

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3815

Introduced by Honorable Jerry P. Treñas

EXPLANATORY NOTE

We live in dangerous times. Today, our criminals are becoming younger, more cunning, and less concerned about the legal repercussions of their actions. In order to advance their evil interests and motives, the scoundrels of our society have opted to take advantage of the youth.

Minors have been recruited to join criminal juvenile organizations under the guise of being called “fraternities” or any other moniker that gives these lawless groups a semblance of legitimacy in Philippine society. Truth to tell, these groups are nothing but street gangs, most of which are probably under the control of criminal syndicates. The youth of our nation are being used as pawns in order to do the dirty work of society’s most vicious criminals.

The number of juvenile offenders has risen, and there is no secret to the reason behind it. Minors are being recruited to join these gangs in order to commit crimes because criminal liabilities do not attach to those below the age of majority. The Juvenile Justice and Welfare Act of 2006¹ exempts minors 15 years of age and below from criminal liability, and only allows criminal punishment for minors above 15 to below 18 years of age if it is proven that they acted with discernment. Unfortunately, criminals have taken advantage of this law by employing minors to do their bidding.

¹ Republic Act No. 9344 (April 28, 2006)

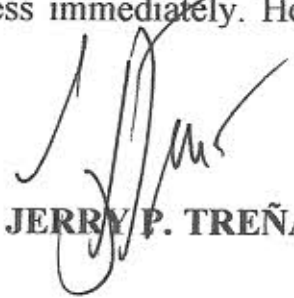
The State is mandated by the Constitution to protect the people and maintain peace and order.² Moreover, the State must ensure the physical, moral, spiritual, intellectual, and social well-being of the youth.³ The prevalence of criminal activities by the youth who are members of criminal juvenile organizations, coupled with the immunity granted by the Juvenile Justice and Welfare Act, is contrary to the letter and spirit of our very own Constitution.

This bill seeks to deter the youth from joining criminal juvenile organizations by allowing criminal liability to attach to minors who commit criminal acts in connection with their membership to a particular gang, or as part of their initiation rites to enter such a felonious organization. Minors aged 12 and above who commit felonies classified as grave by the Revised Penal Code (such as Murder and Rape) shall be legally presumed to have acted with discernment, as they are already old enough to know right from wrong, considering that grave felonies are universally condemned by civilized societies worldwide. In addition, the masterminds and officers of these criminal juvenile organizations shall be severely punished under this bill, without prejudice to any other penalties that may be imparted upon them through other existing laws. Moreover, persons who encourage youngsters to join these gangs, including their parents, shall likewise be held accountable.

In order to further deter criminality among the youth, this bill shall also penalize the parents or guardian of a child who commands, encourages, or allows him or her to commit any criminal act or to be an accomplice or accessory in any criminal activity.

Gangs recruiting minors and requiring them to kill people as part of their initiation rites are already prevalent in the United States and Latin America. It seems that this deplorable culture of introducing children to violence and lawlessness had already reached Philippine shores.

It is imperative that we put a stop to this madness immediately. Hence, I highly encourage the approval of this bill.



JERRY P. TREÑAS

² Sections 4 and 5, Article II. The 1987 Philippine Constitution.

³ Section 13, Article II. The 1987 Philippine Constitution.

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AN ACT
SHIELDING THE FILIPINO YOUTH FROM ORGANIZED CRIMINAL
ACTIVITIES, IMPOSING CRIMINAL PENALTIES UPON OFFENDERS
BELONGING TO A CRIMINAL JUVENILE ORGANIZATION AGED 12
AND ABOVE WHO ACTED WITH DISCERNMENT, IMPOSING
PENALTIES UPON ANY PERSON INVOLVED IN ANY CRIMINAL
JUVENILE ORGANIZATION THAT TOLERATES ANY CRIMINAL ACT
AS PART OF ITS AUTHORIZED ACTIVITIES OR INITIATION RIGHTS,
AND PENALIZING THE PARENTS OR GUARDIANS OF A CHILD
COMMANDED, ENCOURAGED OR ALLOWED TO PARTICIPATE IN
ANY CRIMINAL ACT.

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

Section 1. **Short Title** – This Act shall be known as the “Protection Against Juvenile Criminal Exploitation Act”.

Section 2. **Declaration of Policy** – It is the policy of the State to serve and protect its people, to promote peace and order, and to protect the physical, moral, spiritual, and intellectual well-being of the youth.

Section 3. **Objectives** – This act aims to abate the prevailing rampant criminality all over the country, exacerbated by the increasing number of criminal juvenile organizations composed of minors, which requires the commission of felonious acts as part of their regular activities and initiation rights. In addition, this act shall impose stringent penalties against the masterminds and officers of such criminal organization who are found guilty of abetting criminal activities performed by their juvenile members. Moreover, this act shall penalize the parents or ward of the child which commanded, encouraged or allowed the minor to commit a criminal act.

Section 4. **Definition of Terms** –

- a.) **Criminal Juvenile Organizations** – A group of individuals, either publicly acknowledging itself as an existing organization or operating as an underground belligerent society, which is composed of at least one member below the age of majority, and requires or abets the commission of criminal acts as part of its activities and/or initiation rites.
- b.) **Members of a Criminal Juvenile Organization** – Any person, regardless of age, which is a part of a criminal juvenile organization by virtue of being subjected to an initiation rite and/or by participating

with any of its criminal activities, is deemed a member of a criminal juvenile organization.

- c.) Officers of a Criminal Juvenile Organization – Any person, who must be a member of a criminal juvenile organization, who is considered an officer or is occupying a leadership position within such an organization, is deemed an officer of a criminal juvenile organization.
- d.) Masterminds of a Criminal Juvenile Organization – Any person, who may or may not be a member of a criminal juvenile organization, who conceptualized and/or instituted such an organization, and/or otherwise benefits from the fruits of the illegal activities of a criminal juvenile organization, is deemed a mastermind of a criminal juvenile organization.
- e.) Parents of a Member of a Criminal Juvenile Organization – The mother and father of a minor member of a criminal juvenile organization, or in the absence of both, the legal guardian of a minor member of such an organization, is considered as a parent of a member of a criminal juvenile organization.
- f.) Criminal Acts – Any activity which is considered a felony under the Revised Penal Code or a prohibited act under special penal laws.

g.) Initiation Rite - A ritual imposed by a criminal juvenile organization which requires the commission of certain acts by its neophytes as prerequisites in order to attain membership.

Section 5. **Prohibited Acts** – The following acts are punishable under this law:

- a.) The commission of any criminal act considered as a felony by the Revised Penal Code or as a crime by any special penal law by a minor, performed in connection with the minor's membership in a criminal juvenile organization.
- b.) The commission of any criminal act considered as a felony by the Revised Penal Code or as a crime by any special penal law by a minor, performed in connection with the minor's initiation rite in order to gain membership in a criminal juvenile organization.
- c.) The creation and maintenance of a criminal juvenile organization, for the purpose of using minors to commit any criminal act under existing laws.
- d.) Profiting from the operations and activities of a criminal juvenile organization.
- e.) Organizing and/or facilitating an initiation rite which requires the commission by a minor of a criminal act.

- f.) Commanding or encouraging a minor member of a criminal juvenile organization to perform a criminal act.
- g.) Recruiting any minor to join a criminal juvenile organization.
- h.) Allowing a natural or adopted child, or a ward of a legal guardian, to join a criminal juvenile organization and/or to participate in any illegal activity of a criminal juvenile organization.
- i.) Commanding, encouraging or allowing a natural or adopted child, or a ward of a legal guardian, to commit any criminal act considered as a felony by the Revised Penal Code or as a crime by any special penal law, or to be involved as an accomplice or accessory in any criminal activity. The parents or legal guardian of a child who violates this subsection shall be liable even if the child is not a member of a criminal juvenile organization.

Section 6. **Persons Punishable** – The provisions of this law shall apply to any person committing any of the prohibited acts in the immediately preceding section. Criminal liability shall attach to minors aged 12 and above who acted with discernment.

Section 7. **Presumption of Discernment** – Any minor who belongs to a criminal juvenile organization, aged 12 and above, who performs a grave felony, as defined by the Revised Penal Code, or a prohibited act punishable by death or life

imprisonment under special penal laws, is presumed to have acted with discernment upon commission of such criminal act.

Section 8. **Penalties** – The following penalties shall be imparted upon a person convicted of the acts enumerated under Section 5 of this act:

- a.) Persons found guilty of Sections 5(a) or (b) shall be sentenced to one (1) year imprisonment in addition to the actual penalty for the crime committed by the minor; *provided* that in case the prohibited act committed by the minor is a felony punishable under the Revised Penal Code, a violation of Sections 5(a) or (b) shall also be treated as a generic aggravating circumstance in determining the sentence for the crime committed.
- b.) Persons found guilty of Section 5(c), (d), (e), and (f) shall be sentenced to ten (10) years imprisonment; *provided* that officers of criminal juvenile organizations shall be sentenced to fifteen (15) years imprisonment; *provided further*, that masterminds of criminal organizations shall be sentenced to twenty (20) years imprisonment; *provided finally*, that the aforementioned penalties shall be *without prejudice* to additional penalties that may be imposed if the person is also found to be a principal by inducement or to be in conspiracy in

any crime that was committed by any member of a criminal juvenile organization.

- c.) Persons found guilty of Section 5(g) shall be sentenced to two (2) years imprisonment; *provided* that if the person found guilty is a parent of the minor child, he or she shall lose custody of the minor child prodded to join a criminal juvenile organization.
- d.) Persons found guilty of Section 5(h) shall be sentenced to six (6) months imprisonment and shall lose custody of the minor child who joined the criminal juvenile organization.
- e.) Persons found guilty of Section 5(i) who commands or encourages a child to commit any criminal act shall be sentenced to ten (10) years imprisonment, while persons found guilty of the same subsection who allows a child to commit any criminal act shall be sentenced to five (5) years imprisonment; *provided* that the aforementioned penalties shall be *without prejudice* to additional penalties that may be imposed if the person is also found to be a principal by inducement or to be in conspiracy in any crime that was committed by his or her child or ward.

Section 9. Revised Penal Code to Apply Suppletorily. – The provisions of the Revised Penal Code shall apply suppletorily to this act.

Section 10. **Separability Clause.** – If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in full force and effect.

Section 11. **Repealing Clause.** – All laws, decrees, orders, rules and regulations or other issuances inconsistent with the provisions of this act are hereby repealed, amended or modified accordingly.

Section 12. **Effectivity.** – This Act shall take effect fifteen (15) days after publication in two (2) national newspapers of general circulation.

Approved,