

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City, Manila

FIFTEENTH CONGRESS
FIRST REGULAR SESSION

House Bill No. 3423

Introduced by Representative Anthony Rolando T. Golez, Jr

EXPLANATORY NOTE

In Republic Act 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006, it was stated that a youthful offenders aged below fifteen (15) years of age are exempted from criminal liability. In this case, criminals or terrorists can use these youthful offenders to commit criminal acts for their own satisfaction and use this law as a defense for those criminal acts committed.

In the same Republic Act 9344, it also states that a child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempted from criminal liability, **unless he/she has acted with discernment**. But it is a known medical fact, that at the age of 10 years old, a child can already be mentally mature to distinguish and understand a right from a wrongful act and so much so children ages 15 to 18 years old.

The focus of this bill is to reinstate the criminal liability of children aged below eighteen (18) years of age amending for the purpose Republic Act No. 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006.

Thus, approval of the bill is earnestly sought.

AR. Golez

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AN ACT
REINSTATING THE CRIMINAL LIABILITY OF A PERSON UNDER EIGHTEEN YEARS OF AGE, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9344, KNOWN AS THE JUVENILE JUSTICE AND WELFARE ACT OF 2006 AND FOR OTHER PURPOSES.

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

SECTION 1. Section 6 of Republic Act No. 9344 is amended to read as follows:

"Section 6. Minimum Age of Criminal Responsibility. - A child fifteen (15) years of age or under BUT OVER NINE (9) YEARS OF AGE WHO WAS DECLARED BY THE COURT TO HAVE ACTED WITHOUT DISCERNMENT 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 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.] OR A CHILD FIFTEEN (15) YEARS OF AGE OR UNDER BUT OVER NINE (9) YEARS OF AGE WHO HAS BEEN DECLARED BY THE COURT TO HAVE ACTED WITH DISCERNMENT AT THE TIME OF THE COMMISSION OF THE OFFENSE, THE COURT SHALL DETERMINE THE IMPOSABLE PENALTY. HOWEVER, INSTEAD OF PRONOUNCING JUDGMENT OF CONVICTION, THE COURT SHALL SUSPEND ALL FURTHER PROCEEDINGS AND SHALL COMMIT SUCH MINOR TO THE CUSTODY OR CARE OF THE DEPARTMENT OF SOCIAL WELFARE, OR TO ANY TRAINING INSTITUTION OPERATED BY THE GOVERNMENT, OR DULY LICENSED AGENCIES: PROVIDED FURTHER, THAT IF HE HAS BEEN FOUND INCORRIGIBLE OR HAS WILLFULLY FAILED TO COMPLY WITH THE CONDITIONS OF HIS CONTINUED STAY IN THE

TRAINING INSTITUTION, HE SHALL BE RETURNED TO THE COMMITTING COURT FOR THE PRONOUNCEMENT OF JUDGMENT UPON REACHING THE AGE OF TWENTY-ONE.

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

SECTION 2. Section 20 of the same Act is hereby repealed as follows:

[*"Section 20. Children Below the Age of Criminal Responsibility.* - 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. 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 non-governmental 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".]

SECTION 3. Section 22 of the same Act is hereby amended to read as follows:

"Section 20. 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:

(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.]

SECTION 4. If for any reason, any section or provision of this Act is declared unconstitutional or invalid by the Supreme Court, the other sections or provisions hereof not affected by such declaration shall remain in force and effect.

SECTION 5. All existing laws, orders, decrees, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 6. This Act shall take effect (15) days after its publication in at least two (2) national newspapers of general circulation.

APPROVED,