

**REPUBLIC ACT NO. 9344**

**AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE JUSTICE AND WELFARE SYSTEM, CREATING THE JUVENILE JUSTICE AND WELFARE COUNCIL UNDER THE DEPARTMENT OF JUSTICE, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES.**

**TITLE I  
GOVERNING PRINCIPLES**

**CHAPTER 1  
TITLE, POLICY AND DEFINITION OF TERMS**

**Short Title and Scope. - This Act shall be known as the "Juvenile Justice and Welfare Act of 2006." It shall cover the children at risk and children in conflict with the law from prevention to rehabilitation and reintegration.**

**Declaration of State Policy. - The following State policies shall be observed at all times:**

**The State recognizes the vital role of children and youth in nation building and shall promote and protect their physical, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public affairs.**

**The State shall protect the best interests of the child through measures that will ensure the observance of international standards, especially those to which the Philippines is a party. Proceedings before any authority shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express himself/herself freely. The participatory mechanism in the design, development, implementation, monitoring and evaluation of the juvenile justice and welfare program and policy formulation and implementation related to juvenile justice and welfare shall be ensured by the appropriate government agency.**

**The State likewise recognizes the right of children to assistance, including proper care and nutrition, and special protection against neglect, abuse, cruelty and exploitation, and other conditions prejudicial to their development.**

**In accordance with Article 40 of the United Nations Convention on the Rights of the Child, the State recognizes the right of every child who is arrested, detained, or adjudged, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of his/her dignity and worth, taking into account the child's age and desirability of promoting his/her reintegration. Whenever possible and desirable, the State shall adopt measures for dealing with such children without resorting to judicial proceedings, provided that human rights and legal safeguards are fully respected. It shall ensure that children are dealt with in a manner consistent with their best interests by providing for, among others, a variety of disposition measures such as care, guidance and supervision or probation, foster care, education and vocational training programs and other alternatives to institutional care.**

**The administration of the juvenile justice and welfare system shall take into consideration the cultural and religious perspectives, particularly the indigenous peoples and the Muslims, consistent with the protection of the rights of children.**

nities.

shall apply the principles of restorative justice in all its laws, policies and programs applicable to children in conflict with the law.

**Liberal Construction of this Act.** - In case of doubt, the interpretation of any of the provisions of this Act, including its provisions (IRR), shall be construed liberally in favor of the child in conflict with the law.

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

**Bail.** - Bail is the security given for the release of the person in custody of the law, furnished by him/her or a bondsman, in advance before any court. Bail may be given in the form of corporate security, property bond, cash deposit, or recognizance.

**Best Interest of the Child**" refers to the totality of the circumstances and conditions which are most congenial to the survival and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development, and the least detrimental available alternative for safeguarding the growth and development of the child.

**Minor** refers to a person under the age of eighteen (18) years.

**Risk**" refers to a child who is vulnerable to and at the risk of committing criminal offenses because of personal, family or social circumstances, such as, but not limited to, the following:

1. Being sexually abused or exploited by any person through sexual, physical, psychological, mental, economic or any other means and the parents or guardian are unwilling, or unable to provide protection for the child;

2. Being sexually or economically exploited;

3. Being abandoned or neglected, and after diligent search and inquiry, the parent or guardian cannot be found;

4. Being a member of a dysfunctional or broken family or without a parent or guardian;

5. Being out of school;

6. Being a streetchild;

7. Being a member of a gang;

8. Being in a community with a high level of criminality or drug abuse; and

9. Being in situations of armed conflict.

**Conflict with the Law**" refers to a child who is alleged as, accused of, or adjudged as, having committed an offense against the law.

**Community-based Programs**" refers to the programs provided in a community setting developed for purposes of intervention, rehabilitation and well as rehabilitation of the child in conflict with the law, for reintegration into his/her family and/or community.

**refers to a family court or, in places where there are no family courts, any regional trial court.**

**ion of Liberty" refers to any form of detention or imprisonment, or to the placement of a child in conflict with the law in a state custodial setting, from which the child in conflict with the law is not permitted to leave at will by order of any court authority.**

**" refers to an alternative, child-appropriate process of determining the responsibility and treatment of a child in conflict with the law on the basis of his/her social, cultural, economic, psychological or educational background without resorting to formal court proceedings.**

**Program" refers to the program that the child in conflict with the law is required to undergo after he/she is found guilty of an offense without resorting to formal court proceedings.**

**contact With-the Child" refers to the apprehension or taking into custody of a child in conflict with the law by law enforcement officers or private citizens. It includes the time when the child alleged to be in conflict with the law receives a subpoena under Rule 17 of the Revised Rules of Criminal Procedure or summons under Section 6(a) or Section 9(b) of the same Rule in case of a preliminary investigation or where there is no necessity to place the child alleged to be in conflict with the law under arrest.**

**ion" refers to a series of activities which are designed to address issues that caused the child to commit an offense and to provide an individualized treatment program which may include counseling, skills training, education, and other activities designed to promote the child's psychological, emotional and psycho-social well-being.**

**Justice and Welfare System" refers to a system dealing with children at risk and children in conflict with the law through child-appropriate proceedings, including programs and services for prevention, diversion, rehabilitation, re-integration and other measures to ensure their normal growth and development.**

**forcement Officer" refers to the person in authority or his/her agent as defined in Article 152 of the Revised Penal Code.**

**refers to any act or omission whether punishable under special laws or the Revised Penal Code, as amended.**

**ance" refers to an undertaking in lieu of a bond assumed by a parent or custodian who shall be responsible for the child in conflict with the law, when required.**

**ive Justice" refers to a principle which requires a process of resolving conflicts with the maximum involvement of the victim and the community. It seeks to obtain reparation for the victim; reconciliation of the offender, the offended and the community; and reassurance to the offender that he/she can be reintegrated into society. It also enhances public safety by active involvement of the victim and the community in prevention strategies.**

**ffenses" refers to offenses which discriminate only against a child, while an adult does not suffer any penalty for committing the same. These shall include curfew violations; truancy, parental disobedience and the like.**

**ention Home" refers to a 24-hour child-caring institution managed by accredited local government units (LGUs) or accredited nongovernment organizations (NGOs) providing short-term residential care for children in conflict with the law.**

ting court disposition of their cases or transfer to other agencies or jurisdiction.

"Rehabilitation Center" refers to a 24-hour residential care facility managed by the Department of Social Welfare and Development (DSWD), LGUs, licensed and/or accredited NGOs monitored by the DSWD, which provides care, treatment and rehabilitation services for children in conflict with the law. Rehabilitation services are provided under the guidance of a trained professional staff in a structured therapeutic environment with the end view of reintegrating them into their families as socially functioning individuals. Physical mobility of residents of said centers may be restricted pending court orders against them.

"Public Crimes" refers to offenses where there is no private offended party.

## CHAPTER 2

### *PRINCIPLES IN THE ADMINISTRATION OF JUVENILE JUSTICE AND WELFARE*

**of the Child in Conflict with the Law. - Every child in conflict with the law shall have the following rights, including:**

**not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;**

**not to be imposed a sentence of capital punishment or life imprisonment, without the possibility of release;**

**not to be deprived, unlawfully or arbitrarily, of his/her liberty; detention or imprisonment being a disposition of law shall be for the shortest appropriate period of time;**

**to be treated with humanity and respect, for the inherent dignity of the person, and in a manner which takes into consideration his/her age. In particular, a child deprived of liberty shall be separated from adult offenders at all times. He/She shall not be placed together with adult offenders. He/She shall be conveyed separately to or from court. He/She shall await hearing of court in a separate holding area. A child in conflict with the law shall have the right to maintain contact with his/her family through letters and visits, save in exceptional circumstances;**

**to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of liberty before a court or other competent, independent and impartial authority, and to a prompt decision on such action;**

**to bail and recognizance, in appropriate cases;**

**to testify as a witness in his/her own behalf under the rule on examination of a child witness;**

**to have his/her privacy respected fully at all stages of the proceedings;**

**to be diverted if he/she is qualified and voluntarily avails of the same;**

**not to be imposed a judgment in proportion to the gravity of the offense where his/her best interest, the rights of the victim and the community are all taken into consideration by the court, under the principle of restorative justice;**

**to have restrictions on his/her personal liberty limited to the minimum, and where discretion is given by law to the court, whether to impose fine or imprisonment, the imposition of fine being preferred as the more appropriate penalty;**

, the right to automatic suspension of sentence;

to probation as an alternative to imprisonment, if qualified under the Probation Law;

to be free from liability for perjury, concealment or misrepresentation; and

rights as provided for under existing laws, rules and regulations.

When the Council adopts the provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, United Nations Guidelines for the Prevention of Juvenile Delinquency or the "Riyadh Guidelines", and the United Nations Rules for the Protection of Juveniles Deprived of Liberty.

**Minimum Age of Criminal Responsibility.** - A child fifteen (15) 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 2

of this Act. A child fifteen (15) years but below eighteen (18) 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 intervention program with this Act.

Exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws.

**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 minor until he/she is proven to be eighteen (18) years old or older. The age of a child may be determined by a birth certificate, baptismal certificate or any other pertinent documents. In the absence of these documents, age may be determined from the child himself/herself, testimonies of other persons, the physical appearance of the child and other relevant factors. In the absence of evidence as to the age of the child, it shall be resolved in his/her favor.

Any motion contesting the age of the child in conflict with the law prior to the filing of the information in any appropriate court shall be filed in the primary proceeding for the determination of age before the Family Court which shall decide the case within twenty (20) days after receipt of the appropriate pleadings of all interested parties.

When a motion 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 case shall be suspended.

The Department, law enforcement officers, prosecutors, judges and other government officials concerned shall exert all effort to determine the age of the child in conflict with the law.

## TITLE II

### *STRUCTURES IN THE ADMINISTRATION OF JUVENILE JUSTICE AND WELFARE*

**Juvenile Justice and Welfare Council (JJWC).** - A Juvenile Justice and Welfare Council (JJWC) is hereby created and placed under the administrative supervision of the Department of Justice and placed under its administrative supervision. The JJWC shall be chaired by an undersecretary of the Department of Social Welfare and Development. It shall ensure the effective implementation of this Act and coordination among

**ncies:**

**or the Welfare of Children (CWC);**

**nt of Education (DepEd);**

**nt of the Interior and Local Government (DILG);**

**orney's Office (PAO);**

**Corrections (BUCOR);**

**l Probation Administration (PPA)**

**Bureau of Investigation (NBI);**

**National Police (PNP);.**

**Jail Management and Penology (BJMP);**

**on on Human Rights (CHR);**

**Education and Skills Development Authority (TESDA);**

**outh Commission (NYC); and**

**stitutions focused on juvenile justice and intervention programs.**

**all be composed of representatives, whose ranks shall not be lower than director, to be designated by the concern departments or agencies:**

**nt of Justice (DOJ);**

**nt of Social Welfare and Development (DSWD);**

**or the Welfare of Children (CWC)**

**nt of Education (DepEd);**

**nt of the Interior and Local Government (DILG)**

**on on Human Rights (CHR);**

**outh Commission (NYC); and**

**representatives from NGOs, one to be designated by the Secretary of Justice and the other to be designated by the**

**Education and Development.**

**All shall convene within fifteen (15) days from the effectivity of this Act. The Secretary of Justice and the Secretary of Education and Development shall determine the organizational structure and staffing pattern of the JJWC.**

**All shall coordinate with the Office of the Court Administrator and the Philippine Judicial Academy to ensure the real and proper discharge of its duties and functions, as herein provided.**

**Duties and Functions of the JJWC. - The JJWC shall have the following duties and functions:**

**to ensure the implementation of this Act;**

**to advise the President on all matters and policies relating to juvenile justice and welfare;**

**to advise the concerned agencies in the review and redrafting of existing policies/regulations or in the formulation of new provisions of this Act;**

**to help develop a comprehensive 3 to 5-year national juvenile intervention program, with the participation of government agencies, NGOs and youth organizations;**

**To monitor the implementation of the juvenile intervention programs and activities by national government agencies and local government units which may have an important bearing on the success of the entire national juvenile intervention program. All programs, policies and practices and welfare shall be adopted in consultation with the JJWC;**

**To monitor and recommend policies and strategies in consultation with children for the prevention of juvenile delinquency and crime of justice, as well as for the treatment and rehabilitation of the children in conflict with the law;**

**To gather relevant information and conduct continuing research and support evaluations and studies on all matters relating to juvenile justice and welfare, such as but not limited to:**

**to monitor the performance and results achieved by juvenile intervention programs and by activities of the local government units and agencies;**

**to monitor socio-economic trends, problems and causes of juvenile delinquency and crimes; and**

**to monitor the special needs of children in conflict with the law in custody.**

**Information gathered shall be used by the JJWC in the improvement of the administration of juvenile justice and welfare system.**

**All shall set up a mechanism to ensure that children are involved in research and policy development.**

**All shall, through duly designated persons and with the assistance of the agencies provided in the preceding section, to conduct regular monitoring of detention and rehabilitation facilities and to undertake spot inspections on their own initiative in order to check compliance with the standards provided herein and to make the necessary recommendations to appropriate agencies;**

**All shall also coordinate the conduct of trainings for the personnel of the agencies involved in the administration of the juvenile justice and welfare system.**

system and the juvenile intervention program;

an annual report to the President on the implementation of this Act; and

in such other functions as may be necessary to implement the provisions of this Act.

**Policies and Procedures on Juvenile Justice and Welfare.** - All government agencies enumerated in Section 8 shall, with the JJWC and within one (1) year from the effectivity of this Act, draft policies and procedures consistent with this Act. These policies and procedures shall be modified accordingly in consultation with the JJWC upon the completion of the juvenile intervention program as provided under Section 9 (d).

**Child Rights Center (CRC).** - The existing Child Rights Center of the Commission on Human Rights shall ensure that the interests of children are upheld in accordance with the Constitution and international instruments on human rights through the monitoring of government compliance of all treaty obligations, including the timely and regular submission of reports to treaty bodies, as well as the implementation and dissemination of recommendations and conclusions by government agencies and civil society.

### **TITLE III PREVENTION OF JUVENILE DELINQUENCY**

#### **CHAPTER 1 THE ROLE OF THE DIFFERENT SECTORS**

**Family.** - The family shall be responsible for the primary nurturing and rearing of children which is critical in delinquency. As far as practicable and in accordance with the procedures of this Act, a child in conflict with the law shall be managed.

**Educational System.** - Educational institutions shall work together with families, community organizations and agencies to address juvenile delinquency and in the rehabilitation and reintegration of child in conflict with the law. Schools shall prepare necessary and individualized educational schemes for children manifesting difficult behavior and children in conflict with the law. Where children in conflict with the law are taken into custody or detained in rehabilitation centers, they should be able to continue learning under an alternative learning system with basic literacy program or non-formal educational equivalency system.

**Role of the Mass Media.** - The mass media shall play an active role in the promotion of child rights, and delinquency prevention by relaying consistent messages through a balanced approach. Media practitioners shall, therefore, have the duty to adhere to ethical and professional standards in reporting and covering cases of children in conflict with the law. In all public relations involving children, the best interest of the child should be the primordial and paramount concern. Any undue, inappropriate or sensational publicity of any case involving a child in conflict with the law is hereby declared a violation of the child's rights.

**Establishment and Strengthening of Local Councils for the Protection of Children.** - Local Councils for the Protection of Children shall be established in all levels of local government, and where they have already been established, they shall be strengthened within one (1) year from the effectivity of this Act. Membership in the LCPC shall be chosen from among the responsible members of the local government, including a representative from the youth sector, as well as representatives from government and private agencies and organizations of children.

ncil shall serve as the primary agency to coordinate with and assist the LGU concerned for the adoption of a com  
quency prevention, and to oversee its proper implementation.

(1%) of the internal revenue allotment of barangays, municipalities and cities shall be allocated for the strengthen  
on of the programs of the LCPC: Provided, That the disbursement of the fund shall be made by the LGU concern

intment of Local Social Welfare and Development Officer. - All LGUs shall appoint a duly licensed social worker  
and development officer tasked to assist children in conflict with the law.

Sangguniang Kabataan. - The Sangguniang Kabataan (SK) shall coordinate with the LCPC in the formulation an  
on of juvenile intervention and diversion programs in the community.

## CHAPTER 2

### *COMPREHENSIVE JUVENILE INTERVENTION PROGRAM*

lopment of a Comprehensive Juvenile Intervention Program. - A Comprehensive juvenile intervention program c  
period shall be instituted in LGUs from the barangay to the provincial level.

all set aside an amount necessary to implement their respective juvenile intervention programs in their annual bu

coordination with the LCPC, shall call on all sectors concerned, particularly the child-focused institutions, NGO  
, educational institutions and government agencies involved in delinquency prevention to participate in the plann  
tation of juvenile intervention programs. Such programs shall be implemented consistent with the national prog  
nd designed by the JJWC. The implementation of the comprehensive juvenile intervention program shall be revie  
ally by the LGUs in coordination with the LCPC. Results of the assessment shall be submitted by the provincial  
to the JJWC not later than March 30 of every year.

munity-based Programs on Juvenile Justice and Welfare. - Community-based programs on juvenile justice and w  
by the LGUs through the LCPC, school, youth organizations and other concerned agencies. The LGUs shall prov  
ased services which respond to the special needs, problems, interests and concerns of children and which offer ap  
d guidance to them and their families. These programs shall consist of three levels:

ntervention includes general measures to promote social justice and equal opportunity, which tackle perceived ro

y intervention includes measures to assist children at risk; and

ntervention includes measures to avoid unnecessary contact with the formal justice system and other measures to

## TITLE IV

### *TREATMENT OF CHILDREN BELOW THE AGE OF CRIMINAL RESPONSIBILITY*

lren Below the Age of Criminal Responsibility. - If it has been determined that the child taken into custody is fift  
the authority which will have an initial contact with the child has the duty to immediately release the child to the  
ts or guardian, or in the absence thereof, the child's nearest relative. Said authority shall give notice to the local s

ment officer who will determine the appropriate programs in consultation with the child and to the person having the parents, guardians or nearest relatives cannot be located, or if they refuse to take custody, the child may be referred to: a duly registered nongovernmental or religious organization; a barangay official or a member of the Barangay Council for Children (BCPC); a local social welfare and development officer; or when and where appropriate, the DSWD wherein has been found by the Local Social Welfare and Development Office to be abandoned, neglected or abused in the event that the parents will not comply with the prevention program, the proper petition for involuntary commitment 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."

**TITLE V**  
***JUVENILE JUSTICE AND WELFARE SYSTEM***

**CHAPTER I**  
***INITIAL CONTACT WITH THE CHILD***

**Procedure for Taking the Child into Custody. - From the moment a child is taken into custody, the law enforcement officer shall:**

- 1. Inform the child in simple language and in a dialect that he/she can understand why he/she is being placed under custody and the crime he/she allegedly committed;**

- 2. Advise the child of the reason for such custody and advise the child of his/her constitutional rights in a language or dialect that he/she can understand;**

- 3. Identify himself/herself and present proper identification to the child;**

- 4. Refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the child;**

- 5. Refrain from displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and other methods of control have been exhausted and have failed;**

- 6. Refrain from subjecting the child in conflict with the law to greater restraint than is necessary for his/her apprehension;**

- 7. Refrain from using force or unnecessary force;**

- 8. Inform the child of the age of the child pursuant to Section 7 of this Act;**

- 9. Within twenty-four (24) hours but not later than eight (8) hours after apprehension, turn over custody of the child to the Social Welfare and Development Office or accredited NGOs, and notify the child's apprehension. The social welfare and development officer shall explain to the child and his/her parents/guardians the consequences of the child's act with a view towards counseling and rehabilitation, diversion, restorative justice system, and reparation, if appropriate;**

- 10. Refer the child immediately to the proper medical and health officer for a thorough physical and mental examination. The child's condition shall be kept confidential unless otherwise ordered by the Family Court. Whenever the medical treatment is required, the child shall be referred to a hospital and the necessary medical treatment shall be undertaken to provide the same;**

at should detention of the child in conflict with the law be necessary, the child shall be secured in quarters separate from sex and adult offenders;

the following in the initial investigation:

whether handcuffs or other instruments of restraint were used, and if so, the reason for such;

whether the parents or guardian of a child, the DSWD, and the PAO have been informed of the apprehension and the details thereof;

the nature of measures to determine the age of a child and the precise details of the physical and medical examination of the child to such examination; and

that all statements signed by the child during investigation shall be witnessed by the child's parents or guardian, social worker or counsel in attendance who shall affix his/her signature to the said statement.

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 in a cell.

**Section 17. - During Initial Investigation.** - The law enforcement officer shall, in his/her investigation, determine where the child in conflict with the law should be referred.

The investigation 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) a 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 community organization.

In the course of the initial investigation, the local social worker conducting the same may do either of the following:

(a) In accordance with Section 20 if the child is fifteen (15) years or below or above fifteen (15) but below eighteen (18) years of age without discernment; and

(b) If the child is above fifteen (15) years old but below eighteen (18) and who acted with discernment, proceed to diversion under Section 20.

## **CHAPTER 2 DIVERSION**

**Section 1. - Purpose of Diversion.** - Children in conflict with the law shall undergo diversion programs without undergoing court proceedings under the conditions herein provided:

Where the maximum possible penalty for the crime committed is not more than six (6) years imprisonment, the law enforcement officer shall, with the assistance of the local social welfare and development officer or other members of the LCPC shall conduct family conferencing and conciliation and, where appropriate, adopt indigenous modes of conflict resolution in accordance with the best interest of the child with a view to accomplishing the objectives of restorative justice and the formulation of a diversion program. The child and his/her family shall be present in these activities.

ess crimes where the imposable penalty is not more than six (6) years imprisonment, the local social welfare and c meet with the child and his/her parents or guardians for the development of the appropriate diversion and rehabi coordination with the BCPC;

: imposable penalty for the crime committed exceeds six (6) years imprisonment, diversion measures may be reso

s **Where Diversion May be Conducted.** - Diversion may be conducted at the Katarungang Pambarangay, the poli or the inquest or preliminary investigation stage and at all levels and phases of the proceedings including judicia

erencing, Mediation and Conciliation. - A child in conflict with law may undergo conferencing, mediation or conc iminal justice system or prior to his entry into said system. A contract of diversion may be entered into during su mediation or conciliation proceedings.

ract of Diversion. - If during the conferencing, mediation or conciliation, the child voluntarily admits the commis on program shall be developed when appropriate and desirable as determined under Section 30. Such admission s the child in any subsequent judicial, quasi-judicial or administrative proceedings. The diversion program shall be f accepted by the parties concerned. The acceptance shall be in writing and signed by the parties concerned and t authorities. The local social welfare and development officer shall supervise the implementation of the diversion p ceedings shall be completed within forty-five (45) days. The period of prescription of the offense shall be suspend d the diversion proceedings but not to exceed forty-five (45) days.

ll present himself/herself to the competent authorities that imposed the diversion program at least once a month f n of the effectiveness of the program.

nply with the terms and conditions of the contract of diversion, as certified by the local social welfare and develop offended party the option to institute the appropriate legal action.

' prescription of the offense shall be suspended during the effectivity of the diversion program, but not exceeding

of the Punong Barangay When There is No Diversion. - If the offense does not fall under Section 23(a) and (b), or ts or guardian does not consent to a diversion, the Punong Barangay handling the case shall, within three (3) day: n of the absence of jurisdiction over the case or termination of the diversion proceedings, as the case may be, forw e case of the child to the law enforcement officer, prosecutor or the appropriate court, as the case may be. Upon tl ding document, certifying to the fact that no agreement has been reached by the parties, the case shall be filed ac rocess.

of the Law Enforcement Officer When There is No Diversion. - If the offense does not fall under Section 23(a) an her parents or guardian does not consent to a diversion, the Women and Children Protection Desk of the PNP, or officer handling the case of the child under custody, to the prosecutor or judge concerned for the conduct of inqu uestigation to determine whether or not the child should remain under custody and correspondingly charged in nsmittng said records shall display the word "CHILD" in bold letters.

rs in Determining Diversion Program. - In determining whether diversion is appropriate and desirable, the follow

**into consideration:**

**the nature and circumstances of the offense charged;**

**the nature and severity of the act;**

**the characteristics of the child (e.g. age, maturity, intelligence, etc.);**

**the influence of the family and environment on the growth of the child;**

**the extent of injury to the victim;**

**the strength of the evidence against the child;**

**the opinion of the community; and**

**the best interest of the child.**

**Formulation of the Diversion Program. - In formulating a diversion program, the individual characteristics and the peculiarities of the child in conflict with the law shall be used to formulate an individualized treatment.**

**The following factors shall be considered in formulating a diversion program for the child:**

**the child's feelings of remorse for the offense he/she committed;**

**the child's parents' or legal guardians' ability to guide and supervise the child;**

**the child's view about the propriety of the measures to be imposed; and**

**the availability of community-based programs for rehabilitation and reintegration of the child.**

**Components of Diversion Programs. - The diversion program shall include adequate socio-cultural and psychological response for the child. At the different stages where diversion may be resorted to, the following diversion programs may be adopted, but not limited to:**

**1. Mediation of the Punong Barangay:**

**a. Restitution of property;**

**b. Compensation of the damage caused;**

**c. Satisfaction for consequential damages;**

**d. Written or oral apology;**

**e. Restraint and supervision orders;**

g for the child in conflict with the law and the child's family;  
e in trainings, seminars and lectures on:  
agement skills;  
olving and/or conflict resolution skills;  
rmation; and  
ls which will aid the child in dealing with situations which can lead to repetition of the offense;  
ion in available community-based programs, including community service; or  
ion in education, vocation and life skills programs.  
el of the law enforcement officer and the prosecutor:  
programs specified under paragraphs (a)(1) to (a)(9) herein; and  
on and forfeiture of the proceeds or instruments of the crime;  
l of the appropriate court:  
programs specified under paragraphs (a) and (b) above;  
r oral reprimand or citation;  
of the cost of the proceedings; or  
ial care and custody.

### **CHAPTER 3** ***PROSECUTION***

of the Prosecutor's Office. - There shall be a specially trained prosecutor to conduct inquest, preliminary investigation of cases involving a child in conflict with the law. If there is an allegation of torture or ill-treatment of a child in connection with arrest or detention, it shall be the duty of the prosecutor to investigate the same.

Primary Investigation and Filing of Information. - The prosecutor shall conduct a preliminary investigation in the following cases when the child in conflict with the law does not qualify for diversion: (b) when the child, his/her parents or guardian as specified in Sections 27 and 28; and (c) when considering the assessment and recommendation of the social worker determines that diversion is not appropriate for the child in conflict with the law.

When the subpoena and the affidavit of complaint, the prosecutor shall notify the Public Attorney's Office of such service.

information, and place of detention of the child in conflict with the law.

ination of probable cause by the prosecutor, the information against the child shall be filed before the Family Court ) days from the start of the preliminary investigation.

#### **CHAPTER 4 COURT PROCEEDINGS**

- For purposes of recommending the amount of bail, the privileged mitigating circumstance of minority shall be considered in the case on Recognizance. - Where a child is detained, the court shall order:

1. Release of the minor on recognizance to his/her parents and other suitable person;

2. Release of the child in conflict with the law on bail; or

3. Commitment of the minor to a youth detention home/youth rehabilitation center.

The court shall not order the detention of a child in a jail pending trial or hearing of his/her case.

**Detention of the Child Pending Trial.** - Children detained pending trial may be released on bail or recognizance as provided in Sections 34 and 35 under this Act. In all other cases and whenever possible, detention pending trial may be replaced by release on recognizance, such as close supervision, intensive care or placement with a family or in an educational setting or home. Institution of detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

When detention is necessary, a child will always be detained in youth detention homes established by local governments, pursuant to the Family Courts Act, in the city or municipality where the child resides.

When a child is committed to a youth detention home, the child in conflict with the law may be committed to the care of the DSWD or a local youth center recognized by the government in the province, city or municipality within the jurisdiction of the court. The parent or guardian of the child shall be responsible for the child's appearance in court whenever required.

**Diversion Measures.** - Where the maximum penalty imposed by law for the offense with which the child in conflict with the law is charged is imprisonment of not more than twelve (12) years, regardless of the fine or fine alone regardless of the amount, and the child is a first-time offender, the court shall determine whether or not diversion is appropriate.

**Automatic Suspension of Sentence.** - Once the child who is under eighteen (18) years of age at the time of the commission of the offense charged, and is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law on a suspended sentence, without need of application: Provided, however, That suspension of sentence shall still be applied even if the child is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.

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

**Charge of the Child in Conflict with the Law.** - Upon the recommendation of the social worker who has custody of the child, the court shall determine the appropriate charge of the child in conflict with the law.

dismiss the case against the child whose sentence has been suspended and against whom disposition measures have been ordered, or the final discharge of the child if it finds that the objective of the disposition measures have been fulfilled.

The conviction of the child in conflict with the law shall not affect the civil liability resulting from the commission of the offense in accordance with law.

**Return of the Child in Conflict with the Law to Court.** - If the court finds that the objective of the disposition measures ordered in conflict with the law have not been fulfilled, or if the child in conflict with the law has willfully failed to complete his/her disposition or rehabilitation program, the child in conflict with the law shall be brought before the court for

reconsideration. If the child in conflict with the law has reached eighteen (18) years of age while under suspended 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 until the child reaches the maximum age of twenty-one (21) years.

**Credit in Service of Sentence.** - The child in conflict with the law shall be credited in the services of his/her sentence with the actual commitment and detention under this Act.

**Probation as an Alternative to Imprisonment.** - The court may, after it shall have convicted and sentenced a child in conflict with the law, upon application at any time, place the child on probation in lieu of service of his/her sentence taking into account the best interests of the child. For this purpose, Section 4 of Presidential Decree No. 968, otherwise known as the "Probation Law of 1975" shall apply accordingly.

## **CHAPTER 5** ***CONFIDENTIALITY OF RECORDS AND PROCEEDINGS***

**Confidentiality of Records and Proceedings.** - All records and proceedings involving children in conflict with the law shall be considered privileged and confidential. The public shall be excluded during the proceedings and the records shall not be disclosed directly or indirectly to anyone by any of the parties or the participants for any purpose whatsoever, except to determine if the child in conflict with the law may have his/hers sentence suspended, or he may be granted probation under the Probation Law, or to enforce the civil liability imposed in the criminal act.

The law enforcement authorities shall undertake all measures to protect this confidentiality of proceedings, including non-disclosure of the case, maintaining a separate police blotter for cases involving children in conflict with the law and adopting a system of recording material information which will lead to the child's identity. Records of a child in conflict with the law shall not be disclosed in proceedings for cases involving the same offender as an adult, except when beneficial for the offender and upon his/her consent.

A child who has been in conflict with the law as a child shall not be held under any provision of law, to be guilty of perjury or misrepresentation by reason of his/her failure to acknowledge the case or recite any fact related thereto in response to an inquiry made to him/her for any purpose.

## **TITLE VI** ***REHABILITATION AND REINTEGRATION***

**Objective of Rehabilitation and Reintegration.** - The objective of rehabilitation and reintegration of children in conflict with the law shall be to provide them with the necessary assistance and support to enable them to lead a law-abiding and productive life.

ide them with interventions, approaches and strategies that will enable them to improve their social functioning and reintegration to their families and as productive members of their communities.

**Order Required.** - No child shall be received in any rehabilitation or training facility without a valid order issued by a court after a hearing for the purpose. The details of this order shall be immediately entered in a register exclusively for children in conflict with the law. No child shall be admitted in any facility where there is no such register.

**Separate Facilities from Adults.** - In all rehabilitation or training facilities, it shall be mandatory that children shall be housed separately from adults unless they are members of the same family. Under no other circumstance shall a child in conflict with the law be housed or treated as adults.

**Home Environment.** - The rehabilitation, training or confinement area of children in conflict with the law shall provide a home environment where children in conflict with the law can be provided with quality counseling and treatment.

**Female Children.** - Female children in conflict with the law placed in an institution shall be given special attention as to their needs and problems. They shall be handled by female doctors, correction officers and social workers, and shall be accommodated separately from male children in conflict with the law.

**Gender-Sensitivity Training.** - No personnel of rehabilitation and training facilities shall handle children in conflict with the law unless they have undergone gender sensitivity training.

**Establishment of Youth Detention Homes.** - The LGUs shall set aside an amount to build youth detention homes as mandated by the Local Government Code of 1991. Youth detention homes may also be established by private and NGOs licensed and accredited by the Department of Justice with the JJWC.

**Costs and Maintenance of the Child in Conflict with the Law.** - The expenses for the care and maintenance of a child in conflict with the law under institutional care shall be borne by his/her parents or those persons liable to support him/her: Provided, That if the parents or those persons liable to support him/her cannot pay all or part of said expenses, the municipality where the child resides shall pay one-third (1/3) of said expenses or part thereof; the province to which the municipality belongs shall pay one-third (1/3) of said expenses or part thereof; and the remaining one-third (1/3) shall be borne by the national government. Chartered cities shall pay two-thirds (2/3) of said expenses or part thereof: Provided, further, That in case a chartered city cannot pay said expenses, part of the internal revenue allotments applicable to the unapportioned and unexpended share of the city shall be used and applied to the settlement of said obligations: Provided, further, That in the event that the child in conflict with the law is a resident of the municipality/city where the offense was committed, the court, upon its determination, may require the municipality where the child in conflict with the law resides to shoulder the cost.

**Local Government Effort.** - Provincial governments must exert effort for the immediate establishment of local detention homes for children in conflict with the law.

**Alternative Disposition of Convicted Children in Agricultural Camps and other Training Facilities.** - A child in conflict with the law, upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in agricultural camps and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

**Rehabilitation of Children in Conflict with the Law.** - Children in conflict with the law, whose sentences are suspended by the court, undergo any or a combination of disposition measures best suited to the rehabilitation and welfare of the child in conflict with the law, in accordance with the Supreme Court Rule on Juveniles in Conflict with the Law.

community-based rehabilitation is available to a child in conflict with the law, he/she shall be released to parents, guardian or 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:

community and life skills development;

cultural and recreational activities;

community volunteer projects;

vocational training;

community services;

community services;

community services;

community enrichment; and

community and family welfare services.

In addition therewith, the family of the child in conflict with the law shall endeavor to actively participate in the community-based programs.

On the progress of the youth in the community, a final report will be forwarded by the local social welfare and development officer for final disposition of the case.

Community-based programs are provided as diversion measures under Chapter II, Title V, the programs enumerated attached hereto to the child in conflict with the law.

**Youth Rehabilitation Center.** - The youth rehabilitation center shall provide 24-hour group care, treatment and rehabilitation under the guidance of a trained staff where residents are cared for under a structured therapeutic environment with training them in their families and communities as socially functioning individuals. A quarterly report shall be submitted to the proper court on the progress of the children in conflict with the law. Based on the progress of the youth in the center, a report shall be forwarded to the court for final disposition of the case. The DSWD shall establish youth rehabilitation centers in the community.

**Objectives of Community Based Programs.** - The objectives of community-based programs are as follows:

1. To prevent interruption in the education or means of livelihood of the child in conflict with the law in case he/she is studying, working or attending vocational learning institutions;

2. To separate the child in conflict with the law from his/her parents/guardians to maintain the support system fostered by the community.

and to create greater awareness of their mutual and reciprocal responsibilities;

the rehabilitation and mainstreaming of the child in conflict with the law and encourage community support and

the stigma that attaches to the child in conflict with the law by preventing jail detention.

**Criteria of Community-Based Programs.** - Every LGU shall establish community-based programs that will focus on the rehabilitation and reintegration of the child. All programs shall meet the criteria to be established by the JJWC which shall take into account the purpose of the program, the need for the consent of the child and his/her parents or legal guardians, and the participation of interested agencies whether public or private.

**After-Care Support Services for Children in Conflict with the Law.** - Children in conflict with the law whose cases have been decided by the proper court because of good behavior as per recommendation of the DSWD social worker and/or any accreditation center shall be provided after-care services by the local social welfare and development officer for a period of six (6) months. The service includes counseling and other community-based services designed to facilitate social reintegration, and to help make the children productive members of the community.

## **TITLE VII** ***GENERAL PROVISIONS***

### **CHAPTER 1** ***EXEMPTING PROVISIONS***

**Exemption from Offenses.** - Any conduct not considered an offense or not penalized if committed by an adult shall not be considered an offense if committed by a child.

**Prostitution Not Applicable to Children.** - Persons below eighteen (18) years of age shall be exempt from prosecution for the crime of prostitution under Section 202 of the Revised Penal Code, of mendicancy under Presidential Decree No. 1563, and of vagrancy under Presidential Decree No. 1619, such prosecution being inconsistent with the United Nations Convention on the Rights of the Child. That said persons shall undergo appropriate counseling and treatment program.

**Exemption from the Application of Death Penalty.** - The provisions of the Revised Penal Code, as amended, Republic Act No. 649, known as the Comprehensive Dangerous Drugs Act of 2002, and other special laws notwithstanding, no death penalty shall be imposed on children in conflict with the law.

### **CHAPTER 2** ***PROHIBITED ACTS***

**Prohibition Against Labeling and Shaming.** - In the conduct of the proceedings beginning from the initial contact with the child, all authorities must refrain from branding or labeling children as young criminals, juvenile delinquents, prostitutes, or in any manner any other derogatory names. Likewise, no discriminatory remarks and practices shall be allowed with respect to the child's class or ethnic origin.

**Prohibited Acts.** - The following and any other similar acts shall be considered prejudicial and detrimental to the physical, emotional, social, spiritual, moral and physical health and well-being of the child in conflict with the law and the

ent of threats of whatever kind and nature;

ent of abusive, coercive and punitive measures such as cursing, beating, stripping, and solitary confinement;

ent of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring irritating, corrosive  
er the body of the child in conflict with the law, or forcing him/her to walk around the community wearing signs  
umiliate, and degrade his/her personality and dignity; and

ing the child to perform involuntary servitude in any and all forms under any and all instances.

### **CHAPTER 3** ***PENAL PROVISION***

lation of the Provisions of this Act or Rules or Regulations in General. - Any person who violates any provision of  
regulation promulgated in accordance thereof shall, upon conviction for each act or omission, be punished by a fi  
ty thousand pesos (P20,000.00) but not more than Fifty thousand pesos (P50,000.00) or suffer imprisonment of no  
rs but not more than ten (10) years, or both such fine and imprisonment at the discretion of the court, unless a hi  
for in the Revised Penal Code or special laws. If the offender is a public officer or employee, he/she shall, in addi  
nd/or imprisonment, be held administratively liable and shall suffer the penalty of perpetual absolute disqualific:

### **CHAPTER 4** ***APPROPRIATION PROVISION***

ropriations. - The amount necessary to carry out the initial implementation of this Act shall be charged to the Offi  
ereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the suc  
ropriations Act.

ount of Fifty million pesos (P50,000,000.00) for the purpose of setting up the JJWC shall be taken from the proced  
arity Sweepstakes Office.

### **TITLE VIII** ***TRANSITORY PROVISIONS***

lren in Conflict with the Law Fifteen (15) Years Old and Below. - Upon effectivity of this Act, cases of children fif  
below at the time of the commission of the crime shall immediately be dismissed and the child shall be referred t  
ocal social welfare and development officer. Such officer, upon thorough assessment of the child, shall determine  
ild to the custody of his/her parents, or refer the child to prevention programs as provided under this Act. Those  
ntences and undergoing rehabilitation at the youth rehabilitation center shall likewise be released, unless it is con  
f the child.

lren Detained Pending Dial. - If the child is detained pending trial, the Family Court shall also determine whether  
ention is necessary and, if not, determine appropriate alternatives for detention.

s necessary and he/she is detained with adults, the court shall immediately order the transfer of the child to a you

**Inventory of "Locked-up" and Detained Children in Conflict with the Law.** - The PNP, the BJMP and the BUCOR are required to submit to the JJWC, within ninety (90) days from the effectivity of this Act, an inventory of all children in conflict with the law in custody.

**Children Who Reach the Age of Eighteen (18) Years Pending Diversion and Court Proceedings.** - If a child reaches the age of eighteen (18) years pending diversion and court proceedings, the appropriate diversion authority in consultation with the local development officer or the Family Court in consultation with the Social Services and Counseling Division (SSCD) shall determine, as the case may be, shall determine the appropriate disposition. In case the appropriate court executes the judgment, the child in conflict with the law shall be allowed to apply for probation if qualified under the provisions of the Probation Law.

**Children Who Have Been Convicted and are Serving Sentence.** - Persons who have been convicted and are serving sentence at the effectivity of this Act, and who were below the age of eighteen (18) years at the time the commission of the offense was committed and are serving sentence, shall likewise benefit from the retroactive application of this Act. They shall be entitled to the dispositions provided under this Act and their sentences shall be adjusted accordingly. They shall be immediately re-evaluated under this Act or other applicable law.

## **TITLE IX** ***FINAL PROVISIONS***

**Making Power.** - The JJWC shall issue the IRRs for the implementation of the provisions of this act within ninety (90) days from the effectivity thereof.

**Severability Clause.** - If, for any reason, any section or provision of this Act is declared unconstitutional or invalid by a court of law, the other sections or provisions hereof not affected by such declaration shall remain in force and effect.

**Repealing Clause.** - All existing laws, orders, decrees, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**Effectivity.** - This Act shall take effect after fifteen (15) days from its publication in at least two (2) national newspaper.

April 28, 2006