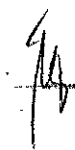


FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

8 JUL 24 P6:17

RECEIVED BY: 

SENATE

S.B. NO. 2476

Introduced by Senator Ramon Bong Revilla, Jr.

EXPLANATORY NOTE

Republic Act No. 9433, otherwise known as Juvenile Justice and Welfare Act of 2006 is a result of the state's recognition of the child's right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, taking into account the child's age and desirability of promoting his/her reintegration.

The Juvenile Justice and Welfare System ensures "that children are dealt with in a manner appropriate to their well-being by providing for, among others, a variety of disposition measures such as care, guidance and supervision orders, counselling, probation, foster care, education and vocational training programs and other alternatives to institutional care."

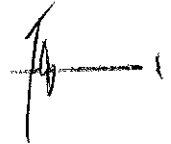
The propose measure seeks to refine Republic Act No. 9433 by addressing different issues and concerns confronted by different agencies in implementing the said law and for the advancement of the Children in Conflict with Law.

In view of the foregoing, the approval of this bill is earnestly sought.


RAMON BONG REVILLA, JR.

FOURTEENTH CONGRESS OF THE)
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SENATE

S.B. NO. 2476

Introduced by Senator Ramon Bong Revilla, Jr.

AN ACT
AMENDING SECTIONS 6, 8, 20, 22, 33 AND 57 OF REPUBLIC ACT NO. 9344,
OTHERWISE KNOWN AS "JUVENILE JUSTICE AND WELFARE ACT OF
2006"

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 fifteen (15) 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 FIFTEEN (15) YEARS OF AGE ON THE DAY OF THE FIFTEENTH ANNIVERSARY OF HIS BIRTH DATE.

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

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 8 of Republic Act No. 9344 is hereby amended to read as follows:

SEC. 8. Juvenile Justice and Welfare Council (JJWC). - A Juvenile Justice and Welfare Council (JJWC) is hereby created and attached to the Department of Justice and placed under its administrative supervision. The JJWC shall be chaired by an undersecretary of the Department of Social Welfare and Development. It shall ensure the effective implementation of this Act and coordination among the following agencies:

- (a) Council for the Welfare of Children (CWC);
- (b) Department of Education (DepEd);
- (c) Department of the Interior and Local Government (DILG);

- (d) Public Attorney's Office (PAO);
- (e) Bureau of Corrections (BUCOR);
- (f) Parole and Probation Administration (PPA);
- (g) National Bureau of Investigation (NBI);
- (h) Philippine National Police (PNP);
- (i) Bureau of Jail Management and Penology (BJMP);
- (i) Commission on Human Rights (CHR);
- (k) Technical Education and Skills Development Authority (TESDA);
- (l) National Youth Commission (NYC); and
- (m) Other institutions focused on juvenile justice and intervention programs

The JJWC shall be composed of representatives, whose ranks shall not be lower than director, to be designated by the concerned heads of the following departments or agencies:

- (a) Department of Justice (DOJ);
- (b) Department of Social Welfare and Development (DSWD);
- (c) Council for the Welfare of Children (CWC)
- (d) Department of Education (DepEd);
- (e) Department of the Interior and Local Government (DILG);
- (f) Commission on Human Rights (CHR);
- (g) National Youth Commission (NYC); and
- (h) two (2) representatives from NGO's, one to be designated by the Secretary of Justice and the other to be designated by the Secretary of Social Welfare and Development.

The JJWC shall convene within fifteen (15) days from the effectivity of this Act. The Secretary of Justice and the Secretary of Social Welfare and Development shall determine the organizational structure and staffing pattern of the JJWC.

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

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

Section 3. 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 fifteen (15) 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, **UNLESS THE BEST INTEREST OF THE CHILD REQUIRES THE REFERRAL OF THE CHILD TO A YOUTH REHABILITATION CENTER.** [Said authority shall give notice to t] The local social welfare and development officer [who will] **SHALL** determine the appropriate programs **FOR THE CHILD WHO HAD BEEN RELEASED**, 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:

- (1) A duly registered nongovernmental or religious organization;
- (2) A barangay official or a member of the Barangay Council for the Protection of Children (BCPC);
- (3) 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,] **IF THE BEST INTEREST OF THE CHILD REQUIRES THAT HE OR SHE BE PLACED IN A YOUTH REHABILITATION CENTER, 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 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 REHABILITATION CENTER SHALL BE TWELVE (12) YEARS OLD.**

SEC. 20-A. REPETITION OF OFFENSES - A CHILD WHO IS FIFTEEN YEARS OF AGE OR BELOW FIFTEEN (15) YEARS OF AGE AND WHO COMMITS AN OFFENSE FOR THE THIRD TIME OR OFTENER SHALL BE DEEMED A NEGLECTED CHILD UNDER PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND SHALL UNDERGO INTERVENTION PROGRAMS SUPERVISED BY THE LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER; PROVIDED THAT, IF THE BEST INTEREST OF THE CHILD REQUIRES THAT HE OR SHE BE PLACED IN A YOUTH REHABILITATION CENTER, 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 PURSUANT TO PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND THE SUPREME COURT RULE ON COMMITMENT OF CHILDREN; PROVIDED FURTHER, THAT THE MINIMUM AGE FOR CHILDREN COMMITTED TO A YOUTH REHABILITATION CENTER SHALL BE TWELVE (12) YEARS OLD.

SEC. 20-B. HEINOUS CRIMES COMMITTED BY CHILDREN WHO ARE EXEMPT. - A CHILD WHO IS FIFTEEN YEARS OF AGE OR

BELOW FIFTEEN (15) YEARS OF AGE AND WHO COMMITS A PARRICIDE, MURDER, INFANTICIDE, KIDNAPPING AND SERIOUS ILLEGAL DETENTION WHERE THE VICTIM IS KILLED OR RAPED, ROBBERY WITH HOMICIDE OR RAPE, DESTRUCTIVE ARSON, RAPE, OR CARNAPPING WHERE THE DRIVER OR OCCUPANT IS KILLED OR RAPED SHALL BE DEEMED A NEGLECTED CHILD UNDER PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND, IF THE BEST INTEREST OF THE CHILD SO REQUIRES, SHALL BE PLACED IN A YOUTH REHABILITATION CENTER. 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 PURSUANT TO PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND THE SUPREME COURT RULE ON COMMITMENT OF CHILDREN; PROVIDED FURTHER, THAT THE MINIMUM AGE FOR CHILDREN COMMITTED TO A YOUTH REHABILITATION CENTER SHALL BE TWELVE (12) YEARS OLD.

***SEC. 20-C. EXPLOITATION OF CHILDREN FOR COMMISSION OF CRIMES.* – ANY PERSON WHO, IN THE COMMISSION OF A CRIME, MAKES USE, TAKES ADVANTAGE OF, OR PROFITED FROM THE USE OF CHILDREN, SHALL BE IMPOSED THE PENALTY PRESCRIBED BY LAW FOR THE CRIME COMMITTED IN ITS MAXIMUM PERIOD.**

***SEC. 20-D. ASSISTANCE TO VICTIMS OF OFFENSES COMMITTED BY CHILDREN.* - IF THE VICTIM OF THE OFFENSE COMMITTED BY A CHILD IS ALSO A CHILD, THE APPROPRIATE ASSISTANCE AND PSYCHOSOCIAL INTERVENTION SHALL BE PROVIDED TO THE VICTIM-CHILD AND HIS OR HER FAMILY BY THE LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER AND THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT, AS PROVIDED IN REPUBLIC ACT NO. 7610, OTHERWISE KNOWN AS THE “SPECIAL PROTECTION OF CHILDREN AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION ACT” AND ITS IMPLEMENTING RULES AND REGULATIONS.**

Section 4: 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.

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

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

Section. 5: Section 33 of Republic Act No. 9344 is hereby amended to read as follows:

SEC. 33. Preliminary Investigation and Filing of Information. – The prosecutor shall conduct a preliminary investigation in the following instances: (a) when the child in conflict with the law does not qualify for diversion: (b) when the child, his/her parents or guardian does not agree to diversion as specified in Sections 27 and 28; and (c) when considering the assessment and recommendation of the social worker, the prosecutor determines that diversion is not appropriate for the child in conflict with the law.

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

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

Section. 6: Section 57 of Republic Act No. 9344 is hereby amended to read as follows:

SEC. 57. Status Offenses. – Any conduct not considered an offense or not penalized if committed by an adult shall not be considered an offense and shall not be punished if committed by a child.

CURFEW ORDINANCES ENACTED BY LOCAL GOVERNMENTS SHALL BE FOR THE PROTECTION OF CHILDREN. NO PENALTY SHALL BE IMPOSED ON CHILDREN FOR CURFEW VIOLATIONS. INSTEAD THE CHILD SHALL BE BROUGHT TO HIS OR HER RESIDENCE OR TO THE BARANGAY HALL TO BE FETCHED BY HIS OR HER PARENTS. THE ORDINANCE SHALL ALSO PROVIDE FOR INTERVENTION PROGRAMS, SUCH AS

COUNSELLING, ATTENDANCE IN GROUP ACTIVITIES FOR CHILDREN, AND, FOR THE PARENTS, ATTENDANCE IN PARENTING EDUCATION SEMINARS.

Section 7: 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 8. Repealing Clause – All Laws, decrees or rules inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 9. 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,