

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

SIXTEENTH CONGRESS
Second Regular Session

House Bill No. **5896**



Introduced by Honorable Sherwin T. Gatchalian

EXPLANATORY NOTE

The youth are the foundation of our country's future. The hope of every State is the education of its youth. It is therefore unfortunate that many of our children are denied the opportunity to pursue a quality education, if not, have an education at all.

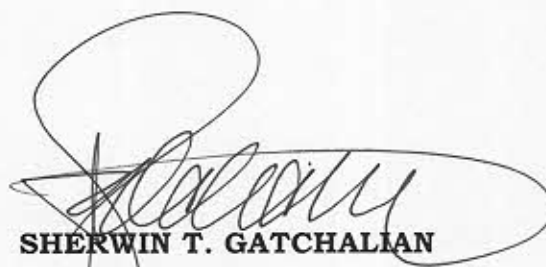
According to a Study conducted by the Philippine Statistics Authority last 2010, there are 6.24 million out-of-school youth that year, mainly due to a lack of personal interest to go to school, followed by the high cost of education and the desire to work. Another study conducted by the World Bank entitled "Out-of-School Children and Youth in the Philippines: Issues and Opportunities", "It is estimated that there are currently between 8 and 10 million out-of-school youth in the Philippines, and that their number has trebled in the last decade."

Furthermore, according to the study, the largest number of out-of-school youth is concentrated in the National Capital Region. However, the highest rates of increase of out-of-school youth populations and the highest drop-out rates, particularly in elementary school, have been in the provinces of Mindanao and ARMM. This only shows that the problem of out-of-school youth is not limited to the National Capital Region but is now spreading across the other regions in the country.

The problem of out-of-school youth is an undeniable reality that currently confronts our State. Hence it is the duty of Congress to pass laws that will curve the number of out-of-school youth and protect their rights as provided for by the Constitution. To this end, this measure seeks to provide for a Magna Carta of the out-of-school youth that will expound their rights. More importantly, this Act shall mandate an affirmative action program by the

government to ensure the welfare of out-of-school youth and enhance their quality of life.

In the interest of justice and social equity and for the future of this country, support for the passage and approval of this legislation is earnestly sought.



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AN ACT
PROVIDING FOR THE MAGNA CARTA OF THE OUT-OF-SCHOOL YOUTH

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

CHAPTER I
GENERAL PROVISIONS

SECTION 1. **Short Title.** – This Act shall be known as the “*Magna Carta of the Out-of-School-Youth.*”

SEC. 2. **Declaration of Policies.** – It is hereby declared that the State values the dignity of every human person and guarantees full respect for human rights. The State therefore recognizes the right of Out-of-School Youth to social protection and development. Towards this end, the State shall promulgate measures to achieve the following objectives:

- a) Inspire and encourage the out-of-school youth to contribute to nation building;
- b) Recognize the rights of out-of-school youth in the society;
- c) Provide an Alternative Learning System and a program for technical or vocational education for the out-of-school youth;
- d) Give full support to the improvement of the total well-being of the out-of-school youth by providing educational development and employment opportunities; and

- e) Recognize the important role of the private sector in the improvement of the welfare of out-of-school youth and to actively seek their partnership.

CHAPTER II

DEFINITION OF TERMS

SEC 3. **Definitions.** – As used in this Act:

- a) *Alternative Learning System* refers to a parallel learning system in the Philippines that provides a practical option to the existing formal instruction. It includes both the non-formal and informal sources of knowledge and skills;
- b) *Out-of-school Youth* refers to family members 6 to 17 years old who are not attending formal school and family members 18 to 24 years old who are currently out of school, not gainfully employed and have not finished college or post-secondary course;
- c) *Social protection* refers to policies and programs that seek to reduce poverty and vulnerability to risks and enhance the social status and rights of all out-of-school-youth by promoting and protecting livelihood and employment, protecting against hazards and sudden loss of income, and improving people's capacity to manage risk. Its components are labor market programs, social insurance, social welfare, and social safety nets;
- d) *Substantive equality* refers to the full and equal enjoyment of rights and freedoms contemplated under this Act and encompasses *de jure* and *de facto* equality and also equality in outcomes;
- e) *Technical/Vocational education* refers to training for a specific occupation in agriculture, trade, or industry through a combination of theoretical teaching and practical experience provided by many high schools in their commercial and technical divisions, and by special institutions of collegiate standing; and
- f) *TESDA Graduate* shall refer to out-of-school youth who completed a vocational/technical course with the Technical Education and Skills Development Authority (TESDA).

CHAPTER III

DUTIES RELATED TO THE HUMAN RIGHTS OF OUT-OF-SCHOOL-YOUTH

SEC. 4. *The State as the Primary Duty-Bearer.* – The State, as the primary duty-bearer, shall:

- a) Refrain from discriminating against out-of-school youth and violating their rights;
- b) Protect the out-of-school youth against discrimination and from violation of their rights by private corporations, entities, and individuals; and
- c) Promote and fulfill the rights of out-of-school youth in all spheres, including their rights to substantive equality and non-discrimination.

The State shall fulfill these duties through law, policy, regulatory instruments, administrative guidelines, and other appropriate measures, including temporary special measures.

The State shall keep abreast with and be guided by progressive developments in human rights of out-of-school youth under international law and design of policies, laws, and other measures to promote the objectives of this Act.

SEC. 5. *Duties of the State Agencies and Instrumentalities.* – The duties of the State as stated in Section 4 of this Act shall extend to all state agencies, offices, and instrumentalities at all levels and government-owned and -controlled corporations, subject to the Constitution and pertinent laws, policies, or administrative guidelines that define specific duties of state agencies and entities concerned.

CHAPTER IV

RIGHTS AND EMPOWERMENT

SEC. 6. *Human Rights of Out-of-School Youth.* – All rights in the Constitution and those rights recognized under international instruments duly signed and ratified by the Philippines, in consonance with Philippine law, shall be rights of out-of-school youth under this Act to be enjoyed without discrimination.

SEC. 7. ***Protection from Violence.*** – The State shall ensure that all out-of-school youth shall be protected from all forms of violence particularly cases of physical abuse, sexual exploitation and human trafficking as provided for in existing laws. Agencies of government shall give priority to the defense and protection of out-of-school youth and help them to attain justice and healing.

SEC 8. ***Equal Treatment before the Law.*** – The State shall take steps to review and, when necessary, amend or repeal existing laws that are discriminatory to out-of-school youth.

SEC 9. ***Non-discriminatory and Non-derogatory Portrayal of Out-of-School Youth in Media and Film.*** – The State shall formulate policies and programs for the advancement of out-of-school youth in collaboration with government and nongovernment media-related organizations.

For this purpose, the State shall ensure allocation of space, airtime, and resources, strengthen programming, production, and image-making that appropriately present out-of-school youth 's needs, issues, and concerns in all forms of media, communication, information dissemination, and advertising.

SEC. 10. ***Recognition and Preservation of Cultural Identity and Integrity.*** – The State shall recognize and respect the rights of Moro and indigenous out-of-school youth to practice, promote, protect, and preserve their own culture, traditions, and institutions and to consider these rights in the formulation and implementation of national policies and programs. To this end, the State shall adopt measures in consultation with the sectors concerned to protect their rights, their indigenous knowledge systems and practices, traditional livelihood, and other manifestations of their cultures and ways of life: *Provided*, That these cultural systems and practices are not discriminatory to the out-of-school youth.

CHAPTER V GOVERNMENT ASSISTANCE AND SUPPORT

SEC. 11. ***Government Assistance.*** – The National Government, through its agencies and instrumentalities shall provide the following:

- a) Education – The Department of Education (DepEd), TESDA and the Commission on Higher Education (CHED), in consultation with non-government organizations (NGOs) shall institute a program that will ensure access to formal and non-formal education;

b) Health – The Department of Health (DOH), in coordination with local government units (LGUs), and NGOs shall institute a national health program and shall provide an integral health service for out-of-school youth;

c) Social Services – The Department of Social Welfare and Development (DSWD), in cooperation with the Out-of-School Youth and Welfare Council created under Section 28 of this Act, LGUs, and NGOs shall develop and implement programs on social services for out-of-school youth, the components of which are:

1) *Social enhancement services* which provide the out-of-school youth with opportunities for socializing, organizing creative expression, and improvement of self;

2) *After Care Services* for out-of-school youth who are discharged from the homes or institutions of the DSWD, especially those who have problems of reintegration with family and community.

d) Employment – The Department of Labor and Employment (DOLE), in coordination with other government agencies such as, but not limited to, the Technology and Livelihood Resource Center (TLRC) and the Department of Trade and Industry (DTI), shall assess, design, and implement training programs that will provide skills and welfare or livelihood support for out-of-school youth.

CHAPTER VI

MANDATORY TECHNICAL AND VOCATIONAL EDUCATION

SEC. 12. ***Mandatory Technical/Vocational Education.*** – It shall be the duty of the State to provide mandatory technical or vocational education to the out-of-school youth. The course shall be regulated by TESDA and shall be for a period of at least six (6) months.

SEC. 13. ***Alternative Learning System.*** – The Alternative Learning Mode of Education shall be made available to out-of-school youth in the barangays.

Out-of-school youth who are in the custody of a home or an institution managed by the DSWD, the latter shall conduct the Alternative Learning System under its premises.

SEC. 14. **Cost of Education.** – The cost of the technical or vocational education shall be provided for by the government and shall be free of charge to the out-of-school youth.

SEC. 15. **Educational Support.** – The State shall provide for all the materials, instruments and tools that the out-of-school youth may need while enrolled in the technical or vocational education.

SEC. 16. **Entrepreneurial Education.** The TESDA shall conduct a training program to provide the out-of-school youth with the knowledge, skills and motivation to encourage entrepreneurial success. The program shall include small business management education and new approaches on how to promote innovation or introduce new products or services to the markets.

SEC. 17. **TESDA Adviser.** – A TESDA officer shall be assigned to monitor the progress and development of the out-of-school youth in the chosen technical/vocational course.

SEC. 18. **Promotion to Formal Tertiary Education.** – The TESDA adviser, subject to review by the Out-of-School Youth Welfare Council, as provided for in Section 28 of this Act, may recommend an out-of-school youth to be a recipient of a scholarship grant from the CHED.

SEC. 19. **Scholarship.** – The out-of-school youth shall be provided a scholarship grant by the CHED. The scholarship shall include tuition fee, boarding allowance and a monthly stipend.

SEC. 20. **Scholarship Bond.** – The out-of-school youth who avails of the scholarship grant from the government shall execute a scholarship bond. The scholarship bond shall provide that upon successfully completing tertiary education, the out-of-school youth shall render service to the government for at least two (2) years.

CHAPTER VII

EMPLOYMENT AND ENTREPRENEURIAL FACILITATION

SEC. 21. **Employment.** – Out-of-school youth who have the capacity and desire to work shall be provided employment opportunities to enable them to be productive members of the society.

SEC. 22. **Entrepreneurial Facilitation.** – The State shall establish a community-based method of addressing the needs and barriers facing out-of-school youth entrepreneurs. The objective of entrepreneurial facilitation is to encourage and retain a diverse and robust local entrepreneurial economy that leads to more opportunities for the Out-of-School Youth.

SEC. 23. **Right to Decent Work.** – The State shall progressively realize and ensure decent work standards for TESDA graduates, which involve the creation of jobs of acceptable quality in conditions of freedom, equity, security, and human dignity.

The State shall further ensure:

- a) Decent work involves opportunities for work that are productive and fairly remunerative as family living wage, security in the workplace, and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize, participate in the decisions that affect their lives, and equality of opportunity and treatment for all women and men; and
- b) That the State shall exert all efforts to address the causes of out-migration, in recognition of the temporary nature of overseas work, by developing local employment and other economic opportunities for TESDA graduates and by introducing measures to curb violence and forced and involuntary displacement of local employees. The State shall ensure the protection and promotion of the rights and welfare of migrant TESDA graduates regardless of their work status, and protect them against discrimination in wages, conditions of work, and employment opportunities in host countries.

SEC. 24. **Social Protection.** –

- a) The State shall ensure that out-of-school youth workers and TESDA graduates shall have a mandatory life, accident and health insurance coverage to be provided for by their employer.
- b) The State shall institute policies and programs that seek to reduce the poverty and vulnerability to risks and enhance the social status and rights of out-of-school youth by promoting and protecting livelihood and employment, protecting against hazards and sudden loss of income, and improving people's capacity to manage risks.

- c) The State shall establish a health insurance program for the out-of-school youth.

CHAPTER VIII ESPECIALLY DIFFICULT CIRCUMSTANCE

SEC. 25. ***Especially Difficult Circumstance.*** – Out-of-school youth who are in especially difficult circumstances such as victims and survivors of sexual and physical abuse, illegal recruitment, prostitution, trafficking, armed conflict, out-of-school youth in detention, victims and survivors of rape and incest, and such other related circumstances which have incapacitated them functionally, shall be provided with services and interventions as necessary such as, but not limited to, the following:

- a) Temporary and protective custody
- b) Medical and dental services
- c) Psychological evaluation
- d) Counselling
- e) Psychiatric evaluation
- f) Legal services
- g) Productivity skill capability building
- h) Livelihood assistance
- i) Financial assistance

SEC. 26. ***Inter-agency Support.*** – The OSYWC shall ensure that the out-of-school youth in especially difficult circumstances will be provided for with the aforementioned interventions and services when necessary. The DSWD, DOJ and DOH in coordination with the appropriate LGU shall lead the rehabilitation of the out-of-school youth.

SEC. 27. ***Duty of the LGU.*** – It is the duty of the LGU where the out-of-school youth resides to deliver the necessary services and interventions under their respective jurisdictions.

CHAPTER IX
ADMINISTRATION AND ENFORCEMENT

SEC. 28. ***Out-of-School Youth Welfare Council; Board of Directors.*** – There is hereby established an inter-agency council known as the Out-of-School Youth Welfare Council (OSYWC). Its administration shall be vested exclusively in its Board of Directors which shall be composed of the following:

- a) Secretary of Social Welfare and Development or a duly authorized representative, as chairperson;
- b) Secretary of Education or a duly authorized representative, as vice-chairperson;
- c) Secretary of Health or a duly authorized representative, as member;
- d) Secretary of Labor and Employment or a duly authorized representative, as member;
- e) Director General of the Technical Education and Skills Development Authority or a duly authorized representative, as member;
- f) Chairperson of the National Youth Commission or a duly authorized representative, as member;
- g) Two (2) representatives from the private sector, as members; and
- h) One (1) representative from an NGO known for its work and advocacy in promoting the rights and welfare of out-of-school youth, as member.

The members of the Board from the private sector and from a recognized NGO shall be appointed by the President for a term of three (3) years and are eligible for reappointment to another term.

The DSWD shall establish the necessary secretariat for the Council.

SEC. 29. ***Powers and Responsibilities.*** – The OSYWC shall exercise the following powers and functions:

- a) To plan, implement, and monitor yearly work programs in pursuance to the objectives of this Act;
- b) To provide funds and supervision for provincial and municipal offices for the implementation of this Act.

c) To assist the out-of-school youth in filing complaints or charges against any person, establishment, institution, or agency refusing to comply with the rights under this Act before the Department of Justice (DOJ) or the appropriate courts.

SEC. 30. **Responsibility of Local Governments.** - It shall be the responsibility of the local chief executive of the cities or municipalities to ensure the effective implementation of the provisions of this Act.

SEC.31. **Out-of-school Youth Office (OSYO).** - There may be established in cities and municipalities, if they deem it necessary, an out-of-school youth office to be headed by a person known to be an advocate in promoting the rights and welfare of out-of-school youth, to be appointed by the municipal or city mayor. The term of office of the head of the OSYO shall be coterminous with the appointing authority unless sooner removed for causes mentioned in the civil service rules and regulations.

The head of the OSYO shall be entitled to receive an honorarium of an amount at least equivalent to Salary Grade 10 to be approved and appropriated for in an ordinance by the LGU concerned.

The head of the OSYO shall be assisted by the City Social Welfare and Development Officer, in coordination with the Social Welfare and Development Office.

The Office of the Mayor shall exercise supervision over the OSYO relative to their plans, activities and programs for the out-of-school youth. The OSYO shall work together and establish linkages with accredited NGOs and the barangays in their respective areas.

The OSYO shall have the following functions:

- a) To draw up a list of available and required services which can be provided for out-of-school youth;
- b) To maintain and regularly update on an annual basis the list of out-of-school youth and to issue nationally uniform individual identification cards, free of charge, which shall be valid anywhere in the country;
- c) To service as a general information and liaison center to serve the needs of the out-of-school youth;

d) To coordinate with the OSYWC and monitor compliance of the provisions of this Act;

e) To report to the mayor, any individual, establishments, business entity, institutions or agency found violating any provision of this Act; and

f) To require all establishments covered by this Act to prominently display posters, stickers, and other notices that will generate public awareness on the right and welfare of out-of-school youth and to ensure that the provisions of this Act are implemented to its fullest.

SEC 32. *Role of Non-Government Organizations.* – Non-government organizations or private volunteer organizations dedicated to the promotion, enhancement, and support of the welfare of out-of-school youth are hereby encouraged to become partners of government in the implementation of programs and projects for the out-of-school youth.

CHAPTER X FINAL PROVISIONS

SEC 33. *Penalties.* – Any person who violates any provision of this Act shall, upon conviction, suffer the following penalties:

a) For the first violation, imprisonment of not less than six (6) months but not more than two (2) years and fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00);

b) For any subsequent violation, imprisonment of not less than two (2) years but not more than six (6) years and a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Two hundred thousand pesos (P200,000.00); and

c) Any person who avails of any of the benefits and privileges granted under this Act who is not qualified to avail the same, imprisonment of not less than six (6) months and fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00).

If the offender is a corporation, organization or any similar entity, the officials thereof directly involved in the violation or abuse shall be liable therefor.

If the offender is an alien or foreigner, he shall be deported immediately upon service of sentence without further proceedings.

Upon filing of the appropriate complaint or information, the proper authorities in coordination with the LGU shall cause the cancellation or revocation of the business permit, permit to operate, franchise and other similar privileges granted to any business entity or person that fails to abide by or violates the provisions of this Act.

SEC. 33. **Implementing Rules and Regulations.** – Within ninety (90) days from the effectivity of this Act, the Board of Directors of the Out of School Youth Welfare Council shall promulgate the implementing rules and regulations as may be necessary to ensure the efficient and effective implementation of this Act, in consultation with other stakeholders including NGOs or peoples organizations for the out-of-school youth duly accredited by the DSWD.

SEC. 34. **Appropriations.** – The necessary appropriations for the initial operation and maintenance of the OSYWC shall be appropriated from any available funds from the National Treasury. Thereafter, any such sums as may be needed for the continued implementation of this Act shall be included in the annual General Appropriations Act.

SEC. 35. **Separability Clause.** – Should any part of this Act be declared unconstitutional, the rest of the provisions of this Act not affected shall continue to be in effect and subsisting.

SEC. 36. **Repealing Clause.** – The provisions of other laws, decrees, executive orders, rules and regulations inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SEC. 37. **Effectivity.** – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,