undergo an intensive intervention
23 program supervised by the local social welfare and development
24 officer: *Provided, further,* That, if the best interest of the child
25 requires that he/she be placed in a youth care facility or 'Bahay
26 Pag-asa', the child's parents or guardians shall execute a written
27 authorization for the voluntary commitment of the child: *Provided,*
28 *finally,* That if the child has no parents or guardians or if they
29 refuse or fail to execute the written authorization for voluntary
30 commitment, the proper petition for involuntary commitment shall
31 be immediately filed by the DSWD or the LSWDO pursuant to
32 Presidential Decree No. 603, as amended."

33 **SECTION 5.** Section 22 of Republic Act No. 9344, as amended, is
34 hereby further amended to read as follows:

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

38 x x x

1 "The social worker shall conduct an initial assessment to
2 determine the appropriate interventions and whether the child
3 acted with discernment, using the discernment assessment tools
4 developed by the DSWD. The initial assessment shall be without
5 prejudice to the preparation of a more comprehensive case study
6 report. The local social worker shall do either of the following:

7 "(a) Proceed in accordance with Section 20 if the child is **NINE (9)**
8 years [or below or above fifteen (15)] [but below] **UP TO TWELVE**
9 **(12)** years old [, who acted without discernment]; and

10 "(b) If the child is above **TWELVE (12)** years old but below eighteen
11 (18) and who acted with **OR WITHOUT** discernment, proceed to
12 diversion under the following chapter."

13 **SECTION 6.** Section 63 of Republic Act No. 9344, as amended, is
14 hereby further amended to read as follows:

15 "SEC. 63. *Appropriations.* – The amount necessary to carry out the
16 provisions of this Act shall be charged against the current year's
17 appropriations of the JJWC under the budget of the Department of
18 Justice. Thereafter, such sums as may be necessary for the
19 continued implementation of this Act shall be included in the
20 budget of the DSWD under the annual General Appropriations
21 Act: *Provided*, That the amount of Four hundred million pesos
22 (P400,000,000.00) shall be appropriated for the construction of
23 'Bahay Pag-asa' rehabilitation centers in provinces or cities with
24 high incidence of children in conflict with the law to be determined
25 and identified by the DSWD and the JJWC on a priority
26 basis: *Provided, further*, That the said amount shall be [coursed
27 through the Department of Public Works and Highways (DPWH)]
28 **GIVEN DIRECTLY TO THE LGU CONCERNED** for its proper
29 implementation.

30 "The LGUs concerned shall make available, from its own resources
31 or assets, their counterpart share equivalent to the national
32 government contribution of **TWENTY MILLION PESOS (P**
33 **20,000,000.00)** per rehabilitation center.

34 "In addition, the Council may accept donations, grants and
35 contributions from various sources, in cash or in kind, for
36 purposes relevant to its functions, subject to the usual government
37 accounting and auditing rules and regulations."

1 **SECTION 7. *Implementing Rules and Regulations.*** – The Juvenile
2 Justice and Welfare Council (JJWC) shall within sixty (60) days from the
3 effectivity of this Act promulgate the necessary rules and regulations to
4 effectively implement the provisions of this Act.

5 **SECTION 8. *Separability Clause.*** – If any portion or provision of this
6 Act is declared unconstitutional, the remainder of this Act not affected
7 thereby shall remain in force and effect.

8 **SECTION 9. *Repealing Clause.*** – Any law, presidential decree or
9 issuance, executive order, letter of instruction, rule or regulation
10 inconsistent with the provisions of this Act is hereby repealed or modified
11 accordingly.

12 **SECTION 10. *Effectivity Clause.*** – This Act shall take effect after
13 fifteen (15) days from the date of its publication in the Official Gazette or a
14 newspaper of general circulation.

Approved.