

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

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 6512



Introduced by REPRESENTATIVE ERIC L. OLIVAREZ

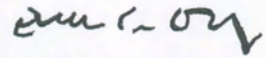
EXPLANATORY NOTE

The Juvenile Justice and Welfare System refers to a system dealing with children at risk and children in conflict with the law, which provides child-appropriate proceedings, including programs and services for prevention, diversion, rehabilitation, re-integration and aftercare to ensure their normal growth and development¹. The Juvenile Justice and Welfare Act was passed in order to promote the well-being of a child and their families and the rights of children. In an effort to further provide protection for the children, this Bill which is intended to expand the scope of the juvenile justice and system and strengthen the social reintegration programs for children in conflict with the law is intended to be passed.

This objectives of this Bill are to protect minors from being exploited by syndicates and unscrupulous persons that use minors to escape liability for crimes and other illegal activities, provide adequate intervention and diversion measures for children in conflict with the law and to increase the penalties for the exploitation of children for the commission of crimes.

Children are the forefront of our country's development. It is only right that the State give the children be given the protection that

they need and that they are entitled to. As such, the passage of this Bill is earnestly sought.



ERIC OLIVAREZ

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

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

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

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

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(s) 'Bahay Pag-asa' - refers to a 24-hour child-caring institution
21 established, funded and managed by [local government units
(LGUs)] **THE DEPARTMENT OF SOCIAL WELFARE AND
DEVELOPMENT (DSWD)** and licensed and/or accredited
nongovernment organizations (NGOs) providing short-term
residential care for children in conflict with the law who are

[above fifteen (15)] **NINE (9) YEARS OF AGE AND ABOVE** but below eighteen (18) years of age who are **COMMITTED FOR REHABILITATION OR** awaiting court disposition of their cases or transfer to other agencies or jurisdiction."

Part of the features of a 'Bahay Pag-asa' is an intensive juvenile intervention and support center. This will cater to children in conflict with the law in accordance with Sections 20, 20-A and 20-B hereof.

A multi-disciplinary team composed of a social worker, a psychologist/mental health professional, a medical doctor, an educational/guidance counselor and a Barangay Council for the Protection of Children (BCPC) member shall operate the 'Bahay Pag- asa'. The team will work on the individualized intervention plan with the child and the child's family.

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

"*SEC. 6. Minimum Age of [Criminal] Responsibility* **OF CHILDREN IN CONFLICT WITH THE LAW** - A child [fifteen (15)] **BELOW NINE (9)** years of age [or under] at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

A child is deemed to be [fifteen (15)] **NINE (9)** years of age on the day of the [fifteenth] **NINTH** anniversary of [his/her] **THE CHILD'S** birthdate.

A child [above fifteen (15)] **NINE (9)** years **OF AGE AND ABOVE** but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless [he/she] **THE CHILD** has acted with discernment, in which case, such accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws **AND THIS ACT.**"

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

"SEC. 20. *Children IN **CONFLICT WITH THE LAW** Below the Age of [Criminal] Responsibility.* - If it has been determined that the child taken into custody is [fifteen (15) years old or] below **NINE (9) YEARS OF AGE**, the authority which will have an initial contact with the child, in consultation with the local social welfare and development officer, has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative. The child shall be subjected to a community-based intervention program supervised by the local social welfare and so development officer. [unless the best interest of the child requires the referral of the child to a youth care facility or 'Ba hay Pag-asa' managed by LGUs or licensed and/or accredited NGOs monitored by the DSWD.]

The local social welfare and development officer shall determine the appropriate programs for the child who has been released, in consultation with the child and the person having custody over the child. **THE ASSESSMENT SHALL INCLUDE IDENTIFICATION OF PHYSICAL AND MENTAL HEALTH ISSUES, SUBSTANCE ABUSE AND FAMILY ISSUES.** If the parents, guardians or nearest relatives cannot be located, or if they refuse to take custody, the child may be released to any of the following:

- (a) A duly registered nongovernmental or religious organization;
- (b) A barangay official or a member of the Barangay Council for the Protection of Children (BCPC);
- (c) A local social welfare and development officer;

(D) **A FOSTER PARENT**; or,

(E) [w] When and where appropriate, the DSWD.

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

If [the child has been found by the local social welfare and development officer to be dependent, abandoned, neglected or abused by his/her parents and] the best interest of the child requires that [he/she] **THE CHILD** be placed in a youth care facility or 'Bahay Pag-asa', the child's parents or guardians shall execute a written authorization for the voluntary commitment of the child: *Provided*, That if the child has no parents or guardians or if they refuse or fail to execute the written authorization for voluntary commitment, the proper petition for involuntary commitment shall be immediately filed by the DSWD or the Local Social Welfare and Development Office (LSWDO) pursuant to Presidential Decree No. 603, as amended, 43 otherwise known as 'The Child and Youth Welfare Code' and the 44 Supreme Court rule on commitment of children: *Provided, further*, 45 That **NO CHILD BELOW NINE (9) YEARS OF AGE SHALL BE** [the minimum age for children] committed to a youth care facility or 'Bahay Pag-asa' [shall be twelve (12) years old.]"

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

"SEC. 20-A. *Serious Crimes Committed by Children* IN **CONFLICT WITH THE LAW** [*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, destructive arson, rape, or carnapping where the driver or occupant is killed or raped or offenses under

Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002) punishable by more than twelve (12) years of imprisonment, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall be mandatorily placed in a special facility within the youth care facility or '8ahay Pag-asa' called the Intensive Juvenile Intervention and Support Center (IJISC).

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

SEC. 5. Section 20-8 of the same Act, as amended, is further amended to read as follows:

"SEC. 20-8. *Repetition of Offenses.* - A child who is [above twelve

(12)] **NINE (9)** years of age up to [fifteen (15)] **EIGHTEEN (18)** years of age and who commits an offense for the second time or oftener: *Provided*, That the child was previously subjected to a community-based intervention program, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall undergo an intensive intervention program supervised by the local social welfare and development officer: *Provided*, further, That, if the best interest of the child requires that he/she be placed in a youth care facility or 'Bahay Pag-asa', the child's parents, **FOSTER PARENTS** or guardians shall execute a written authorization for the voluntary commitment of the child : *Provided*, finally, That if the child has no parents, **FOSTER PARENTS** or guardians or if they refuse or fail to execute the written authorization for voluntary commitment, the proper petition for involuntary commitment shall be immediately filed by the DSWD or the LSWDO pursuant to Presidential Decree No. 603, as amended."

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

"SEC. 20-C. *Exploitation of Children for Commission of Crimes.* – Any person who, in the commission of a crime, makes use, takes advantage of, or profits from the use of [children] **A CHILD**, including any person who abuses his/her authority over the child, or who[, with abuse of confidence, takes advantage of the vulnerabilities of the child and shall induce, threaten or instigate the commission of the crime,] **OTHERWISE INDUCES OR COERCES A CHILD TO COMMIT A CRIME**, shall be [imposed the penalty prescribed by law for the crime committed in its maximum period] **PUNISHED BY RECLUSION TEMPORAL IF THE CRIME COMMITTED IS PUNISHABLE BY IMPRISONMENT OF SIX (6) YEARS OR LESS, AND BY RECLUSION PERPETUA IF THE CRIME COMMITTED IS PUNISHABLE BY IMPRISONMENT OF MORE THAN SIX (6) YEARS.**"

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

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

PARENTS OF CHILDREN WHO COMMITTED ANY OF THE SERIOUS CRIMES UNDER SECTION 20-A OF THIS ACT, AND OF CHILDREN WHO ARE REPEAT OFFENDERS UNDER SECTION 20- B OF THIS ACT, SHALL UNDERGO MANDATORY INTERVENTION PROGRAMS, INCLUDING PARENTING SEMINARS AND COUNSELLING. THE FAILURE OF SUCH PARENTS TO UNDERGO MANDATORY INTERVENTION, UNLESS PREVENTED BY A LAWFUL CAUSE, SHALL BE A GROUND FOR IMPRISONMENT FOR AT LEAST THIRTY (30) DAYS BUT NOT MORE THAN SIX (6) MONTHS.

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

- (a) Biological parents of the child; or
- (b) Adoptive parents of the child; or
- (c) Individuals who have custody of the child[.]; **OR**

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

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

The parents shall be **PRIMARILY** liable for **CIVIL** damages **ARISING OUT OF THE ACTIONS OF THE CHILD IN CONFLICT WITH THE LAW** unless they prove, to the satisfaction of the court that they were

exercising reasonable supervision over the child at the time the child committed the offense and exerted reasonable effort and utmost diligence to prevent or discourage the child from committing another offense."

SEC. 8. Section 22 of the same Act, as amended, 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, **FOSTER PARENT**, guardian, or nearest relative, as the case may be; and (3) the local social welfare and development officer. In the absence of the child's parents, **FOSTER PARENT**, guardian, or nearest relative, and the local social welfare and development officer, the investigation shall be conducted in the presence of a representative of an NGO, religious group, or member of the BCPC.

The **LOCAL** social [worker] **WELFARE AND DEVELOPMENT OFFICER** shall conduct an initial assessment to determine the appropriate interventions and whether the child acted with discernment, using the discernment assessment tools developed by the DSWD. The initial assessment shall be without prejudice to the preparation of a more comprehensive case study report. The local social [worker] **WELFARE AND DEVELOPMENT OFFICER** shall do either of the following:

- (a) Proceed in accordance with Section 20 if the child is [fifteen (15) years or] below **NINE (9) YEARS OF AGE** or [above fifteen (15)] **NINE (9) YEARS OF AGE AND ABOVE** but below eighteen (18) years [old] **OF AGE** who acted without discernment; and

(b) If the child is [above fifteen (15) years old] **NINE (9) YEARS OF AGE AND ABOVE** but below eighteen (18) **YEARS OF AGE** and who acted with discernment **OR COMMITTED A SERIOUS OFFENSE UNDER SECTION 20-A OF THIS ACT**, proceed to diversion under the following chapter."

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

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

SEC. 10. Section 40 of the same Act is amended to read as follows:

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

If said child in conflict with the law has reached eighteen (18) years of age while under suspended 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] **SUSPENSION OF THE** sentence for a certain specified period or until the child reaches the maximum age of [twenty-one (21)] **TWENTY-FIVE (25)** years."

SEC. 11. Section 41 of the same Act is amended to read as follows:

SEC. 41. *Credit in Service of Sentence.* - The child in conflict with the law shall be credited in the services of his/her sentence with the full time spent in actual commitment and detention under this Act. **A CHILD WITH GOOD CONDUCT AND BEHAVIOR WHILE UNDERGOING DIVERSION, INTERVENTION, REHABILITATION, OR DETENTION IN ANY FACILITY UNDER THIS ACT, SHALL BE ALLOWED DEDUCTIONS FROM THE PERIOD OF SENTENCE AS PROVIDED IN ARTICLE 97 OF THE REVISED PENAL CODE, AS AMENDED.**

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

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

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

"SEC. 49. *Establishment of 'Bahay Pag-Asa'.* - [Each province and highly-urbanized city (the LGUs)] **THE DSWD** shall be responsible for building, funding and operating a 'Bahay Pag-asa' [within their jurisdiction] **IN PROVINCES AND CITIES TO BE IDENTIFIED BY THE JJWC**, following the standards that will be set by the DSWD and adopted by the JJWC. **ALL 'BAHAY PAG-ASA' THAT ARE CURRENTLY OPERATED AND MAINTAINED BY LGUS SHALL CONTINUE TO BE OPERATED, MAINTAINED AND FUNDED BY THE RESPECTIVE LGUS, UNLESS BEFORE THE END OF THE FISCAL YEAR, THE CONCERNED LGU REQUESTS IN**

WRITING THAT THE OPERATION, MAINTENANCE AND FUNDING OF THE 'BAHAY PAG-ASA' BE TRANSFERRED TO THE DSWD BEGINNING THE NEXT FISCAL YEAR.

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

THE FUNDING NECESSARY FOR THE ESTABLISHMENT AND CONTINUED OPERATION OF 'BAHAY PAG-ASA' BY THE DSWD SHALL BE INCLUDED IN THE BUDGET FOR THE DSWD IN THE GENERAL APPROPRIATIONS ACT."

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

"SEC. 51. *Confinement of Convicted Children in Agricultural Camps and other Training Facilities.* - A child in conflict with the law [may] **SHALL**, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that [may] **SHALL** be established, maintained, supervised and controlled by the **DSWD [BuCor], in [coordination] PARTNERSHIP with the [DSWD] BUCOR AND THE TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY (TESDA).**

THE DSWD, IN PARTNERSHIP WITH THE BUCOR, SHALL ESTABLISH AT LEAST TWO (2) AGRICULTURAL CAMPS EACH IN LUZON, VISAYAS AND MINDANAO. THE DSWD, IN PARTNERSHIP WITH TESDA, SHALL LIKEWISE ESTABLISH AT LEAST TWO (2) TRAINING FACILITIES EACH IN LUZON,

VISAYAS AND MINDANAO. THERE SHALL BE SEPARATE FACILITIES FOR MALE AND FEMALE CHILDREN IN EVERY AGRICULTURAL CAMP AND TRAINING FACILITY. THE DSWD, IN COORDINATION WITH THE BUCOR AND TESDA, SHALL DESIGN AND IMPLEMENT THE REHABILITATION AND INTERVENTION PROGRAMS IN THESE SPECIALIZED FACILITIES IN ORDER TO PREPARE THE RESIDENTS THEREIN FOR SUCCESSFUL REINTEGRATION INTO THEIR FAMILIES AND COMMUNITIES UPON DISCHARGE AND RELEASE."

SEC. 15. Section 52 of the same Act is amended to read as follows:

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

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

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

SEC. 64. *Children in Conflict with the Law [Fifteen (15) Years Old and]* below **NINE (9) YEARS OF AGE.** - Upon effectivity of this Act, cases [of children fifteen (15) years old and] **INVOLVING CHILDREN IN CONFLICT WITH THE LAW** below **NINE (9) YEARS OF AGE** at the time of the commission of the crime shall

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

SEC. 17. *Implementing Rules and Regulations.* - The JJWC shall promulgate the necessary rules and regulations for the effective implementation of this Act within ninety (90) days from the effectivity of this Act.

SEC. 18. *Separability Clause.* - If any provision of this Act is held to be unconstitutional, other provisions not affected thereby shall remain valid and binding.

SEC. 19. *Repealing Clause.* - Republic Act No. 9344, as amended by Republic Act No. 10630, is hereby amended accordingly. All laws, decrees, ordinances and rules inconsistent with the provisions of this Act are hereby modified or repealed accordingly.

SEC. 20. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Adopted,