

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



FIFTEENTH (15th) CONGRESS
Second Regular Session

House Bill No. 6047

Introduced by **Pastor M. Alcover Jr.**

EXPLANATORY NOTE

This Bill seeks to lower the minimum age of criminal responsibility for juvenile delinquents by amending certain provisions of Republic Act No. 9344, otherwise known as "The Juvenile Justice and Welfare Act of 2006."

Since R.A. 9344 took effect, many law enforcement personnel have complained that they felt powerless to take action on the public clamor to reign in on the rising incidents of crimes perpetrated by under-aged offenders. They are also of the opinion that instead of providing protection to children, R.A. 9344 poses more hazards to them as the law exposes them to greater danger of being used by criminal elements to be the ones to carry out the criminal activities of the latter as the law provides them with immunity from criminal liability once they get caught by law enforcement officers.

While the proponents of R.A. 9344 have argued that the age of criminal responsibility provided by the said law was not randomly selected but was rather based on a study conducted which showed that children with formal education usually reached the stage of discernment at age 15, while out of school youths matured much later at 18, the issue of whether the result of the said study is conclusive or not, however, remains to be resolved.

Age of discernment, as commonly understood, is that stage in human life where a person is already able to determine whether his or her actions are right or wrong. With the advent of modern technologies and their easy accessibility to our youths, in school and out of school alike, such as the internet, social media, the cell phones and the likes, information nowadays

travel so fast and every day, thousands of information flood into and are processed by the brains of our youths. As a result, they are well-informed now and more intelligent compared to their counterparts 15 or 10 years ago. So if the brain of a 15-year old teenager now is able to process thousands of complex information that come into it every day, it is hard to imagine that such the same brain is unable to perform the simple function of determining whether an action is right or wrong.

In view of the foregoing, and in response to the mounting clamor of law enforcement and peace loving citizens alike, approval of this bill is highly recommended.



HON. PASTOR M. ALCOVER JR.

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Introduced by **Hon. Pastor M. Alcover Jr.**

AN ACT

**LOWERING THE AGE OF CRIMINAL RESPONSIBILITY FOR JUVENILE DELINQUENTS
AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 9344,
OTHERWISE KNOWN AS "THE JUVENILE JUSTICE AND WELFARE ACT OF 2006"**

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

SECTION 1. Section 4 (e) of Republic Act No. 9344, otherwise known as the "Juvenile
Justice and Welfare Act of 2006 is hereby amended to read as follows:

"SEC. 4. Definition of Terms. - The following terms as used in this Act shall be
defined as follows:

(a) xxx xxx xxx

(b) xxx xxx xxx

(e) "Child" refers to a person under the age of [eighteen (18)] **FIFTEEN (15)**
years."

Xxx xxx xxxx

SEC. 2. Section 6 of the same Act is hereby likewise amended to read as follows:

"SEC. 6. Minimum Age of Criminal Responsibility. - A child [fifteen (15)] **NINE**
(9) 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 above [fifteen (15)] **NINE (9)** years but below [eighteen (18)] **FIFTEEN**
(15) 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."

SEC. 3. Section 7 of R.A. No. 9344 is also hereby amended to read as follows:

"SEC. 7. Determination of Age. - The child in conflict with the law shall enjoy the presumption of minority. He/She shall enjoy all the rights of a child in conflict with the law until he/she is proven to be [eighteen (18)] **FIFTEEN (15)** years old or older. The age of a child may be determined from the child's birth certificate, baptismal certificate or any other pertinent documents. In the absence of these documents, age may be based on information from the child himself/herself, testimonies of other persons, the physical appearance of the child and other relevant evidence. In case of doubt as to the age of the child, it shall be resolved in his/her favor.

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

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

In all proceedings, law enforcement officers, prosecutors, judges and other government officials concerned shall exert all efforts at determining the age of the child in conflict with the law."

SEC. 4. Section 20 of R.A. 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)] **NINE (9)** years old or below, 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."

SEC. 5. Section 22 of R.A. 9344 is also 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 [fifteen (15)] **NINE (9)** years or below or above [fifteen (15)] **NINE (9)** but below [eighteen (18)] **FIFTEEN (15)** years old, who acted without discernment; [and]

(b) If the child is above [fifteen (15)] **NINE (9)** years old but below [eighteen (18)] **FIFTEEN (15)** and who acted with discernment, proceed to diversion under the following chapter[.]; **AND**

(C) IF THE CHILD IS FIFTEEN (15) YEARS OLD OR ABOVE BUT BELOW EIGHTEEN (18) YEARS OLD, PROCEED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER III OF P.D. NO.603, OTHERWISE KNOWN AS "THE CHILD AND YOUTH WELFARE CODE."

SEC.6. Section 38 of R.A. 9344 is hereby likewise amended to read as follows:

"SEC. 38. Automatic Suspension of Sentence. - Once the child who is under [eighteen (18)] **FIFTEEN (15)** years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed.

However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: *Provided, however,* That suspension of sentence shall [still] be applied [even] if the juvenile is already [eighteen (18) **FIFTEEN (15)** years of age or more **BUT BELOW NINETEEN (19)** at the time of the pronouncement of his/her guilt.

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law."

SEC. 7. All laws, decrees, executive orders, letters of instructions, rules and regulations or parts thereof which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 8. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) national newspapers of general circulation.

APPROVED