



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

Seventeenth Congress

First Regular Session

House Bill No. 2009



Introduced by **HON. ROMEO M. ACOP**

EXPLANATORY NOTE

Youthful crime is a problem that has assumed such proportions as to cause grave concern to the community and to call for special action and prompt remedy. Children who come into conflict with the law are often from marginalized groups including street youth, drug users, and those with interrupted education, who have limited access to the family and societal structures meant to protect them.

A report from the Council for the Welfare of Children (CWC) shows that more than 52,000 children from 1995 to 2000 were reported to be in conflict with the law. Separate data from the Department of Welfare and Social Development (DSWD) disclose that from 2001 to 2010, there were close to 64,000 children in conflict with the law (CICL) served by the government, an indication that the problem has persisted through the years despite the passage in 2006 of Republic Act No. 9344 or the 'Juvenile Welfare and Justice Act'.

R.A. 9344 envisioned a holistic and restorative justice approach to addressing the plight of CICLs. Instead of punishing juvenile offenders and treating them as criminals, the approach aims at providing help to CICLs to prevent them from committing future offenses. Under this method, efforts at rehabilitating CICLs require the victim and the community to take an active role in the process. But more importantly, the law raised the age of 'criminal responsibility' from 9 to 15 years old. This means that those aged 15 and below who commit crimes are 'exempt from criminal liability' but instead subjected to intervention programs. The

exemption also applies to those older than 15 but under 18, unless they 'acted with discernment.'

However, after more than a decade of implementation, the law made the problem worse. The raising of the age of criminal responsibility to 15 has resulted in more crimes perpetrated by minors. It has been established that criminal syndicates use juveniles in their illegal operations because they know that under the law, minors can go scot-free even if they act as drug couriers and crime agents. It has also been observed that the age of minors involved in crimes is getting younger and they commit the more serious or heinous crimes. Reports demonstrate a pattern of minors getting bolder and braver in committing crimes because they realize that they will not be punished for their acts but will only be turned over to the Department of Social Welfare and Development (DSWD) or promptly returned to their parents or guardians.

In September 2011, a series of high-profile crimes involving children took place. Among them are the cases of the 13-year-old boy who shot his 16-year-old companion and then himself at the SM Mall in Pampanga; the 12-year-old boy accused of raping a three-year-old girl in Sta. Mesa, Manila; and the 15-year-old boy who admitted robbing, raping and nearly killing his employer in Sta. Rosa, Laguna.

Heinous crimes are those crimes that are grievous, odious and hateful offenses and which, by reason of their inherent or manifest wickedness, viciousness, atrocity and perversity are repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society.

This bill seeks to allow the prosecution of children above nine (9) years of age and those who are otherwise exempt from criminal liability under Republic Act No. 9344, as amended, and who are accused of committing heinous crimes to stand trial for their grave crimes. While there is no denying the laudable purposes and objectives of the law in protecting the interest and welfare of children, and as a general rule not holding said minors who commit crimes responsible for their acts, the gravity of the offense should be taken into consideration in deciding whether criminal liability should attach or not.

Finally, there is no denying that juvenile delinquency is a product of the inherent weaknesses of the political and socio-economic systems affected children live in. However, there can never be genuine justice if the guilty child would not be made responsible, even in a rehabilitative and restorative context, for the *heinous* crimes he committed.

For the foregoing reasons, the immediate consideration and passage of this bill is earnestly urged.


HON. ROMEO M. ACOP
Representative
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AN ACT
REINSTATING THE CRIMINAL LIABILITY OF CHILDREN ABOVE NINE
(9) YEARS OF AGE WHO COMMIT HEINOUS CRIMES

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

SECTION 1. Section 20-A of Republic Act No. 9344, as amended by Republic Act No. 10630, also known as the 'Juvenile Justice and Welfare Act', is hereby further amended to read as follows :

*SECTION. 20-A. [Serious] HEINOUS Crimes Committed by Children Who Are Exempt From Criminal Responsibility. – A child who is above [~~twelve (12)~~] **NINE (9)** years of age up to fifteen (15) 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 **OR SERIOUS PHYSICAL INJURIES**, 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]~~ **NOT BE EXEMPT FROM CRIMINAL LIABILITY.**

LIKewise, A CHILD ABOVE FIFTEEN (15) YEARS BUT BELOW EIGHTEEN (18) YEARS OF AGE WHO COMMITS ANY OF THE OFFENSES ENUMERATED IN THIS SECTION SHALL NOT BE EXEMPT FROM CRIMINAL LIABILITY, REGARDLESS OF WHETHER HE/SHE HAS ACTED WITH DISCERNMENT.

~~[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, **SUCH CHILD IN CONFLICT WITH THE LAW SHALL BE MANDATORILY PLACED IN A SPECIAL FACILITY WITHIN THE YOUTH CARE FACILITY OR 'BAHAY PAG-ASA' CALLED THE JUVENILE INTERVENTION AND SUPPORT CENTER (IJISC) FOR THE DURATION OF THE INVESTIGATION OF HIS CASE AND HIS / HER TRIAL FOR THE OFFENSE CHARGED : PROVIDED, THAT IF THE CHILD IN CONFLICT WITH THE LAW HAS REACHED THE AGE OF EIGHTEEN (18) YEARS AND THE COURT HAS NOT PRONOUNCED A DECISION ON HIS / HER CASE, THE CHILD IN CONFLICT WITH THE LAW SHALL THEN BE COMMITTED TO A REGULAR DETENTION FACILITY.** ~~[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.]~~

IF AFTER THE TRIAL THE COURT SHOULD FIND THAT THE CHILD IN CONFLICT WITH THE LAW HAS COMMITTED THE ACT OR ACTS CHARGED AGAINST HIM, THE COURT SHALL DETERMINE THE IMPOSABLE PENALTY, INCLUDING ANY CIVIL LIABILITY CHARGEABLE AGAINST HIM. HOWEVER, INSTEAD OF PRONOUNCING JUDGMENT OF CONVICTION, THE COURT SHALL SUSPEND ALL FURTHER PROCEEDINGS AND SHALL COMMIT SUCH CHILD IN CONFLICT WITH THE LAW TO THE CUSTODY OR CARE OF THE DSWD, OR TO ANY TRAINING INSTITUTION OPERATED BY THE GOVERNMENT, OR DULY LICENSED AGENCIES, UNTIL HE / SHE SHALL HAVE REACHED EIGHTEEN (18) YEARS OF AGE AND UPON WHICH THE COURT SHALL PRONOUNCE ITS JUDGEMENT OF CONVICTION.

WHEN A JUDGMENT OF CONVICTION IS PRONOUNCED AND AT THE TIME OF SAID PRONOUNCEMENT THE CHILD IN CONFLICT WITH THE LAW IS ALREADY ABOVE EIGHTEEN (18) YEARS OF AGE, HE SHALL BE COMMITTED TO THE PROPER PENAL INSTITUTION TO SERVE THE REMAINING PERIOD OF HIS SENTENCE.

SECTION 2. *Repealing Clause* - All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are hereby deemed repealed or modified accordingly.

SECTION 3. *Effectivity Clause* - This Act shall take effect fifteen (15) days after its full publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.