

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 864



Introduced by Representative Ferdinand L. Hernandez

AN ACT EXPANDING THE SCOPE OF THE REFORMATION AND REHABILITATION OF CHILDREN IN CONFLICT WITH THE LAW AND STRENGTHENING THE SOCIAL REINTEGRATION PROGRAMS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9344, OTHERWISE KNOWN AS THE JUVENILE JUSTICE AND WELFARE ACT OF 2006

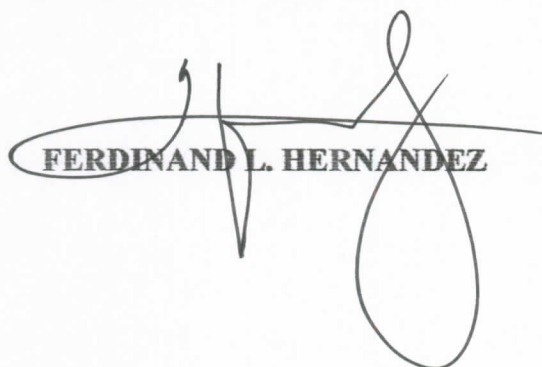
EXPLANATORY NOTE

The lack of funding of local governments has led to the establishment and maintenance of subpar “Bahay Pag-Asa” in each locality. Worse, many LGUs still do not have such facilities.

Meanwhile, children 12 years and below have been victimized by various syndicates, who abuse their immunity from criminal responsibility as a shield from the law.

This bill seeks to turn over the establishment and maintenance of the “Bahay Pag-Asa” to the National Government, through the DSWD, in order to have access to more funds. It also lowers the age of social responsibility for children in conflict with the law to 12, in order to protect them from unscrupulous syndicates who seek to use them for nefarious purposes.

Considering the rationale stated above, the approval of this Bill is earnestly sought.


FERDINAND L. HERNANDEZ

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THE PURPOSE 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 Philippines in Congress assembled:

Section 1. – Section 4(s) of Republic Act No. 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006, as amended by Republic Act No. 10630, is hereby further amended to read as follows:

“SECTION 4. *Definition of Terms.* The following terms as used in this Act shall be defined as follows:

x x x

(s) “Bahay Pag-asa” – refers to a 24-hour child caring institution established, funded, and managed by [local government units (LGUs)] THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT (DSWD) and licensed or accredited non-governmental organizations (NGOs) providing short-term residential care for children in conflict with the law who are [above fifteen (15)] TWELVE (12) YEARS OF AGE AND ABOVE but below eighteen (18) years of age who are COMMITTED FOR REHABILITATION OR awaiting court disposition of their cases or transfer to other agencies or jurisdictions.”

Section 2. – Section 6 of the same Act, as amended, is hereby further amended to read as follows:

“SEC. 6. Minimum Age of [Criminal] SOCIAL Responsibility OF CHILDREN IN CONFLICT WITH THE LAW. – A child [fifteen (15)] BELOW TWELVE (12) 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)] TWELVE (12) years of age on the day of the [fifteenth] TWELFTH anniversary of [his/her] THE CHILD'S birthdate.

A child above [fifteen (15)] TWELVE (12) years OF AGE AND ABOVE but below eighteen (18) years of age shall likewise be exempt from [criminal] liability and be subjected to an intervention program, unless [he/she] THE CHILD has acted with discernment, in which case, such child shall be subjected to the appropriate [proceedings] INTERVENTION AND DIVERSION 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 AND THIS ACT."

Section 3. – Section 20 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 20. Children IN CONFLICT WITH THE LAW Below the Age of [Criminal] SOCIAL Responsibility. – If it has been determined that the child taken into custody is [fifteen (15) years old or] below TWELVE YEARS OF AGE, 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, unless the best interest of the child requires the referral of the child to a youth care facility or 'Bahay Pag-asa' managed by [LGUs or licensed and/or accredited NGOs monitored by] the DSWD.

"The local social welfare and development officer shall determine the appropriate programs for the child who has been released, in consultation with the child and 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) A duly registered nongovernmental or religious organization;

"(b) A barangay official or a member of the Barangay Council for the Protection of Children (BCPC);

"(c) A local social welfare and development officer; [or, when and where appropriate, the DSWD.]

"(d) A FOSTER PARENT; or,

"(e) WHEN AND WHERE APPROPRIATE, THE DSWD

"THE PARENT, GUARDIAN, OR FOSTER PARENT WITH CUSTODY OVER THE CHILD SHALL LIKEWISE UNDERGO INTERVENTION PROGRAMS, INCLUDING PARENTING SEMINARS AND COUNSELLING, TO BE SUPERVISED BY THE LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER IN ORDER TO PROVIDE THE PRIMARY SUPPORT IN THE REHABILITATION AND SOCIAL REINTEGRATION OF THE CHILD."

"If [the child has been found by the local social welfare and development officer to be dependent, abandoned, neglected or abused by his/her parents and] the best interest of the child requires that [he/she] THE CHILD be placed in a youth care facility or 'Bahay Pag-asa', 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 (LSWDO) 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 or 'Bahay Pag-asa' shall be twelve (12) years old."

Section 4. – Section 20-A of the same Act, as amended, is hereby amended to read as follows:

"SEC. 20-A. Serious Crimes Committed by Children [Who Are Exempt From Criminal Responsibility.] IN CONFLICT WITH THE LAW – A child who is above twelve (12) years of age up to [fifteen (15)] EIGHTEEN (18) years of age 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 or offenses under Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002) punishable by more than twelve (12) years of imprisonment, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall be mandatorily placed in a special facility within the youth care facility or 'Bahay Pag-asa' called the Intensive Juvenile Intervention and Support Center (IJISC).

"In accordance with existing laws, rules, procedures and guidelines, the proper petition for involuntary commitment and placement under the IJISC shall be filed by the local social welfare and development officer of the LGU where the offense was committed, or by the DSWD social worker in the local social welfare and development officer's absence, within twenty-four (24) hours from the time of the receipt of a report on the alleged commission of said child. The court, where the petition for involuntary commitment has been filed shall decide on the petition within seventy-two (72) hours from the time the said petition has been filed by the DSWD/LSWDO. The court will determine the initial period of placement of the child within the IJISC which shall not be less than one (1) year. The multi-disciplinary team of the IJISC will submit to the court a case study and progress report, to include a psychiatric evaluation report and recommend the reintegration of the child to his/her family or the extension of the placement under the IJISC. The multi-disciplinary team will also submit a report to the court on the services extended to the parents and family of the child and the compliance of the parents in the

intervention program. The court will decide whether the child has successfully completed the center-based intervention program and is already prepared to be reintegrated with his/her family or if there is a need for the continuation of the center-based rehabilitation of the child. The court will determine the next period of assessment or hearing on the commitment of the child."

Section 5. – Section 20-B of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 20-B. Repetition of Offenses. – A child who is above twelve (12) years of age up to [fifteen (15)] EIGHTEEN (18) years of age and who commits an offense for the second time or oftener: Provided, That the child was previously subjected to a community-based intervention program, 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, further, That, if the best interest of the child requires that [he/she] THE CHILD be placed in a youth care facility or 'Bahay Pag-asa', the child's parents, FOSTER PARENTS, or guardians shall execute a written authorization for the voluntary commitment of the child: Provided, finally, That if the child has no parents, FOSTER 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 LSWDO pursuant to Presidential Decree No. 603, as amended."

Section 6. – Section 20-C of the same Act, as amended, is hereby further amended to read as follows:

"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 profits from the use of [children] A CHILD, including any person who abuses his/her authority over the child or who[, with abuse of confidence, takes advantage of the vulnerabilities of the child and shall induce, threaten or instigate the commission of the crime,] OTHERWISE INDUCES OR COERCES A CHILD TO COMMIT A CRIME, shall be [imposed the penalty prescribed by law for the crime committed in its maximum period] PUNISHED BY RECLUSION TEMPORAL IF THE CRIME COMMITTED IS PUNISHABLE BY IMPRISONMENT OF SIX (6) YEARS OR LESS, AND RECLUSION PERPETUA IF THE CRIME COMMITTED IS PUNISHABLE BY IMPRISONMENT OF MORE THAN 6 YEARS."

Section 7. – Section 20-D of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 20-D. Joint Parental Responsibility. – Based on the recommendation of the multi-disciplinary team of the IJISC, the LSWDO or the DSWD, the court may require the parents of a child in conflict with the law to undergo counseling or any other intervention that, in the opinion of the court, would advance the welfare and best interest of the child.

"PARENTS OF CHILDREN WHO COMMITTED ANY OF THE SERIOUS CRIMES UNDER SECTION 20-A OF THIS ACT, AND OF CHILDREN WHO ARE REPEAT OFFENDERS UNDER SECTION 20-B OF THIS ACT, SHALL UNDERGO MANDATORY

INTERVENTION PROGRAMS, INCLUDING PARENTING SEMINARS AND COUNSELLING. THE FAILURE OF SUCH PARENTS TO UNDERGO MANDATORY INTERVENTION, UNLESS PREVENTED BY A LAWFUL CAUSE, SHALL BE A GROUND FOR IMPRISONMENT FOR AT LEAST THIRTY (30) DAYS BUT NOT MORE THEN SIX (6) MONTHS."

"As used in this Act, 'parents' shall mean any of the following:

"(a) Biological parents of the child; or

"(b) Adoptive parents of the child; or

"(c) Individuals who have custody of the child[.], OR

"(d) A DULY LICENSED FOSTER PARENT, PURSUANT TO REPUBLIC ACT NO. 10165, OTHERWISE KNOWN AS THE "FOSTER CARE ACT OF 2012".

"A court exercising jurisdiction over a child in conflict with the law may require the attendance of one or both parents of the child at the place where the proceedings are to be conducted.

"The parents shall be PRIMARILY liable for CIVIL damages ARISING OUT OF THE ACTIONS OF THE CHILD IN CONFLICT WITH THE LAW unless they prove, to the satisfaction of the court, that they were exercising reasonable supervision over the child at the time the child committed the offense and exerted reasonable effort and utmost diligence to prevent or discourage the child from committing another offense."

Section 8. – Section 22 of the same Act, as amended, is hereby further 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, FOSTER PARENT, 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, FOSTER PARENT, 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 LOCAL social [worker] WELFARE AND DEVELOPMENT OFFICER shall conduct an initial assessment to determine the appropriate interventions and whether the child acted with discernment, using the discernment assessment tools developed by the DSWD. The initial assessment shall be without prejudice to the preparation of a more comprehensive case

study report. THE ASSESSMENT SHALL INCLUDE THE IDENTIFICATION OF PHYSICAL AND MENTAL HEALTH ISSUES, SUBSTANCE ABUSE, AND FAMILY ISSUES. The local social [worker] WELFARE AND DEVELOPMENT OFFICER shall do either of the following:

"(a) Proceed in accordance with Section 20 if the child is [fifteen (15) years or] below TWELVE (12) YEARS OF AGE or above [fifteen (15)] TWELVE (12) YEARS OF AGE AND ABOVE but below eighteen (18) years old, who acted without discernment; and

"(b) If the child is [above fifteen (15) years old] TWELVE (12) YEARS OF AGE AND ABOVE but below eighteen (18) and who acted with discernment OR COMMITTED A SERIOUS OFFENSE UNDER SECTION 20-A OF THIS ACT, proceed to diversion under the following chapter."

Section 9. – A new Section 37-A shall be inserted after Section 37 of the same Act, and shall be read as follows:

"SECTION 37-A. *REDUCED SENTENCE FOR CHILDREN IN CONFLICT WITH THE LAW.* – ALL LAWS TO THE CONTRARY NOTWITHSTANDING, AND SUBJECT TO OTHER PROVISIONS IN THIS ACT RELATIVE TO THE SENTENCING OF CHILDREN IN CONFLICT WITH THE LAW, THE COURT SHALL IMPOSE THE PENALTY TWO (2) DEGREES LOWER THAN THAT PRESCRIBED IN THE LAW FOR CRIMES COMMITTED BY CHILDREN IN CONFLICT WITH THE LAW. IN CASES WHERE THE LAW PRESCRIBES A FIXED PERIOD OF IMPRISONMENT, THE PERIOD SHALL BE REDUCED BY TWO-THIRDS. FOR CRIMES PUNISHABLE BY LIFE IMPRISONMENT, THE PENALTY IMPOSED SHALL BE IMPRISONMENT OF UP TO TWELVE (12) YEARS.

Section 10. – Section 40 of the same Act shall be amended to read as follows:

"SEC. 40. Return of the Child in Conflict with the Law to Court. - If the court finds that the objective of the [disposition] REFORMATION AND REHABILITATION measures imposed upon the child in conflict with the law have not been fulfilled, or if the child in conflict with the law has willfully failed to comply with the conditions of his/her [disposition] REFORMATION or rehabilitation program, the child in conflict with the law shall be brought before the court for execution of judgment.

If said child in conflict with the law has reached eighteen (18) years of age while under [suspended] SUSPENSION OF THE sentence, the court shall determine whether to discharge the child in accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of [twenty-one (21)] TWENTY FIVE (25) years."

Section 11. – Section 41 of the same Act shall be amended to read as follows:

"SEC. 41. Credit in Service of Sentence. - The child in conflict with the law shall be credited in the services of his/her sentence with the full time spent in actual commitment and

detention under this Act. A CHILD WITH GOOD CONDUCT AND BEHAVIOR WHILE UNDERGOING DIVERSION, INTERVENTION, REHABILITATION, OR DETENTION IN ANY FACILITY UNDER THIS ACT, SHALL BE ALLOWED DEDUCTIONS FROM THE PERIOD OF SENTENCE AS PROVIDED FOR IN ARTICLE 97 OF THE REVISED PENAL CODE, AS AMENDED."

Section 12. – A new Section 43-A is inserted after Section 43 of the same Act, to read as follows:

"SEC. 43-A. *PENALTY FOR VIOLATION OF CONFIDENTIALITY OF RECORDS.* – ANY PERSON WHO HAS BEEN FOUND GUILTY OF DIVULGING, WILLFULLY OR THROUGH GROSS INEXCUSABLE NEGLIGENCE, THE RECORDS OR ANY INFORMATION RELATING TO THE PROCEEDINGS INVOLVING CHILDREN IN CONFLICT WITH THE LAW, SHALL SUFFER THE PENALTIES IMPOSED IN TITLE VII, CHAPTER 3 OF THIS ACT."

Section 13. – Section 49 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 49. Establishment of 'Bahay Pag-Asa'. – [Each province and highly-urbanized city (the LGUs)] THE DSWD shall be responsible for building, funding and operating a 'Bahay Pag-asa' [within their jurisdiction] IN PROVINCES AND CITIES TO BE DEFINED BY THE JJWC following the standards that will be set by the DSWD and adopted by the JJWC.

"ALL 'BAHAY PAG-ASA' THAT ARE CURRENTLY OPERATED AND MAINTAINED BY LGUS SHALL CONTINUE TO BE OPERATED, MAINTAINED, AND FUNDED BY THEIR RESPECTIVE LGUS UNTIL SUCH TIME THAT THE OPERATIONS AND MANAGEMENT OF THE 'BAHAY PAG-ASA' SHALL HAVE BEEN TRANSFERRED TO THE DSWD. THEREAFTER, THE FUNDING NECESSARY FOR THE ESTABLISHMENT AND CONTINUED OPERATION 'BAHAY PAG-ASA' SHALL BE INCLUDED IN THE BUDGET OF THE DSWD IN THE ANNUAL GENERAL APPROPRIATIONS ACT."

"Every 'Bahay Pag-asa' will have a special facility called the IJISC. This Center will be allocated for children in conflict with the law in accordance with Sections 20, 20-A and 20-B hereof. These children will be required to undergo a more intensive multi-disciplinary intervention program. The JJWC in partnership with, but not limited to, the DSWD, the DOH, the DepED and the DILG, will develop and set the standards for the implementation of the multi-disciplinary intervention program of the IJISC. Upon institutionalization of the IJISC program, the JJWC will continue to monitor and provide technical assistance to the multi-disciplinary teams operating the said centers."

Section 14. – Section 51 of the same Act is amended to read as follows:

"SEC. 51. Confinement of Convicted Children in Agricultural [Camps] and [other] TECHNICAL Training Facilities. - A child in conflict with the law [may] SHALL, after

conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural [camp and other] OR TECHNICAL training facilities that may be established, maintained, supervised and controlled by the [BUCOR] DSWD, in [coordination] PARTNERSHIP with the [DSWD] BUCOR AND THE TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY (TESDA).

THE DSWD, IN PARTNERSHIP WITH THE BUCOR, SHALL ESTABLISH AT LEAST TWO (2) AGRICULTURAL TRAINING FACILITIES EACH IN LUZON, VISAYAS AND MINDANAO. THE DSWD, IN PARTNERSHIP WITH TESDA, SHALL LIKEWISE ESTABLISH AT LEAST TWO (2) TECHNICAL TRAINING FACILITIES EACH IN LUZON, VISAYAS, AND MINDANAO. THERE SHALL BE SEPARATE FACILITIES FOR MALE AND FEMALE CHILDREN IN EVERY AGRICULTURAL AND TECHNICAL TRAINING FACILITY.

THE DSWD, IN COORDINATION WITH THE BUCOR AND TESDA, SHALL DESIGN AND IMPLEMENT THE REHABILITATION AND INTERVENTION PROGRAMS IN THESE SPECIALIZED FACILITIES IN ORDER TO PREPARE THE RESIDENTS THEREIN FOR SUCCESSFUL REINTEGRATION INTO THEIR FAMILIES AND COMMUNITIES UPON DISCHARGE AND RELEASE.

THE AMOUNT NECESSARY FOR THE ESTABLISHMENT, OPERATION, AND MAINTENANCE OF AGRICULTURAL AND TECHNICAL TRAINING FACILITIES SHALL BE INCLUDED IN THE BUDGET OF THE DSWD IN THE ANNUAL GENERAL APPROPRIATIONS ACT."

Section 15. – Sec. 52 of the same Act is hereby amended to read as follows:

"SEC. 52. Rehabilitation of Children in Conflict with the Law. - Children in conflict with the law, whose sentences are suspended may, upon order of the court, undergo any or a combination of disposition measures best suited to the rehabilitation and welfare of the child as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

If the community-based rehabilitation is availed of by a child in conflict with the law, he/she shall be released to parents, guardians, relatives, ACCREDITED FOSTER PARENTS, or any other responsible person in the community. Under the supervision and guidance of the local social welfare and development officer, and in coordination with his/her parents/guardian, the child in conflict with the law shall participate in community-based programs, which shall include, but not limited to:

x x x x x x x x x"

Section 16. – Sec. 64 of the same Act, is hereby further amended to read as follows:

"SEC. 64. Children in Conflict with the Law [Fifteen (15) Years Old and] Below TWELVE (12) YEARS OF AGE. - Upon effectivity of this Act, cases [of children fifteen (15) years old and below] INVOLVING CHILDREN IN CONFLICT WITH THE LAW BELOW

TWELVE (12) YEARS OF AGE at the time of the commission of the crime shall immediately be dismissed and the child shall be referred to the appropriate local social welfare and development officer. Such officer, upon thorough assessment of the child, shall determine whether to release the child to the custody of his/her parents, or refer the child to prevention programs as provided under this Act. Those with suspended sentences and undergoing rehabilitation at the youth rehabilitation center shall likewise be released, unless it is contrary to the best interest of the child.”

Section 17. – The JJWC shall issue the implementing rules and regulations of this Act within ninety (90) days after its effectivity.

Section 18. Separability Clause. – If, for any reason, any part or provision of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected thereby shall remain in full force and effect.

Section 19. Repealing Clause. – RA 9344, as amended by RA 10630, is hereby amended accordingly. All laws, presidential decrees, executive orders, rules, and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 20. Effectivity. – This Act shall take effect fifteen (15) days following the completion of its publication in the Official Gazette or a newspaper of general circulation.

Approved,