



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

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 270



Introduced by **DIWA Party-list Representative Hon. Michael Edgar Y. Aglipay**

EXPLANATORY NOTE

Our society has evolved to be a maturing society. Children today, lives in an entitled society that develops a matured discernment at an early age because of their exposure to various technological advancements, uncensored media, and unsheltered environment with less and less parental supervision. The sad reality exists as children are no longer shielded from the influences of vices, such as gambling, alcoholic drinks, and prohibited drugs.

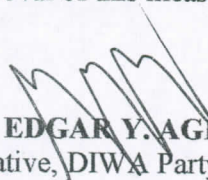
The present Juvenile Justice and Welfare Law sets the minimum age of criminal responsibility at fifteen (15), which holds children in conflict with the law accountable for their actions but only subjects them to rehabilitation programs using the framework of restorative, not punitive justice. However, the increasing number of juvenile offenders is a manifestation that our present juvenile justice system is no longer effective and thus needs to be reviewed in order to keep up with the maturing society that are capable of discernment at an early age.

This bill aims to lower the minimum age of criminal responsibility to thirteen (13) for a child offender who commits a heinous crime. A child offender who is capable of committing a heinous crime should not receive a special treatment and escape liability by hiding behind the juvenile justice system. An act that is so hateful and reprehensible an indication of a maturity as an adult. Hence, a purely rehabilitative approach towards juvenile offenders committing heinous offences may no longer be effective to prevent the young ones from committing such detestable acts. Thus, this representation proposes the adoption of principles of restorative justice as the second limb of juvenile policy to emphasize that we should also show an equal concern for crime victims as well as address the needs of the community.

This proposed measure is not merely branding children above 13 years old as criminals but it hopes to impose responsibility to the maturing society, especially to parents, guardians and adults, who should be responsible for safeguarding the children and for setting a good example. We should be more vigilant to understand the underlying reasons how and why children commit crimes. If we fail to correct the erring child, we will fail to uphold his rights

and well-being as a child. While it is true that we should let our children play, it is also our moral obligation to teach them fair play.

With the foregoing considerations, I seek the approval of this measure.



MICHAEL EDGAR Y. AGRIPAY
Representative, DIWA Party-list





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

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. **270**

Introduced by **DIWA Party-list Representative Michael Edgar Y. Aglipay**

AN ACT

**LOWERING THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY FOR
HEINOUS CRIMES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9344,
OTHERWISE KNOWN AS THE "JUVENILE JUSTICE AND WELFARE ACT OF
2006."**

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

SECTION 1. Section 6 of Republic Act No. 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006", is hereby amended to read as follows:

"SEC. 6. Minimum Age of Criminal Responsibility. - A child fifteen (15) years of age or under at the time of the commission of any 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. PROVIDED, HOWEVER, THAT IF THE OFFENSE COMMITTED IS ANY OF THE HEINOUS CRIMES IDENTIFIED UNDER REPUBLIC ACT 7659, OTHERWISE KNOWN AS THE "HEINOUS CRIME ACT" OR ANY OFFENSE PUNISHABLE BY RECLUSION PERPETUA, ONLY THE CHILD THIRTEEN (13) YEARS OF AGE SHALL BE EXEMPT FROM CRIMINAL LIABILITY.

UNLESS THE CRIME COMMITTED IS A HEINOOUS CRIME, [A] a child above 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 proceedings 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.

SEC. 2. Section 20 of the same Juvenile Justice and Welfare Act, is further amended to read as follows:

“SEC. 20. Children Below the Age of Criminal Responsibility. – IF THE CRIME COMMITTED IS NOT A HEINOUS CRIME AND [If] it has been determined that the child taken into custody is fifteen (15) years old or below, the authority which will have an initial contact with the child 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.

OTHERWISE, IF THE CRIME COMMITTED IS HEINOUS CRIME AND THE CHILD TAKEN INTO CUSTODY HAS BEEN DETERMINED TO BE THIRTEEN (13) YEARS OLD OR BELOW, THE AUTHORITY WHICH WILL HAVE AN INITIAL CONTACT WITH THE CHILD 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.

Said authority shall give notice to the local social welfare and development officer who will determine the appropriate programs in consultation with the child and to 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 duly registered nongovernmental or religious organization; a barangay official or a member of the Barangay Council for the Protection of Children (BCPC); a local social welfare and development officer; or when and where appropriate, the DSWD. If the child referred to herein has been found by the Local Social Welfare and Development Office to be abandoned, neglected or abused by his parents, or in the event that the parents will not comply with the prevention program, the proper petition for involuntary commitment shall be filed 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".

SEC. 3. Section 22 of the same Juvenile Justice and Welfare Act, is 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, 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, 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.

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

1. IF THE CRIME COMMITTED IS NOT A HEINOUS CRIME:

- a) Proceed in accordance with Section 20 if the child is fifteen (15) years or below or above fifteen (15) but below eighteen (18) years old, who acted 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 the following chapter.

2. IF THE CRIME COMMITTED IS A HEINOUS CRIME:

- a) PROCEED IN ACCORDANCE WITH SECTION 20 IF THE CHILD IS THIRTEEN (13) YEARS OR BELOW OR ABOVE THIRTEEN (13) BUT BELOW EIGHTEEN (18) YEARS OLD, WHO ACTED WITHOUT DISCERNMENT; AND
- b) IF THE CHILD IS ABOVE THIRTEEN (13) YEARS OLD BUT BELOW EIGHTEEN (18) AND WHO ACTED WITH DISCERNMENT, PROCEED TO DIVERSION UNDER THE FOLLOWING CHAPTER."

SEC. 4. Section 38 of the same Juvenile Justice and Welfare Act, is further amended to read as follows:

"SEC. 38. Automatic Suspension of Sentence. - Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application[: Provided, however, That suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.]

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

SEC. 8. *Implementing Rules and Regulations.* Within sixty (60) days from the effectivity of this Act, the Juvenile Justice and Welfare Council under the Department of Justice in coordination with the Department of Social Welfare and Development shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 9. *Separability Clause.* If any provision of this Act shall be held unconstitutional or invalid, the remaining provisions which are not affected thereby shall continue to be full force and effect.

SEC. 10. *Repealing Clause.* All laws, decrees, executive orders, rules and regulations, and other issuances, or parts thereof, contrary to or inconsistent with this Act are hereby modified, amended or repealed accordingly.

SEC. 11. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,

