



HOUSE OF REPRESENTATIVES

H. No. 5065

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TEODORO, TEVES, TOMAWIS, UNICO, UY (E.), VALDEZ, VELARDE,
VELOSO, VILLANUEVA, VIOLAGO, WACNANG, ZAMORA (R.) AND
ZIALCITA, PER COMMITTEE REPORT NO. 1344

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 House of Representatives of the Philippines in Congress assembled:

1 TITLE I

2 GOVERNING PRINCIPLES

3 Chapter I

4 Title, Policy and Definition of Terms

5 SECTION 1. *Short Title and Scope.* – This Act shall be known as the
6 “Child Protection Through a Comprehensive Juvenile Justice System Act of
7 2006”. It shall cover the different stages involving children/juveniles in
8 conflict with the law from prevention to rehabilitation and reintegration.

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

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

18 Pursuant to Article 40 of the United Nations Convention on the Rights
19 of the Child, the State recognizes the right of every child alleged as, accused
20 of, or recognized as, having infringed the penal law to be treated in a manner
21 consistent with the promotion of the child’s sense of dignity and worth, taking

1 into account the child's age and desirability of promoting his/her reintegration.
2 Whenever appropriate and desirable, the State shall adopt measures for dealing
3 with such children without resorting to judicial proceedings: *Provided*, That
4 human rights and legal safeguards are fully respected. It shall ensure that
5 children are dealt with in a manner appropriate to their well-being by providing
6 for, among others, a variety of disposition measures such as care, guidance and
7 supervision orders, counseling, probation, foster care, educational and
8 vocational training programs and other alternatives to institutional care.

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

13 Proceedings before any authority shall be conducted in the best interest
14 of the child and in a manner which allows the child to participate and to
15 express himself/herself freely. Whenever appropriate, children who are
16 capable of forming and expressing their own views shall be allowed to
17 participate in the program and policy formulation and implementation related
18 with juvenile justice and delinquency prevention, and their views shall be
19 given due weight in accordance with their age and maturity.

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

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

25 (a) "Best interests of the child" refers to the totality of the
26 circumstances and conditions which are most congenial to the survival,
27 protection and feelings of security of the child and most encouraging to his
28 physical, psychological and emotional development. It also means the least

1 detrimental available alternative for safeguarding the growth and development
2 of the child.

3 (b) "Child" refers to a person under the age of eighteen (18) years.

4 (c) "Child in conflict with the law" refers to a child who is alleged as,
5 accused of, or adjudged as, having committed an offense under Philippine
6 laws.

7 (d) "Children at risk" refers to children who are vulnerable to, and at
8 risk of, committing criminal offenses because of personal, family and social
9 circumstances, such as, but not limited to, the following:

10 (1) being abused, abandoned or neglected;

11 (2) coming from a dysfunctional or broken family;

12 (3) being out-of-school;

13 (4) being a street child;

14 (5) being a member of a gang;

15 (6) living in a community with a high level of criminality or drug
16 abuse; or

17 (7) living in situations of armed-conflict.

18 (e) "Community-based programs" refer to the programs provided in a
19 community setting developed for the purposes of delinquency prevention and
20 diversion, as well as rehabilitation of the child/juvenile in conflict with the law
21 for reintegration into his/her family and/or community.

22 (f) "Court" refers to a family court or, in places where there are no
23 family courts, any regional trial court.

24 (g) "Deprivation of liberty" refers to any form of detention or
25 imprisonment, or to the placement of a child/juvenile in conflict with the law in
26 a public or private custodial setting, from which the child/juvenile in conflict
27 with the law is not permitted to leave at will by order of any judicial or
28 administrative authority.

1 (h) "Diversion" shall refer to an alternative, child-appropriate process
2 of determining the responsibility and treatment of a child/juvenile in conflict
3 with the law on the basis of his/her social, cultural, economic, psychological or
4 educational background without resorting to formal court adjudication.

5 (i) "Diversion program" shall refer to the program that the
6 child/juvenile in conflict with the law is required to undergo after he/she is
7 found responsible for an offense without resorting to formal court proceedings.

8 (j) "Initial contact with the child" refers to the apprehension or taking
9 into custody of a child/juvenile in conflict with the law by law enforcement
10 officers or private citizens. It includes the time when the child/juvenile alleged
11 to be in conflict with the law receives a subpoena under Section 3(b) of Rule
12 112 of the Revised Rules of Criminal Procedure or summons under Section
13 6(a) or Section 9(b) of the same rule in cases that do not require preliminary-
14 investigation or where there is no necessity to place the child/juvenile alleged
15 to be in conflict with the law under immediate custody.

16 (k) "Intervention" refers to a series of activities which are designed to
17 address issues that caused the child to commit an offense. It may take the form
18 of an individualized treatment program which may include counseling, skills
19 training, education, and other activities that will enhance his/her psychological,
20 emotional and psycho-social well-being.

21 (l) "Juvenile in conflict with the law" refers to a child who, at the time
22 of the commission of the offense, is above twelve (12) years of age but below
23 eighteen (18) years old.

24 (m) "Juvenile Justice System" refers to a system of dealing with
25 children/juveniles in conflict with the law which provides for child-appropriate
26 proceedings, commencing with being taken into custody, including diversion
27 proceedings, court proceedings after the filing of the proper information until

1 the disposition of the case, rehabilitation, reintegration, until the termination of
2 after-care services.

3 (n) "Law enforcement officer" refers to the person in authority or
4 his/her agent as defined in Article 152 of the Revised Penal Code.

5 (o) "Records" refer to files or documents which may include that of the
6 National Bureau of Investigation and with any police department or any other
7 government agency, which may have been involved in the case.

8 (p) "Restorative justice" refers to an approach to crime that emphasizes
9 the ways in which crime hurts relationships between people who live in a
10 community. It requires a process of resolving conflicts with the maximum
11 involvement of the victim, the offender and the community, and focuses on the
12 accountability of the offender, the impact of the crime on the victim and the
13 community, and the ways in which an offender can repair the harm he/she has
14 done. It seeks to obtain reparation for the victim, reconciliation of the
15 offender, the offended and the community, and reassurance to the offender that
16 he/she can be reintegrated into society. It also enhances public safety by
17 activating the offender, the victim and the community in juvenile delinquency
18 prevention strategies.

19 (q) "Serious offense" refers to an offense punishable by imprisonment
20 of more than six years. In no case shall the offense committed by the child be
21 considered a heinous crime.

22 (r) "Youth detention homes" refers to a 24-hour child-caring
23 institutions managed by accredited local government units (LGUs) and
24 licensed and/or accredited nongovernment organizations (NGOs) providing
25 short-term residential care for children in conflict with the Law who are
26 awaiting court dispositions of their cases or transfer to other agencies or
27 jurisdiction.

1 (s) "Youth rehabilitation centers" refers to a 24-hour residential care
2 facilities managed by the Department of Social Welfare and Development
3 (DSWD), LGUs, licensed and/or accredited NGOs monitored by the DSWD
4 which provides care, treatment and rehabilitation services for children in
5 conflict with the law. Rehabilitation services are provided under the guidance
6 of a trained staff where residents are cared for under a structured therapeutic
7 environment with the end in view of reintegrating them into their families and
8 communities as socially functioning individuals. Physical mobility of residents
9 of said centers may be restricted pending court disposition of the charges
10 against them.

11 (t) "Victimless crimes" refer to offenses where there are no private
12 offended parties.

13 (u) "Halfway homes" refer to residential homes where after-care
14 services shall be made available to children/juveniles in conflict with the law
15 who have completed their rehabilitation process from the youth rehabilitation
16 centers as provided under this Act.

17 Chapter 2

18 Framework and Principles in the Administration of Juvenile Justice

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

22 (a) the right not to be subjected to torture or other cruel, inhuman or
23 degrading treatment or punishment;

24 (b) the right not to be imposed on, with capital punishment or life
25 imprisonment, without the possibility of release;

26 (c) the right not to be deprived of his/her liberty, unlawfully or
27 arbitrarily, detention or imprisonment being a disposition of last resort, and
28 which shall be for the shortest appropriate period of time;

1 (d) the right to be treated with humanity and respect for the inherent
2 dignity of the human person, and in a manner which takes into account the
3 needs of person of his/her age. In particular, a child deprived of liberty shall
4 be separated from adult offenders at all times. No child shall be detained
5 together with adult offenders. He/she shall be conveyed separately to or from
6 court. He/she shall await hearing of his/her own case in a separate holding
7 area. A child/juvenile in conflict with the law shall have the right to maintain
8 contact with his/her family through correspondence and visits, save in
9 exceptional circumstances.

10 (e) the right to prompt access to legal and other appropriate assistance,
11 as well as the right to challenge the legality of the deprivation of his/her liberty
12 before a court or other competent, independent and impartial authority, and to
13 a prompt decision on such action;

14 (f) the right to bail and recognizance, in appropriate cases;

15 (g) the right to testify as a witness in his/her own behalf under the rule
16 on examination of the child witness;

17 (h) the right to have his/her privacy respected fully at all stages of the
18 proceedings;

19 (i) the right to be imposed a judgment in proportion to the gravity of
20 the offense where his/her best interests, the rights of the victim and the needs
21 of society are all taken into consideration by the court, under the principle of
22 restorative justice;

23 (j) the right to have restrictions on his/her personal liberty limited to
24 the minimum, and where discretion is given by law to the judge, to determine
25 whether to impose fine or imprisonment, and the imposition of fine preferred
26 as the more appropriate penalty;

27 (k) in general, the right to automatic suspension of sentence;

1 (l) the right to probation as an alternative to imprisonment, if qualified
2 under the Probation Law;

3 (m) the right to be free from liability for perjury, concealment or
4 misrepresentation; and

5 (n) other rights as provided for under existing laws, rules and
6 regulations.

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

12 SEC. 5. *Minimum Age of Criminal Responsibility.* – A child fifteen
13 (15) years of age or under, at the time of the commission of an offense, shall be
14 exempt from criminal liability. However, he/she shall be subjected to an
15 appropriate intervention program pursuant to Section 18 of this Act.

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

19 The exemption from criminal liability herein established does not
20 include exemption from civil liability, which shall be enforced in accordance
21 with Republic Act No. 8369, otherwise known as the "Family Courts Act of
22 1997", and other relevant laws.

23 SEC. 6. *Determination of Age.* – The child's age may be determined
24 from the child's birth certificate, baptismal certificate or any other pertinent
25 documents. In the absence of these documents, age may be based on
26 information from the child himself/herself, testimonies of other persons, dental
27 records and/or examination, the physical appearance of the child and other

1 relevant evidence. In case of doubt as to the age of the child, it shall be
2 resolved in favor of the minority of the child.

3 Any person contesting the age of the child/juvenile in conflict with the
4 law, prior to the filing of the information in any appropriate court, may file a
5 case in a summary proceeding for the determination of age before the family
6 court which shall decide the case within twenty-four (24) hours from receipt of
7 the appropriate pleadings of all interested parties.

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

13 TITLE II

14 STRUCTURES IN THE ADMINISTRATION OF

15 JUVENILE JUSTICE AND DELINQUENCY PREVENTION

16 *SEC. 7. Office of the Juvenile Justice and Delinquency Prevention*
17 *(OJJDP).* – An Office of Juvenile Justice and Delinquency Prevention
18 (OJJDP) is hereby created in the Office of the Secretary of the Department of
19 Justice to be headed by an undersecretary designated by the Secretary of
20 Justice. The support staff of the Office shall be taken by the Secretary of
21 Justice from among the existing plantilla positions of the Office of the
22 Secretary. Additional technical positions may be created to ensure proper
23 implementation of this Act and coordination among the following agencies:

- 24 (1) Council for the Welfare of Children (CWC);
- 25 (2) Department of Social Welfare and Development (DSWD);
- 26 (3) Department of Education (DepEd);
- 27 (4) Department of the Interior and Local Government (DILG);
- 28 (5) Public Attorney's Office (PAO);

- 1 (6) Bureau of Corrections (BUCOR);
- 2 (7) Parole and Probation Administration (PPA);
- 3 (8) National Bureau of Investigation (NBI);
- 4 (9) Philippine National Police (PNP);
- 5 (10) Bureau of Jail Management and Penology (BJMP);
- 6 (11) Technical Education and Skills Development Authority (TESDA);
- 7 (12) National Youth Commission (NYC); and
- 8 (13) other institutions focused on juvenile justice and delinquency
- 9 prevention.

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

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

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

18 (a) To assist the concerned agencies in the review and redrafting of
19 existing policies/regulations or formulating a new one in line with the
20 provisions of this Act;

21 (b) To develop a comprehensive three- to five-year national juvenile
22 delinquency prevention program integrating therein the redrafted/formulated
23 policies/regulations;

24 (c) To formulate and recommend policies and strategies for the
25 prevention of juvenile delinquency, as well as the treatment and rehabilitation
26 of the child/juvenile in conflict with the law;

27 (d) In the adoption of a comprehensive national juvenile delinquency
28 prevention plan and the formulation of policies and strategies, it shall collect

1 relevant information, conduct continuing research and support evaluations and
2 studies on all matters relating to juvenile justice, such as, but not limited to:

3 (1) the performance and results achieved by the delinquency prevention
4 programs and by the activities of the LGUs and other government agencies;

5 (2) the periodic trends, problems and causes of juvenile delinquency;
6 and

7 (3) particular needs of juveniles in custody.

8 (e) To oversee and supervise the implementation of this Act. In
9 carrying out this function, it shall:

10 (1) conduct regular inspections of detention and rehabilitation facilities,
11 through duly designated persons and with the assistance of the concerned
12 agencies: *Provided*, That spot inspections may be undertaken to check
13 compliance with the standards provided herein;

14 (2) coordinate the implementation of the national juvenile delinquency
15 program and activities by national government agencies and other activities
16 which may have an important bearing on the success of the entire juvenile
17 delinquency prevention effort; and

18 (3) conduct relevant trainings for the personnel of the agencies
19 involved in the administration of the juvenile justice system and delinquency
20 prevention.

21 (f) To advise the President, through the Secretary of Justice, on all
22 matters and policies relating to juvenile justice and delinquency prevention,
23 and to submit an annual report on the implementation of this Act.

24 (g) To perform such other functions as may be necessary to implement
25 the provisions of this Act.

26 SEC. 9. *Child Rights Center (CRC)*. – The Commission on Human
27 Rights (CHR), through its existing Child Rights Center, shall ensure that the
28 status, rights and interests of children are given paramount consideration and

1 shall be upheld in accordance with the Constitution and relevant international
2 human rights instruments. The CHR shall strengthen the monitoring of
3 government compliance of all treaty obligations, including the timely and
4 regular submission of reports before the treaty bodies, as well as the
5 implementation and dissemination of recommendations and conclusions by
6 government agencies as well as NGOs and civil society.

7 SEC. 10. *Policies and Procedures on Juvenile Delinquency Prevention.*

8 – All government agencies provided in Section 7 of this Act, with the
9 assistance of the OJJDP, shall review, redraft or formulate policies and
10 procedures consistent with the standards set in the law within one year from the
11 effectivity of this Act. These policies and procedures shall be modified
12 accordingly in consultation with the OJJDP, upon the completion of the
13 national juvenile delinquency prevention program as provided for under
14 Section 8(b) of this Act.

15 TITLE III

16 PREVENTION OF JUVENILE DELINQUENCY

17 Chapter 1

18 The Role of the Different Sectors

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

22 SEC. 12. *The Educational System.* – Educational institutions shall work
23 together with families, community organizations and agencies, in the
24 prevention of juvenile delinquency and in the rehabilitation and reintegration
25 of children/juveniles in conflict with the law. In cases where children/juveniles
26 in conflict with the law are taken in custody or detained in rehabilitation
27 centers, they should be provided opportunities to continue learning under an
28 alternative learning system with basic literacy programs or nonformal

1 education accreditation equivalency system.

2 SEC. 13. *The Role of the Mass Media.* – The mass media shall play an
3 active role in conveying well-balanced information on the promotion of child
4 rights and delinquency prevention. Media practitioners shall, therefore, have
5 the duty to maintain the highest critical and professional standards in reporting
6 and covering cases of children/juveniles in conflict with the law. In all
7 publicity concerning children, the best interests of the child should be the
8 primordial and paramount concern. Any undue, inappropriate and
9 sensationalized publicity of any case involving a child/juvenile in conflict with
10 the law is hereby declared a violation of his/her rights.

11 SEC. 14. *Establishment and Strengthening of Local Councils for the*
12 *Protection of Children.* – Local Councils for the Protection of Children
13 (LCPC) shall be established and in all levels of local government, and where
14 they have already been established, they shall be strengthened within one year
15 from the effectivity of this Act. Membership in the LCPC shall be chosen from
16 among the responsible members of the community, including a representative
17 from the youth sector, as well as representatives from government and private
18 agencies concerned with the welfare of children.

19 The local council shall serve as the primary agency to coordinate with
20 and assist the LGU concerned for the adoption of a comprehensive plan on
21 delinquency prevention, and to oversee its proper implementation.

22 SEC. 15. *Appointment of a Local Social Welfare and Development*
23 *Officer.* – All LGUs shall appoint a duly licensed social worker as its local
24 social welfare and development officer tasked to assist children/juveniles in
25 conflict with the law.

26 SEC. 16 *The Sangguniang Kabataan.* – The Sangguniang Kabataan
27 (SK) shall coordinate with the LCPC in the formulation and implementation of
28 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 within at least a three-year period of implementation shall be instituted in LGUs from the barangay to the provincial level.

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

The LGU, 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 LGUs in coordination with the LCPC. Results of the assessment shall be submitted by the provincial and city governments to the OJJDP not later than the 30th day of March every year.

SEC. 18. *Community-Based Program on Delinquency Prevention.* – Community-based programs on delinquency prevention shall be instituted by the LGUs through the LCPC, schools, youth organizations and other concerned agencies. These LGUs 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 levels:

(a) Primary prevention – includes general measures to promote social justice and equal opportunities, and which tackle perceived root cause or

1 causes of the offense;

2 (b) Secondary prevention – includes measures to assist children at risk;
3 and

4 (c) Tertiary prevention – includes measures to avoid unnecessary
5 contact with the formal justice system and other measures to prevent a
6 recurrence of the offense.

7 TITLE IV

8 TREATMENT OF CHILDREN BELOW AGE OF CRIMINAL RESPONSIBILITY

9 SEC. 19. *Children Below Age of Criminal Responsibility.* – If it has
10 been determined that the child taken into custody is fifteen (15) years old or
11 below, the authority which will have an initial contact with the child has the
12 duty to immediately release the child to the custody of his/her parents or
13 guardian, or in the absence thereof, the child's nearest relative, giving notice to
14 the local social welfare and development officer who will determine the
15 appropriate programs in consultation with the child and to the person having
16 custody over the child. If the parents, guardians or nearest relatives cannot be
17 located, or if they refuse to take custody, the child may be released to a duly
18 registered nongovernmental or religious organization or, to a barangay official
19 or a member of the Barangay Council for the Protection of Children (BCPC)
20 or, to a local social welfare and development officer or, when and where
21 appropriate, the DSWD. If the child referred to in Section 24 of this Act has
22 been found by the local social welfare and development office to be
23 abandoned, neglected or abused by his parents, or in the event that the parents
24 will not comply with the prevention program, the proper petition for
25 involuntary commitment shall be filed by the DSWD or the local social welfare
26 and development office pursuant to Presidential Decree No. 603, otherwise
27 known as "The Child and Youth Welfare Code".

TITLE V

JUVENILE JUSTICE SYSTEM

Chapter 1

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:

(a) Inform the child of the reason or reasons for such custody and advise him/her of his/her constitutional rights in a language or dialect that is understood by him/her;

(b) Properly identify himself/herself and present proper identification to the child;

(c) 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;

(d) Refrain from using discriminatory remarks and practices, particularly with respect to the child's social or economic status, physical or ethnic origin;

(e) 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;

(f) Refrain from subjecting the child/juvenile in conflict with the law to greater restraint than is necessary for his/her apprehension;

(g) Avoid using humiliating or degrading procedures for taking fingerprints or photographs of the child/juvenile in conflict with the law;

(h) Avoid violence or unnecessary force;

(i) Notify the parents/guardians and local social welfare and development officer immediately upon apprehension but not later than eight hours therefrom. The local social welfare development officer shall explain to

1 the child and his/her parents/guardians the consequences of his/her act with a
2 view towards counseling and rehabilitation, diversion from the criminal justice
3 system, and reparation, if appropriate;

4 (j) Take the child immediately to the proper medical or health officer
5 for a thorough physical and mental examination. The examination results shall
6 be kept confidential unless otherwise ordered by the family court. Whenever
7 the medical treatment is required, steps shall be immediately undertaken to
8 provide the same;

9 (k) If detention of the child in conflict with the law is necessary, to
10 secure him/her in quarters separate from that of the opposite sex and adult
11 offenders;

12 (l) Immediately request the local social welfare and development
13 officer to undertake a complete and full case study report on the child/juvenile
14 in conflict with the law;

15 (m) Ensure the confidentiality of the proceedings and records and to the
16 sealing thereof;

17 (n) Determine the age of the child pursuant to Section 6 of this Act; and

18 (o) As far as practicable, allow the child/juvenile in conflict with the
19 law to be searched by a law enforcement officer of the same gender.

20 SEC. 21. *Duties During Initial Investigation.* – The investigation shall
21 be conducted in the presence of the following: (1) child's counsel of choice or
22 in the absence thereof, a lawyer from the PAO; (2) the child's parents,
23 guardian or nearest relative, as the case may be; and (3) the local social welfare
24 and development officer. In the absence of child's parents, guardian or nearest
25 relative, and the local social welfare and development officer, the investigation
26 shall be conducted in the presence of a representative of an NGO, religious
27 group or member of the BCPC.

1 of the appropriate diversion and rehabilitation program, in coordination with
2 the BCPC; or

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

6 SEC. 23. *Where Diversion may be Conducted.* – Diversion may be
7 conducted at the katarungang pambarangay, the police investigation or the
8 inquest or preliminary investigation.

9 SEC. 24. *Contract of Diversion.* – If during the conferencing, mediation
10 or conciliation, the child/juvenile voluntarily admits commission of the
11 offense, a diversion program shall be developed when appropriate and
12 desirable as determined under Section 29 of this Act. Such admission shall not
13 be used against the child/juvenile in any subsequent judicial, quasi-judicial or
14 administrative proceedings. The diversion program shall be effective and
15 binding if accepted by the child, the child's parents and the complainant. The
16 acceptance shall be in writing and signed by the child, the child's parents, the
17 complainant and the appropriate authorities. The local social welfare
18 development officer or the court social worker, as the case may be, shall
19 supervise the implementation of the diversion program. The diversion
20 proceedings shall be completed within forty-five (45) days. The period of
21 prescription of the offense shall be suspended until the completion of the
22 diversion proceedings but not to exceed forty-five (45) days.

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

26 Failure to comply with the terms and conditions of the contract of
27 diversion, as certified by the local social welfare development officer or the

1 court social worker, shall give the offended party the option to institute the
2 appropriate legal action.

3 The period of prescription of the offense shall be suspended during the
4 effectivity of the diversion program, but the period shall not exceed two years.

5 *SEC. 25. Duty of the Punong Barangay when there is No Diversion. –*

6 Where the offense does not fall under Section 22(a) and (b) of this Act, or if
7 the child, his/her parents or guardian does not consent to a diversion, the
8 punong barangay handling the case shall, within three days from determination
9 of the absence of jurisdiction over the case or termination of the diversion
10 proceedings, as the case may be, forward the records of the case of the child to
11 the law enforcement officer, prosecutor or the appropriate court, as the case
12 may be. *Upon the issuance of the corresponding document, certifying to the*
13 *fact that either no agreement has been reached by the parties or that the*
14 *offended party does not consent to a diversion, the case shall be filed*
15 *according to the regular process.*

16 *SEC. 26. Duty of Law Enforcement Officer when there is No Diversion.*

17 – Where the offense does not fall under Section 22(a) and (b) of this Act or, if
18 the child, his/her parents or guardian does not consent to a diversion, the
19 Women and Children’s Protection Desk of the PNP, or other law enforcement
20 officer shall, within three days from determination of the absence of
21 jurisdiction over the case or termination of diversion proceedings, forward the
22 records of the case of the child under custody to the prosecutor or judge
23 concerned. *The prosecutor or the judge, as the case may be, shall conduct*
24 *inquest and/or preliminary investigation to determine whether or not the child*
25 *should remain under custody and correspondingly charge him/her in court.*
26 *The document transmitting said records shall display the word “CHILD” in*
27 *bold letters.*

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

- 4 (1) The nature and circumstances of the offense charged;
- 5 (2) The frequency and the severity of the act;
- 6 (3) The circumstances of the child/juvenile in conflict with the law (e.g.
7 age, maturity, intelligence, etc.);
- 8 (4) The influence of the family and the environment on the growth of
9 the child;
- 10 (5) The reparation of injury to the victim;
- 11 (6) The weight of the evidence against the child;
- 12 (7) The safety of the community; and
- 13 (8) The best interests of the child.

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

- 19 (1) The child's feelings of remorse for the offense he/she committed;
- 20 (2) The parents' or legal guardians' ability to guide and supervise the
21 child;
- 22 (3) The victim's view about the propriety of the measures to be
23 imposed; and
- 24 (4) The availability of community-based programs for rehabilitation
25 and reintegration of the child.

26 SEC. 29. *Kinds of Diversion Program.* – The diversion program shall
27 include adequate sociocultural and psychological responses and services for

1 the child. At the different stages where diversion may be resorted to, diversion
2 programs may be agreed upon, such as, but not limited to:

3 (a) At the level of the punong barangay:

4 (1) Restitution of property; .

5 (2) Reparation of the damage caused;

6 (3) Indemnification for consequential damages;

7 (4) Written or oral apology;

8 (5) Care, guidance and supervision orders;

9 (6) Counseling for the child in conflict with the law and the family;

10 (7) Attendance in trainings, seminars and lectures on:

11 (i) anger management skills;

12 (ii) problem solving and/or conflict resolution skills;

13 (iii) values formation; and

14 (iv) other skills which will aid the child to deal with situations which
15 can lead to repetition of the offense.

16 (8) Participation in available community-based programs, including
17 community service; or

18 (9) Participation in educational, vocational and life skills programs.

19 (b) At the level of the law enforcement officer and the prosecutor:

20 (1) Diversion programs specified under paragraphs (a)(1) to (a)(9)
21 herein; and

22 (2) Confiscation and forfeiture of the proceeds or instruments of the
23 crime.

24 (c) At the level of the appropriate court:

25 (1) Diversion programs specified under paragraphs (a) and (b) above;

26 (2) Written or oral reprimand or citation;

27 (3) Fine;

28 (4) Payment of the cost of the proceedings; or

1 (5) Institutional care and custody.

2 Chapter 3

3 Prosecution

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

13 SEC. 31. *Duty of the Prosecutor's Office.* – Prosecutors shall be trained
14 to conduct inquest, preliminary investigation and prosecution of cases
15 involving a child/juvenile in conflict with the law. Investigation regarding
16 allegations of torture or ill-treatment against the child/juvenile in conflict with
17 the law shall likewise be conducted by the Prosecutor's Office.

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

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

24 Chapter 4

25 Court

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

1 SEC. 33. *Release on Recognizance.* – Where a child is detained, the
2 court may, in its discretion and taking into consideration the peculiar
3 circumstances of the child and upon the recommendation of the court social
4 worker, the DSWD, the local social welfare and development officer or the
5 Social Services and Counseling Division (SSCD), release the child alleged to
6 have committed an offense on recognizance to the custody of his/her parents or
7 other suitable person, as determined by the court, who shall be responsible for
8 his/her appearance whenever required by the court.

9 SEC. 34. *Detention of the Child Pending Trial.* – Children detained
10 pending trial may be released on bail or recognizance as provided for under
11 Sections 32 and 33 under this Act. In all other cases and whenever possible,
12 detention pending trial may be replaced by the alternative measures, such as
13 close supervision, intensive care or placement with a family or in an
14 educational setting or home. Institutionalization or detention of the child
15 pending trial shall be used only as a measure of last resort and for the shortest
16 possible period of time.

17 Whenever detention is necessary, a child will always be detained in the
18 youth detention homes established by local governments, pursuant to Section 8
19 of the Family Courts Act, in the city or municipality where the child resides.

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

26 SEC. 35. *Diversion Measures.* – Where the maximum penalty imposed
27 by law for the offense is imprisonment of not more than twelve (12) years, with
28 which the child/juvenile in conflict with the law is charged with, regardless of

1 the fine or, fine alone regardless of the amount, and before arraignment of the
2 child/juvenile in conflict with the law, the court shall determine whether or not
3 diversion is appropriate.

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

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

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

23 The discharge of the child/juvenile in conflict with the law shall not
24 affect the civil liability resulting from the commission of the offense, which
25 shall be enforced in accordance with law.

26 SEC. 39. *Return of the Child/Juvenile in Conflict with the Law to*
27 *Court.* – If the court finds that the objective of the disposition measures
28 imposed upon the child/juvenile in conflict with the law has not been fulfilled,

1 or the child/juvenile in conflict with the law has willfully failed to comply with
2 the conditions of his/her disposition or rehabilitation program, the
3 child/juvenile in conflict with the law shall be brought before the court for
4 promulgation of sentence.

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

10 SEC. 40. *Credit in Service of Sentence.* – The child/juvenile in conflict
11 with the law shall be credited in the service of his/her sentence with the full
12 time spent in actual commitment and detention under this Act.

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

19 Chapter 5

20 Confidentiality of Records and Proceedings

21 SEC. 42. *Confidentiality of Records and Proceedings.* – All records
22 and proceedings involving children/juveniles in conflict with the law, from the
23 initial contact with the child until final disposition of the case shall be
24 considered privileged and confidential. The public shall be excluded during
25 the proceedings and the records shall not be disclosed, directly or indirectly, to
26 anyone by any of the parties or the participants in the proceedings for any
27 purpose whatsoever, except to determine if the child/juvenile in conflict with
28 the law may have his sentence suspended or, if he/she may be granted

1 for accreditation of youth detention homes shall be formulated by the DSWD
2 in consultation with the OJJDP: *Provided, further*, That the DSWD shall
3 submit a periodic report and/or list of licensed and accredited private and
4 NGOs to the OJJDP.

5 SEC. 46. *Care and Maintenance of the Child/Juvenile in Conflict with*
6 *the Law.* – The expenses for the care and maintenance of children/juveniles in
7 conflict with the law under institutional care shall be borne by his/her parents
8 or those persons liable to support him/her: *Provided*, That in case his/her
9 parents or those persons liable to support him/her cannot pay all or part of said
10 expenses, the municipality in which the offense was committed shall pay one-
11 third (1/3) of said expenses or part thereof; the province to which the
12 municipality belongs shall pay one-third (1/3) and the remaining one-third
13 (1/3) shall be borne by the national government. Chartered cities shall pay
14 two-thirds (2/3) of said expenses; and in case a chartered city cannot pay said
15 expenses, part of the internal revenue allotments applicable to the unpaid
16 portion shall be withheld and applied to the settlement of said obligations:
17 *Provided, further*, That in the event that the child/juvenile in conflict with the
18 law is not a resident of the municipality/city where the offense was committed,
19 the court, upon its determination, may require the city/municipality where the
20 child/juvenile in conflict with the law resides to shoulder the cost.

21 All city and provincial governments must exert effort for the immediate
22 establishment of local detention homes for youthful offenders.

23 SEC. 47. *Confinement of Convicted Children in Agricultural Camps*
24 *and Other Training Facilities.* – A child/juvenile in conflict with the law may,
25 after conviction and upon order of the court, be made to serve his/her sentence,
26 in lieu of confinement in a regular penal institution, in an agricultural camp and
27 other training facilities that may be established, maintained, supervised and
28 controlled by the BUCOR.

1 SEC. 48. *Rehabilitation of Children/Juveniles in Conflict with the Law.*

2 – Children/juveniles in conflict with the law, whose sentences are suspended
3 may, upon order of the court, undergo any or a combination of the disposition
4 measures best suited to the rehabilitation and welfare of the child including,
5 but not limited to:

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

17 SEC. 49. *Youth Rehabilitation Center.* – The youth rehabilitation center
18 shall provide 24-hour group care, treatment and rehabilitation services under
19 the guidance of a trained staff where residents are cared for in a structured
20 therapeutic environment, with the end in view of reintegrating them in their
21 families and communities as socially functioning individuals. A quarterly
22 report shall be submitted by the Center to the proper court on the progress of
23 the children/juveniles in conflict with the law. Based on the progress of the
24 youth in the centers, a final report will be forwarded to the court for final
25 disposition of the case.

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

1 (a) Prevent disruption in the education or means of livelihood of the
2 child/juvenile in conflict with the law in case he/she is studying, working or
3 attending a vocational learning institution;

4 (b) Prevent separation of the child/juvenile in conflict with the law
5 from his/her parents or guardians to maintain the support system fostered by
6 their relationship and to create greater awareness of their mutual and reciprocal
7 responsibilities;

8 (c) Facilitate the rehabilitation and mainstreaming of the child/juvenile
9 in conflict with the law and encourage community support and involvement;
10 and

11 (d) Minimize the stigma that attaches to the child/juvenile in conflict
12 with the law by preventing jail detention.

13 SEC. 51. *Criteria of Community-Based Programs.* – All LGUs shall
14 establish community-based rehabilitation and reintegration programs for
15 children/juveniles in conflict with the law in their respective areas of
16 jurisdiction: *Provided,* That to ensure implementation of such programs, these
17 are included in their public investment plan.

18 SEC. 52. *After-Care Support Services for Children in Conflict with the*
19 *Law.* – Children/juveniles in conflict with the law whose cases had been
20 dismissed by the proper court because of good behavior as per
21 recommendation of the DSWD social worker and/or any accredited NGO
22 youth rehabilitation center shall be released to the custody of their family or
23 relatives, or in their absence, to a duly accredited and/or licensed half-way
24 homes. They shall be provided after-care services by the local social welfare
25 and development officer for a period of at least six months. The service
26 includes counseling and other community-based services designed to facilitate
27 social reintegration, prevent re-offending and become productive members of
28 the community.

TITLE VII

GENERAL PROVISIONS

Chapter 1

Exempting Provisions

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

8 SEC. 54. *Offenses Not Applicable to Children.* – Persons below
9 eighteen (18) years of age shall be exempt from prosecution for the offenses of
10 vagrancy and prostitution under Section 202 of the Revised Penal Code,
11 mendicancy under Presidential Decree No. 1563, and sniffing of rugby under
12 Presidential Decree No. 1619, such prosecution being inconsistent with the
13 U.N. Convention on the Rights of the Child: *Provided, That* said persons shall
14 undergo appropriate rehabilitation, counseling and treatment program:
15 *Provided, further,* That adults who are found to be involved and/or make use
16 of said persons in the commission of these offenses shall be prosecuted based
17 on existing laws and legislations.

Chapter 2

Prohibited Acts

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19
20 SEC. 55. *Prohibition Against Labeling and Shaming.* – In the conduct
21 of the proceedings beginning from the initial contact with the child, the
22 competent authorities must refrain from branding or labeling children as young
23 criminals, juvenile delinquents, prostitutes or attaching to them in any manner
24 any other derogatory names. Likewise, no discriminatory remarks and practices
25 shall be allowed particularly with respect to the child's class or ethnic origin.

26 SEC. 56. *Other Prohibited Acts.* – The following and any other similar
27 acts shall be considered prejudicial and detrimental to the psychological,

1 emotional, social, spiritual, moral and physical health and well-being of the
2 child/juvenile in conflict with the law and therefore, prohibited:

3 (a) Employment of threats of whatever kind and nature;

4 (b) Employment of abusive, coercive and punitive measures such as
5 cursing, beating, stripping and solitary confinement;

6 (c) Employment of degrading, inhuman and cruel forms of
7 punishment such as shaving the heads, pouring irritating, corrosive or harmful
8 substances over the body of the child/juvenile in conflict with the law, or
9 forcing him/her to walk around the community wearing signs which embarrass,
10 humiliate and degrade their personality and dignity; and

11 (d) Compelling the child to perform involuntarily servitude in any and
12 all forms under any and all instances.

13 Chapter 3

14 Penal Provision

15 SEC. 57. *Violation of the Provisions of this Act or Rules or Regulations*
16 *in General.* – Any person who violates any provision of this Act or any rule or
17 regulation promulgated in accordance thereof shall, upon conviction for each
18 act or omission, be punished by a fine of not less than Twenty thousand pesos
19 (P20,000.00) but not more than Fifty thousand pesos (P50,000.00) or suffer
20 imprisonment of not less than eight years but not more than ten (10) years, or
21 both such fine and imprisonment at the discretion of the court, unless a higher
22 penalty is provided for in the Revised Penal Code or special laws. If the
23 offender is a public officer or employee, he/she shall, in addition to such fine
24 and/or imprisonment, be held administratively liable and shall suffer the
25 penalty of perpetual absolute disqualification.

26 SEC. 58. *Exemption from the Application of Death Penalty.* – The
27 provisions of the Revised Penal Code, Republic Act No. 9165, otherwise
28 known as the Comprehensive Dangerous Drugs Act of 2002, and other special

1 laws notwithstanding, no death penalty shall be imposed upon
2 children/juveniles in conflict with the law.

3 Chapter 4

4 Appropriations

5 SEC. 59. *Appropriations.* – The amount necessary to carry out the
6 initial implementation of this Act shall be charged against the current year’s
7 appropriations of the Department of Justice. Thereafter, such sums as may be
8 necessary for the continued implementation of this Act shall be included in the
9 succeeding General Appropriations Act.

10 TITLE VIII

11 TRANSITORY PROVISIONS

12 SEC. 60. *Children/Juveniles in Conflict with the Law Twelve (12)*
13 *Years Old and Below.* – Upon effectivity of this Act, cases of children twelve
14 (12) years old and below at the time of the commission of the crime shall
15 immediately be dismissed and the child shall be referred to the appropriate
16 local social welfare and development officer. The local social welfare and
17 development officer, upon thorough assessment of the child, shall determine
18 whether to release him/her to the custody of his/her parents, or refer him/her to
19 prevention programs as provided under this Act. Those with suspended
20 sentences and undergoing rehabilitation at the youth rehabilitation center shall
21 likewise be released, unless it is contrary to the best interest of the child.

22 SEC. 61. *Children Detained Pending Trial.* – If the child is detained
23 pending trial, the Family Court shall also determine whether or not continued
24 detention is necessary and, if not, determine appropriate alternatives for
25 detention. If detention is necessary and he/she is detained with adults, the
26 court shall immediately order the transfer of the child to a youth detention
27 home.

1 SEC. 65. *Separability Clause.* – If, for any reason, any section or
2 provision of this Act is declared unconstitutional or invalid by a competent
3 court, the other sections or provisions hereof not affected by such declaration
4 shall remain in full force and effect.

5 SEC. 66. *Repealing Clause.* – All existing laws, orders, decrees, rules
6 and regulations or parts thereof inconsistent with the provisions of this Act are
7 hereby repealed or modified accordingly.

8 SEC. 67. *Effectivity.* – This Act shall take effect after fifteen (15) days
9 from its publication in at least two national newspapers of general circulation.

Approved,

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