

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

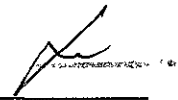
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15 JUN -1 2016

SENATE

Senate Bill No. 43

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INTRODUCED BY SENATOR VICENTE C. SOTTO III

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#### EXPLANATORY NOTE

Our courts are currently flooded with criminal cases against youthful offenders, mostly due to the exposure to hostilities at an early age. Children can easily see from various media, violence and other immoral and illegal acts. The awareness is brought by the simultaneously growing influx of information technology. The youth have the proper understanding of the legal and moral implications of what they see and hear, given the present society. Hence, the youth have become easily exposed to exercising their individual judgment, conscious of their moral and social responsibility.

This is a bill which proposes to lower the age of exemption from criminal liability to properly commensurate the degree of liability of a teenager who still lacks the discernment, with the degree of awareness and understanding of a teenager. The State must be protected from physically and mentally mature youth who are hiding from penal liability merely due to their age.

  
VICENTE C. SOTTO III  
Senator

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

OFFICE OF THE SECRETARY

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SENATE

Senate Bill No. 43

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INTRODUCED BY SEN. TITO SOTTO III

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**AN ACT  
TO LOWER THE AGE OF EXEMPTION FROM  
CRIMINAL RESPONSIBILITY AMENDING  
SECTIONS 6, 20, 22, 23, 58 AND 64 OF R.A. 9344  
OTHERWISE KNOWN AS "THE JUVENILE  
JUSTICE AND WELFARE ACT OF 2006" AND  
FOR OTHER 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 is hereby amended to read as follows:

**"SEC. 6. *Minimum Age of Criminal Responsibility.* –**

A CHILD ELEVEN (11) YEARS OF AGE OR UNDER at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

A CHILD IS DEEMED TO BE ELEVEN (11) YEARS OF AGE ON THE DAY OF THE ELEVENTH ANNIVERSARY OF HIS BIRTH DATE.

A CHILD ABOVE ELEVEN (11) YEARS BUT BELOW THIRTEEN (13) YEARS OF AGE WHO ACTED WITHOUT DISCERNMENT AT THE TIME OF THE COMMISSION OF THE CRIME SHALL LIKEWISE BE EXEMPT FROM CRIMINAL RESPONSIBILITY AND SHALL BE SUBJECTED TO AN APPROPRIATE INTERVENTION PROGRAM PURSUANT TO SECTION 20 OF THIS ACT.

A CHILD ABOVE ELEVEN (11) YEARS BUT BELOW THIRTEEN (13) YEARS OF AGE WHO ACTED WITH DISCERNMENT AT THE TIME OF THE COMMISSION OF THE CRIME SHALL BE SUBJECTED TO AN APPROPRIATE DIVERSION PROGRAM IN ACCORDANCE WITH THIS ACT.

A CHILD THIRTEEN (13) YEARS OLD AND ABOVE BUT BELOW FIFTEEN (15) YEARS OF AGE AT THE TIME OF THE COMMISSION OF THE CRIME SHALL BE SUBJECTED TO AN APPROPRIATE DIVERSION PROGRAM IN ACCORDANCE WITH THIS ACT.

A CHILD IS DEEMED TO BE THIRTEEN (13) YEARS OF AGE ON THE DAY OF THE THIRTEENTH ANNIVERSARY OF HIS BIRTH DATE.

IN CASE THE CHILD IS FIFTEEN (15) YEARS OLD AND ABOVE BUT BELOW EIGHTEEN (18) YEARS OF AGE AT THE TIME OF THE COMMISSION OF THE OFFENSE, THE TRIAL COURT SHALL DETERMINE WHETHER:

- a.) TO PROCEED IN ACCORDANCE WITH CHAPTER 4 (COURT PROCEEDINGS) OF THIS ACT; OR
- b.) TO SUBJECT THE CHILD TO AN APPROPRIATE DIVERSION PROGRAM IN ACCORDANCE WITH CHAPTER 2 OF THIS ACT.

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

PROVIDED THAT IF A CHILD ELEVEN (11) YEARS OLD AND ABOVE BUT BELOW THIRTEEN (13) YEARS OLD WHO ACTED WITH DISCERNMENT, AND A CHILD THIRTEEN (13) YEARS OLD AND ABOVE BUT BELOW 18 YEARS OLD IS CHARGED, PROSECUTED, AND/OR CONVICTED OF AN OFFENSE PUNISHABLE UNDER R.A. 9165 OR THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, THE PROVISIONS OF THAT LAW WILL APPLY.

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 is hereby 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 **ELEVEN (11) YEARS OLD OR BELOW, OR ELEVEN YEARS OLD AND ABOVE BUT BELOW THIRTEEN (13) YEARS OLD WHO ACTED WITHOUT DISCERNMENT**, the authority which will have an initial contact with the child has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative. Said authority shall give notice to the local social welfare and development officer who will determine the appropriate programs in consultation with the child and to 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 duly registered nongovernmental or religious organization; a barangay official or a member of the Barangay Council for the Protection of Children (BCPC); a local social welfare and development officer; or when and where appropriate, the DSWD. If the child referred to herein has been found by the Local Social Welfare and Development Office to be abandoned, neglected or abused by his parents, or in the event that the parents will not comply with the prevention program, the proper petition for involuntary commitment shall be filed by the DSWD or the Local Social Welfare and Development Office pursuant to Presidential Decree No. 603, otherwise known as "The Child and Youth Welfare Code"."

**Section 3:** Section 22 of Republic Act No. 9344 is hereby amended to read as follows:

**“SEC. 22. Duties During Initial Investigation. –**

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

The taking of the statement of the child shall be conducted in the presence of the following: (1) child's counsel of choice or in the absence thereof, a lawyer from the Public Attorney's Office; (2) the child's parents, guardian, or nearest relative, as the case may be; and (3) the local social welfare and development officer. In the absence of the child's parents, guardian, or nearest relative, and the local social welfare and development officer, the investigation shall be conducted in the presence of a representative of an NGO, religious group, or member of the BCPC.

After the initial investigation, the local social worker conducting the same may do either of the following:

**A.) PROCEED IN ACCORDANCE WITH SECTION 20 IF THE CHILD IS ELEVEN (11) YEARS OR BELOW, OR ABOVE ELEVEN (11) BUT BELOW THIRTEEN (13) YEARS OLD, WHO ACTED WITHOUT DISCERNMENT; AND**

**B.) IF THE CHILD IS ABOVE ELEVEN (11) YEARS OLD BUT BELOW THIRTEEN (13) YEARS OLD AND WHO ACTED WITH DISCERNMENT, PROCEED TO DIVERSION UNDER CHAPTER 2 OF THIS ACT.**

**C.) IF THE CHILD IS ABOVE THIRTEEN (13) YEARS OLD BUT BELOW FIFTEEN (15) YEARS OLD, PROCEED TO DIVERSION UNDER CHAPTER 2 OF THIS ACT.**

**D.) IF THE CHILD IS ABOVE FIFTEEN (15) YEARS OLD BUT BELOW EIGHTEEN (18) YEARS OLD, THE APPROPRIATE TRIAL COURT SHALL DECIDE WHETHER:**

**a.) TO PROCEED IN ACCORDANCE WITH CHAPTER 4 (COURT PROCEEDINGS) OF THIS ACT; OR**

**b.) TO SUBJECT THE CHILD TO AN APPROPRIATE DIVERSION PROGRAM IN ACCORDANCE WITH CHAPTER 2 THIS ACT.”**

**Section 4:** Section 23 of Republic Act No. 9344 is hereby amended to read as follows:

**“SEC. 23. System of Diversion. –**

Children in conflict with the law **WHO ARE REQUIRED TO** undergo diversion programs without undergoing court proceedings **SHALL BE** subject to the conditions herein provided:

(a) Where the imposable penalty for the crime committed is not more than six (6) years imprisonment, the law enforcement officer or Punong Barangay with the assistance of the local social welfare and development officer or other members of the LCPC shall conduct mediation, family conferencing and conciliation and,

where appropriate, adopt indigenous modes of conflict resolution in accordance with the best interest of the child with a view to accomplishing the objectives of restorative justice and the formulation of a diversion program. The child and his/her family shall be present in these activities.

(b) In victimless crimes where the imposable penalty is not more than six (6) years imprisonment, the local social welfare and development officer shall meet with the child and his/her parents or guardians for the development of the appropriate diversion and rehabilitation program, in coordination with the BCPC;

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

**Section 5.** Transitory provision – Upon the effectivity of this Act, cases of children eleven (11) years old and below at the time of the commission of the crime shall immediately be dismissed and the child shall be referred to the appropriate local social welfare and development officer or the appropriate court, as the case may be. Such officer or judge, upon thorough assessment of the child, shall determine whether to release the child to the custody of his/her parents, or refer the child to prevention programs as provided under this Act. Those with suspended sentences *and undergoing rehabilitation at the youth rehabilitation center shall likewise be released, unless it is contrary to the best interest of the child.*

**Section 6.** Separability Clause. - If any provision of this Act is declared invalid or unconstitutional, the provisions not affected thereby shall continue to be in full force and effect

**Section 7.** Repealing Clause - All Laws, decrees or rules inconsistent with the provisions of this Act are hereby repealed modified accordingly.

**Section 8.** Effectivity Clause - This Act shall take effect fifteen (15) days after the completion of its publication in at least two (2) national newspapers of general circulation.

Approved,