

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS

First Regular Session

House Bill No. **3077**

Introduced by Hon. Karlo A. B. Nograles

EXPLANATORY NOTE

Republic Act No. 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006, increased the minimum age of criminal responsibility of children from nine (9) years to fifteen (15) years old, and exempted those above fifteen (15) but below eighteen (18) years of age who have acted without discernment.

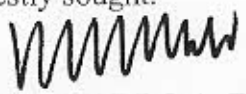
The law applies the principle of restorative justice in all policies and programs applicable to children in conflict with the law (CICL), and provides for a comprehensive juvenile intervention program consisting of the procedures, guidelines, mechanisms and structures to be implemented and pursued in the treatment of CICL.

Since the effectivity of the Act, there have been reports about the improper, ineffective and inefficient implementation of the law.

This bill seeks to refine some provisions of RA 9344 by transferring the supervision and control over the Juvenile Justice and Welfare Council from the Department of Justice to the Department of Social Welfare and Development (DSWD) to enable a more effective and efficient implementation of the law. It also ensures that local governments, being principally involved in the implementation of the law at the grassroots level, are properly consulted in the crafting of policies and strategies on juvenile justice and welfare. Likewise, the bill proposes the periodic evaluation of the Act.

Most importantly, the bill mandates the establishment of a separate appropriation approved by the DSWD to be provided in the annual General Appropriations Act. This shall guarantee the proper enforcement of the law to provide the needed government funds for the institution and implementation of intervention, diversion and crime prevention programs on juvenile justice.

The immediate approval of this bill is earnestly sought.


HON. KARLO A. B. NOGRALES

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AN ACT
AMENDING THE REPUBLIC ACT NO. 9344 OTHERWISE KNOWN AS THE
"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. The Title of Republic Act No. 9344 is hereby amended to read as follows:

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

SEC. 2. 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.

X X X

A PERSON IS DEEMED TO BE EIGHTEEN (18) YEARS OF AGE ON THE DAY OF THE EIGHTEENTH ANNIVERSARY OF HIS BIRTH DATE.

X X X

SEC. 3. 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] **SOCIAL WELFARE AND DEVELOPMENT** 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) DEPARTMENT OF JUSTICE (DOJ)

([a] **B**) Council for the Welfare of Children (CWC);

([b] **C**) Department of Education (DepEd);

([c] **D**) Department of Interior and Local Government (DILG);

([d] **E**) Public Attorney's Office (PAO);

([e] **F**) Bureau of Corrections (BUCOR);

([f] **G**) Parole and Probation Administration (PPA);

([g] **H**) National Bureau of Investigation (NBI);

- [[h] **I**] Philippine National Police (PNP);
- [[i] **J**] Bureau of Jail Management and Penology (BJMP);
- [[j] **K**] Commission on Human Rights (CHR);
- [[k] **L**] Technical Education and Skills Development Authority (TESDA);
- [[l] **M**] National Youth Commission (NYC); and
- [[m] **N**] 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:

X X X

(h) two (2) representatives from NGOs, [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.

X X X

SEC. 4. Section 9 of Republic Act No. 9344 is hereby amended to read as follows:

SEC. 9. Duties and Functions of the JJWC. - The JJWC shall have the following duties and functions:

X X X

(F.) TO CONSULT WITH THE VARIOUS LEAGUES OF LOCAL

**GOVERNMENT OFFICIALS IN THE FORMULATION AND
RECOMMENDATION OF POLICIES AND STRATEGIES FOR THE
PREVENTION JUVENILE DELINQUENCY AND THE PROMOTION OF
JUVENILE JUSTICE AND WELFARE;**

([f]) (G) To formulate and recommend strategies X X X

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

X X X

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

**THE JJWC SHALL CONDUCT A STUDY ON THE AGE OF
DISCERNMENT OF FILIPINO CHILDREN EVERY THREE (3) YEARS
WHICH SHALL PROVIDE THE BASIS FOR LEGISLATIVE REVIEW OF
THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY.**

X X X

([h]) (I) Through duly designated persons X X X

([i]) (J) To initiate and coordinate the conduct of training X X X

([j]) (K) To submit an annual report X X X

([k]) (L) To perform such other functions X X X"

SEC. 5. 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,

OR ABOVE FIFTEEN (15) YEARS OF AGE BUT BELOW EIGHTEEN (18) YEARS OF AGE WHO ACTED WITHOUT DISCERNMENT, 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.** [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 CHILD HAS BEEN FOUND BY THE LSWDO TO BE DEPENDENT, ABANDONED OR NEGLECTED AND THE BEST INTEREST OF THE**

CHILD REQUIRES THAT HE OR SHE BE PLACED IN A YOUTH CARE FACILITY, 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 CARE FACILITY 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, OR ABOVE FIFTEEN (15) YEARS OF AGE BUT BELOW EIGHTEEN (18) YEARS OF AGE WHO ACTED WITHOUT DISCERNMENT, 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 AN INTENSIVE INTERVENTION PROGRAM 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 CARE FACILITY, THE CHILD'S PARENTS OR

GUARDIANS SHALL EXECUTE A WRITTEN AUTHORIZATION FOR THE VOLUNTARY COMMITMENT OF THE CHILD; PROVIDED FURTHER, 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 CARE FACILITY 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 , OR ABOVE FIFTEEN (15) YEARS OF AGE BUT BELOW EIGHTEEN (18) YEARS OF AGE WHO ACTED WITHOUT DISCERNMENT, AND WHO COMMITS 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, HE OR SHE SHALL BE

PLACED IN A YOUTH CARE FACILITY. 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 CARE FACILITY 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.* - THE VICTIM OF THE OFFENSE COMMITTED BY A CHILD AND THE VICTIM'S FAMILY SHALL BE PROVIDED THE APPROPRIATE ASSISTANCE AND PSYCHOSOCIAL INTERVENTION BY THE LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER AND THE DEPARTMENT OF SOCIAL WELFARE AND

DEVELOPMENT."

SEC. 6. 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.

X X X

THE LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER 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) X X X

SEC. 7. 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:

X X X

Upon determination of probable cause by the prosecutor, the information against the child shall be filed before the Family Court **OR THE REGIONAL**

TRIAL COURT WHEN THERE IS NO DESIGNATED FAMILY COURT within forty-five (45) days from the start of the preliminary investigation. **THE INFORMATION MUST ALLEGE THAT THE CHILD ACTED WITH DISCERNMENT."**

SEC. 8. A new section shall be inserted after Section 57 of Republic Act No. 9344, which shall read as follows:

"SEC. 57. *Status Offenses.* - X X X

SEC. 57-A. VIOLATIONS OF LOCAL ORDINANCES. - ORDINANCES ENACTED BY LOCAL GOVERNMENTS OVER STATUS OFFENSES SUCH AS, BUT NOT LIMITED TO, CURFEW VIOLATIONS, TRUANCY, PARENTAL DISOBEDIENCE, ANTI-SMOKING AND ANTI-DRINKING LAWS, AS WELL AS LIGHT OFFENSES AND MISDEMEANORS AGAINST PUBLIC ORDER OR SAFETY SUCH AS, BUT NOT LIMITED TO, DISORDERLY CONDUCT, PUBLIC SCANDAL, HARASSMENT, DRUNKENNESS, PUBLIC INTOXICATION, CRIMINAL NUISANCE, VAGRANCY, VANDALISM, GAMBLING, MENDICANCY, LITTERING, PUBLIC URINATION, AND TRESPASSING, SHALL BE FOR THE PROTECTION OF CHILDREN. NO PENALTY SHALL BE IMPOSED ON CHILDREN FOR SAID VIOLATIONS, AND THE CHILD SHALL INSTEAD BE BROUGHT TO HIS OR HER RESIDENCE OR TO THE BARANGAY HALL TO BE FETCHED BY HIS OR HER PARENTS. APPROPRIATE INTERVENTION PROGRAMS SHALL BE PROVIDED FOR IN SUCH ORDINANCES."

SEC. 9. Section 63 of the same Act is hereby amended to read as follows:

"SEC. 63. **Appropriations.** - The amount necessary to carry out the initial implementation of this Act shall be charged to the Office of the President. [Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the succeeding General Appropriations Act.] **TO**

ENSURE THE EFFECTIVE AND MEANINGFUL IMPLEMENTATION OF THIS ACT THE COUNCIL SHALL HAVE A SEPARATE ANNUAL APPROPRIATION APPROVED BY THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT (DSWD) WHICH SHALL BE PROVIDED IN THE GENERAL APPROPRIATIONS ACT STARTING IN THE FISCAL YEAR IMMEDIATELY FOLLOWING THE APPROVAL OF THIS ACT. THE COUNCIL MAY ALSO ACCEPT CONTRIBUTIONS FROM THE PRIVATE SECTOR."

SEC. 10. *Rule Making Power.* - The JJWC shall issue the appropriate Implementing Rules and Regulations (IRRs) for the implementation of the provisions of this Act within ninety (90) days from the effectivity hereof.

SEC. 11. *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.

SEC. 12. *Repealing Clause.* - All laws, decrees or rules inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 13. *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,