

Republic of the Philippines
HOUSE OF THE REPRESENTATIVES
Constitution Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **1016**



Introduced by: Rep. Bernadette Herrera-Dy

AN ACT ESTABLISHING A NATIONWIDE CURFEW FOR BETTER CHILD
SAFETY AND PROTECTION OF WELFARE OF PERSONS UNDER
EIGHTEEN YEARS OLD

EXPLANATORY NOTE

It is provided in the 1987 Constitution that the "...state recognizes the role of the youth in nation -building and shall promote and protect their physical, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs." (Sec. 13, Art. II)

The same Constitution also provides that "The State shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development" (Par. 2, Sec. 3, Art. XV)

Along with the above mentioned constitutional provisions, the Philippines is also a state party to the United Nations Convention on the Rights of The Child, which establishes in Article 3 that, "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Children below the age of 18 are vulnerable to abuse leading to exploitation, drug addiction, and the commission of criminal acts, as well as also being at the risk of committing criminal offenses themselves. This has resulted to an increasingly alarming rate of children who have gone missing for over 24 hours, children that are abused by syndicates and unscrupulous individuals, as well as have been involved in crimes concerning abduction, rape, abuse, and theft, murder, among others.

The bill seeks to mandate and strictly implement a set of hours during night time within which minors are prohibited from remaining outside of the home not only as a means of maintaining public order and safety and preventing the further rise in criminality but also in Order to protect minors from potential threat that may

arise in the remote environment which may be harmful or detrimental to their development.

In view of the foregoing, the approval of this bill is highly and earnestly recommended.



BERNADETTE HERRERA-DY

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

SECTION 1. Short Title. This Act shall be known as the "Nationwide Curfew Act"

SECTION 2. Declaration of Policy.

Section 13, Article II of the 1987 Constitution provides that "The state recognizes the role of the youth in nation-building and shall promote and protect their physical, spiritual, 30 intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, 31 and encourage their involvement in public and civic affairs.

Section 3, Article XV of the same Constitution ensures that "The State shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.

Article 3 of the United Nations Convention on the Rights of the Child also provides that "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

It is hereby declared as the policy of the State to ensure the welfare and safety of the nation's children, and thereby establish and adopt a nationwide curfew to ensure the safety and protect the welfare of the nation's youth.

SECTION 3. Definition of Terms. - For purposes of this Act, the following terms are hereby defined:

"BCPC"—refers to the Barangay Council For The Protection Of Children

"Children at risk" - a child who is vulnerable to and at the risk of committing criminal offenses because of personal, family and social circumstances such as: abused, exploited, abandoned, out of school, street children, gang, etc.

"Court" - refers to a family court or any Regional Trial Court with the authority to adjudicate legal disputes and carry-out or dispense of the administration of penalties provided in accordance with the existing rule of law.

"Curfew Hours" — refers to the hours between ten o'clock in the evening (10:00 P.M. or 2200 hours) and five o'clock in the morning (5:00 A.M. or 0500 hours) the following day.

"DOLE" — refers to the Department of Labor and Employment.

"DSWD"—refers to the Department of Social Welfare and Development.

"Emergency" - means unforeseen combination of circumstances or the resulting state that calls for immediate action, including, but not limited to: a fire, a natural disaster, a vehicular accident, a medical emergency, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"Guardian" - refers to:

1. A person who, under court order, is the guardian of the person of a minor;
2. A public or private agency with whom a minor has been placed for custody by a court;
3. A person in charge of the custody or who is taking care of a minor; whether relative or not; or
4. A person at least eighteen (18) years of age and authorized by a parent or guardian to accompany a minor in a public place or to have the care and custody over him/her.

"Habitual Violator" - refers to minor/s who have violated this Act more than three(3) times.

"Law Enforcement Officer" - refers to the person in authority or his/her agent as defined in Article 152 of the Revised Penal Code, including barangay officials.

"Minor" — refers to any person under eighteen (18) years of age.

"PAO" — refers to the Public Attorney's Office.

"Parent" - refers to both biological and/or adoptive parents who have actual custody of or living together with the minor. "Public place" —shall refer to a place located within the Philippines, where the general substantial group of people have access, including but not limited to, streets, sidewalks, parking lots, parks, vacant lots, and the common areas in and about churches, apartment buildings, office buildings, hospitals, schools, shops and places of entertainment such as movie theaters and similar places or establishments. "Remain in a public place" - means to linger or stay, as well as to refuse to leave when requested to do so by a police officer, a Barangay Public Safety Officer or the owner or other person in control of a public place. This term also encompasses activities which may be mobile, such as walking, driving, and riding about in public place.

"Residence" - means the house or home wherein the minor and his or her parent/s or guardian/s actually lives and resides.

SECTION 4. Prohibited Activities/Offenses.

- a. It shall be prohibited for all minors to roam around, wander, stay, or meander in all public places during the curfew hours as defined in this Act (between 10:00 P.M. to 5:00 A.M.), singly or in groups without lawful purpose or justifiable reason.
- b. It shall likewise be unlawful for a parent or guardian of a minor to knowingly permit or by insufficient control allow the minor to remain in any public place within the Philippines during curfew hours.

SECTION 5. Exemptions. Minors under the following instances shall be considered exempt from the provisions of this law:

- a. Those minors accompanied by any parent or guardian;
- b. Those minors on their way to or from a party, graduation ceremony, religious mass, or other extracurricular activities of their school or organization wherein their attendance are required or otherwise indispensable, or when such minors are out and unable to go home early due to circumstances beyond their control as verified by proper authorities concerned;
- c. When the minor is engaged in an employment activity duly authorized by the Department of Labor and Employment, or going to or returning home from the same place of employment activity, without any detour or stop.
- d. When the minor is in a motor vehicle or other travel accompanied by a parent or guardian, or any adult authorized by the parent or guardian.
- e. When the minor is in an emergency;
- f. When the minor is out of his/her residence attending an official school, religious, recreational, educational, social, community, or other similar private activity sponsored by their respective city, municipality, barangay, school, or other similar private civic or religious organization (recognized by the community) that supervises the activity or when the minor is going to or returning home from such activity, without any detour or stop; and
- g. When the minor can present papers certifying that he or she is a student and was dismissed from classes in the evening, or that he or she is a working student.

SECTION 6. Enforcement Procedure. Pursuant to and in accordance with Republic Act No. 9344 or the Juvenile Justice Welfare Act of 2006, a law enforcement officer, a police officer, a Barangay Public Safety Officer (BPSO), or official of the Barangay Council for the Protection of Children (BCPC), or a neighborhood crime watch enforcer enforcing action under this Act, shall observe the prescribed provision under Section 21 of Republic Act No. 9344 in dealing with a minor or minors believed to be in violation of this Act. The procedure under Republic Act No. 9344 is re-stated as follows:

"RA No. 9344, Section 21. Procedure for Taking the Child into Custody - From the moment a child is taken into custody, the law enforcement officer shall:

- a) Explain to the child in simple language and in dialect that he/ she can understand why he/ she is being placed under custody and the offense that he/ she allegedly committed;

- b) Inform the child of the reason for such custody and advise the child of his/her constitutional rights in a language or dialect understood by him/ her; c) Properly identify himself/herself and present proper identification to the child;
- d) Refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the child in conflict with the law;
- e) Avoid displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and only after all other methods of control have been exhausted and have failed;
- f) Refrain from subjecting the child in conflict with the law to greater restraint than is necessary for his/her apprehension;
- g) Avoid violence or unnecessary force;
- h) Determine the age of the child, pursuant to Section 8 of this Act;
- i) Immediately but not later than eight (8) hours after apprehension, turn over custody of the child to the Social Welfare and Development Office or other accredited NGO's, and notify the child's apprehension. The social welfare and development officer shall explain to the child and the child's parents/guardians the consequences of the child's act with a view towards counseling and rehabilitation, diversion from the criminal justice system, and reparation if appropriate.
- j) Take the child immediately to the proper medical and health. Officer for a thorough physical and mental examination. The examination result shall be kept confidential unless otherwise ordered by the Family Court. Whenever the medical treatment is required, steps immediately undertaken to provide the same;
- k) Ensure that should detention of the child in conflict with the law be necessary, the child shall be secured in quarters separate from that of the opposite sex and adult offenders;
- l) Record the following in the initial investigation:
 - a. Whether handcuffs or other Instruments of restraint were used, and if so, the reason for such;
 - b. That the parents or guardian of a child, the DSWD and the PAO have been informed of the apprehension. and the details thereof; and
 - c. The exhaustion of measures to determine the age of a child and the precise details of the physical and medical examination or the failure to submit a child to such examination; and
- m) Ensure that all statements signed by the child during investigation shall be witnessed by the child's parents or guardian, social worker, or legal counsel or in attendance who shall affix his/ her signature to the said statement.
- n) A child in conflict with the law shall only be searched by a law enforcement officer of the same gender and shall not be locked up in a detention cell.

SECTION 7. Obligations and Liabilities of Parent's or Guardian/s. A minor's parent/s or guardian/s who are in actual custody or living together with such minor are mandated to supervise and exercise appropriate parental authority with regard to the conduct and activities of their minor children, in order to ensure that the latter are already in their home prior to and until the occurrence of the curfew hours.

SECTION 8. Community Involvement. Any person who has personal knowledge of the existence of any minor during the curfew hours as defined under this Act must immediately call the attention of the closest barangay, police officer, or other person in authority in order to ascertain the reasons the minor or minors are in public places, and if unjustified, to enforce this Act in accordance with Section 6 aforementioned.

SECTION 9. Penalties and Manner of Dealing with the Violator. The penalty for parent/s or guardian/s of the minor who is found to have violated the provisions of this Act shall be subject to the following penalties:

a) For the 1st offense

1. a minor found violating this Act for the first time will be referred to nearest barangay hall or police station. The Barangay Council for the Protection of Children (BCPC) shall conduct child counseling before such minor be properly turned over to his or her parent/s or guardian/s;
2. the parent/s or guardian/s of the minor in violation of this Act shall be summoned to fetch the minor from the barangay hall, and prior to the turn-over of the minor, such parent/s or guardian/s will be informed of the consequences they will be dealing with in case of subsequent violation of the minor pursuant to the applicable provisions under this section.
3. Such parent/s or guardian/s shall be imposed a penalty of Community Service of Forty-Eight (48) hours and/or a Fine of Two Thousand Pesos (P2,000.00) shall be imposed to the parent/guardian of the minor;

b) For the 2nd offense

1. a minor found violating this Act for the second time will be required to attend, together with his or her parent/s or guardian/s, two (2) consecutive regular sessions of counseling conducted by the BCPC, which shall include this matter as part of its session's agenda; provided, that the BCPC Chairperson shall certify the fact of compliance or non-compliance by the concerned minor and his/her parent/s or guardian/s with this penalty. Provided that the violator and/or his or her parent/s or guardian/s shall be required to submit the certification issued by the BCPC Chairperson to the Punong Barangay and the apprehending officer within a period not to exceed two (2) months from the date of violation.
2. Such parent/s or guardian/s of the minor who violated this Act for the second time shall be required to render Seventy-Two (72) Hours of

Community Service and/or a Fine of Three Thousand Pesos
(P3,000.00);

c) For the 3rd offense and every subsequent offense

1. a minor found violating this Act for the third instance and every succeeding instance thereafter, given the intervention prescribed in the

preceding paragraphs, shall be turned over to the Department of Social

Welfare and Development (DSWD) office with jurisdiction over the locality of the residence of the minor, for appropriate counseling and proper disposition on the matter.

2. Such parent/s or guardian/s of the minor shall be penalized with a fine

of Five Thousand Pesos (P5,000.00) and/or imprisonment of Six (6)

months;

3. Minors that are habitual violators of this Act shall be turned over to the DSWD for counseling and be subject to the intervention program of the said department.

SECTION 10. Implementing Rules and Regulations. To best ensure the implementation of the provisions of this Act on a nationwide scale, the Secretaries or duly authorized representatives of the Department of Social Welfare and Development, the Philippine National Police, the Department of Labor and Employment, the National Youth Commission, and a child welfare non-governmental organization, shall come together to promulgate and issue the necessary implementing rules and regulations of this Act. SECTION 11. Separability Clause. In the event that any provision of this Act is declared unconstitutional, invalid, or illegal, the constitutionality, validity, or legality of the remainder of the provisions of this Act shall not be affected thereby.

SECTION 12. Repealing Clause. All laws, presidential decrees, letters of instructions, executive orders, administrative orders, rules, regulations, and other issuances or parts thereof which are contrary to or inconsistent with the provisions of this Act are hereby revoked, repealed or modified accordingly.

SECTION 13. Effectivity. This Act shall take effect fifteen (15) days following the completion of its publication in any two (2) national newspapers of general circulation.

Approved...