



## A.M. NO. 02-1-18-SC Rule on Juveniles in Conflict with the Law

### RESOLUTION

**WHEREAS**, the Supreme Court of the Philippines in the exercise of its rule-making power under the Constitution, promulgated A.M. No. 2-[1]-18-SC or the Rule on Juveniles in Conflict with the Law to govern the procedure in cases involving juvenile offenders and declared the same to take effect on April 15, 2002;

**WHEREAS**, the Congress of the Philippines, four years later, approved and passed Republic Act No. 9344 (**RA No. 9344**), entitled the “Juvenile Justice and Welfare Act of 2006,” which law became effective on May 20, 2006;<sup>1</sup>

**WHEREAS**, RA No. 9344 declared as a policy that “[t]he State shall apply the principles of restorative justices in all its laws, policies and programs applicable to children in conflict with the law”;<sup>2</sup>

**WHEREAS**, the Supreme Court, in light of the passage of RA No. 9344, promulgated the Revised Rule on Children in Conflict with the Law, which took effect on December 1, 2009;

**WHEREAS**, the Congress approved and passed Republic Act No. 10630 (**RA No. 10630**) amending RA No. 9344, which became effective on November 7, 2013, by establishing a comprehensive juvenile justice system, strengthening the Juvenile Justice and Welfare Council and placing it under the administrative supervision of the Department of Social Welfare and Development, appropriating funds therefor, among others;

**WHEREAS**, the Supreme Court, by Memorandum Order No. 20-2014 dated August 13, 2014, created the Committee on Family Courts and Juvenile Concerns (**CFCJC**) with the mandate, among others, of drafting “a plan for the organization of the family courts” pursuant to the Family Courts Act of 1997 (**RA No. 8369**), and “monito[r]ing the implementation of the plan for the creation and organization of Family Courts including identification of procedural rules and court guidelines, as well

as legal and judicial forms that must be adopted to increase the effectiveness and efficiency of family courts;”

**WHEREAS**, the CFCJC, upon consultation with statutory Family Courts, designated Family Courts, and other courts handling Family Court cases, as well as other concerned sectors, stakeholders, and government agencies/implementers of RA No. 9344, determined that there is a need to further amend the Revised Rule on Children in Conflict with the Law so as to harmonize the same with RA No. 9344, and its amendatory law, RA No. 10630;

**NOW THEREFORE**, the Supreme Court, in the exercise of its rule-making power under Article VIII, Section 5(5) of the 1987 Constitution, hereby **PROMULGATES** the **2019 Supreme Court Revised Rule on Children in Conflict with the Law**.

This Resolution shall take effect 15 days following its publication in the Official Gazette or in two newspapers of national circulation.

January 22, 2019.

(*Sgd.*) BERSAMIN, *CJ*, CARPIO, PERALTA, DEL CASTILLO, PERLAS-BERNABE, LEONEN, JARDELEZA, CAGUIOA, REYES, Jr., GESMUNDO, REYES, Jr., HERNANDO, CARANDANG, *JJ*.

### 2019 SUPREME COURT REVISED RULE ON CHILDREN IN CONFLICT WITH THE LAW

**SECTION. 1. Applicability of the Rule.** – This Rule shall apply to all criminal cases involving children in conflict with the law.

A child in conflict with the law is a person below 18 years old who is alleged as, accused of, or adjudged as having committed an offense under Philippine Laws. (*a*)

This Rule shall not apply to a person who at the time of the initial contact as defined in Section 4(s) of this Rule shall have reached the age of 18 in which case, the regular rules on criminal procedure shall apply without prejudice to the rights granted under Sections 51, 52, 53 and 54 of this Rule. Nor shall this Rule apply to “children at risk” as defined in Section 4(g) of this Rule. (*a*)

<sup>1</sup> *People v. Mantalaba*, G.R. No. 186227, July 20, 2011.

<sup>2</sup> Section, 2(f), RA No. 9344.

**SEC. 2. Objective.** – The objective of this Rule is to ensure that the justice system treats every child in conflict with the law in a manner that recognizes and upholds human dignity and worth, and instills in the child respect for the fundamental rights and freedom of others. The Rule considers the developmental age of the child and the desirability of the child's reintegration in and assumption of a constructive role in society in accordance with the principles of restorative justice.

To attain this objective, the Rule seeks:

- a) To provide child-appropriate proceedings, including programs and services for crime prevention, diversion, rehabilitation, reintegration and aftercare to ensure the normal growth and development of the child in conflict with the law;
  - b) To provide procedural rules dealing with children in conflict with the law that take into account their distinct circumstances, assure all parties of a fair hearing with each party's constitutional and statutory rights recognized and respected, and ensure that appropriate disposition measures are implemented by law enforcers, social services and courts;
  - c) To divert from the formal justice system children in conflict with the law who can be cared for or placed under child-appropriate proceedings, including programs and services for prevention, diversion, rehabilitation, reintegration and aftercare to ensure their normal growth and development; (a)
  - d) To deal with the child in a family environment whenever possible, and to separate the child from the parents only when necessary for the child's welfare or in the interest of public safety;
  - e) To remove from children in conflict with the law, the stigma of criminality and criminal behavior;
  - f) To promote, facilitate and implement in administrative and judicial proceedings respect for the views of the child;
  - g) To provide for the care, protection and wholesome moral, mental, and physical development of children in conflict with the law; and
  - h) To promote and protect the rights and interest of children as zones of peace in situations of armed conflict, but who are alleged to be in conflict with the law. (a)
- (b) *Bail* refers to the security given for the release of the child in custody of the law, furnished by the child, the child's parent, guardian, or a bondsman, to guarantee the child's appearance before the court. Bail may be posted in a form such as corporate security, property bond or cash deposit.
  - (c) *Bahay Pag-asa* refers to a 24-hour child-caring institution established, funded and managed by local government units and licensed and/or accredited non-government organizations providing short-term residential care for children in conflict with the law who are above 15 but below 18 years of age who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction. (n)
  - (d) *Restorative Justice* refers to a principle which requires a process of resolving conflicts with the maximum involvement of the victim, the child in conflict with the law, and the community. It seeks to obtain reparation for the victim; reconciliation between and among the victim, the child in conflict with the law, and the community, and the reassurance that the child in conflict with the law can be reintegrated into society. It also enhances public safety by involving the victim, the child in conflict with the law, and the community in prevention strategies. (a)
  - (e) *Best interest of the child* refers to the totality of circumstances and conditions that are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development. It also means the least detrimental available alternative for safeguarding the growth and development.
  - (f) *Social case study report* is a written report prepared by the social worker of the local government unit or the Department of Social Welfare and Development or by the social worker designated by the court on social, cultural, economic and legal status or condition of the child in conflict with the law. It shall include, among other matters, the child's developmental age; educational attainment; family and social relationships; the quality of the child's peer group; the strengths and weaknesses of the family; parental control; the child's attitude towards the offense; the harm or damage done to others resulting from the offense; record of prior offenses, if any; and attitude of the parents towards the child's responsibility for the offense. The social worker may also include an initial determination of the child's discernment in the commission of the offense. (a)
  - (g) *Child at risk* refers to a child who is vulnerable to and at the risk of committing criminal offenses because of personal, family and social circumstances, such as, but not limited to the following:

**SEC. 3. Interpretation.** – This Rule shall be interpreted liberally to promote the best interest of the child in conformity with Philippine laws, the United Nations' Convention on the Rights of the Child and relevant international treaties and protocols.

**SEC. 4. Definitions.** – As used in Rule,

- (a) *Age of criminal responsibility* is the age when child above 15 years but below 18 years of age commits an offense with discernment. (a)

- (1) Being abused by any person through sexual, physical, psychological, mental, economic or any other means, and the parents or guardian refuse, are unwilling, or unable to provide protection for the child;
- (2) Being exploited sexually or economically;
- (3) Being abandoned or neglected, and after diligent search and inquiry, the parent or guardian cannot be found;
- (4) Coming from 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) Living in a community with a high level of criminality or drug abuse; and
- (9) Living in situations of armed conflict.

It covers children who violate ordinances enacted by local governments concerning juvenile status offenses such as, but not limited to curfew violations, truancy, parental disobedience, anti-smoking and anti-drinking laws, as well as light offenses and misdemeanors against public order or safety such as, but not limited to, disorderly conduct, public scandal, harassment, drunkenness, public intoxication, criminal nuisance, vandalism, gambling, mendicancy, littering, public urination and trespassing who shall not be penalized but instead proceeded in accordance with Section 57-A of Republic Act No. 9344, as amended. (n)

- (h) *Community continuum* refers to the aftercare of a child in conflict with the law and is a community-based group therapy process that provides continuous guidance and support to the child in conflict with the law upon release from rehabilitation and subsequent reintegration into society. Community continuum for the child includes timely release, suitable residence, food, clothing, available employment and sufficient means to facilitate successful reintegration in society which shall be provided by the concerned local government unit and other appropriate agencies.

It also includes after-care support provided by the local social welfare and development officer for a period of at least six months for children in conflict with the law whose cases have been dismissed by the proper court because of good behavior as per recommendation of the Department of Social Welfare and Development social worker and/or any accredited non-government organization youth rehabilitation center. The service includes counseling and other community-based services designed to facilitate social reintegration, prevent re-offending and make the children productive members of the community. (n)

- (i) *Corporal punishment* is any kind of physical punishment inflicted on the body as distinguished from pecuniary punishment or fine.
- (j) *Court* refers to Family Court, a designated family court, or in places where there are no designated family courts, any regional trial court hearing family and youth cases. (a)
- (k) *Deprivation of Liberty* refers to any form of detention or imprisonment, or to the placement of a child in conflict with the law in a public or private custodial setting, from which the child in conflict with the law is not permitted to leave at will except by order of any judicial or administrative authority.
- (l) *Discernment* means the capacity of the child at the time of the commission of the offense to understand the difference between right and wrong and the consequences of the wrongful act.
- (m) *Disposition conference* is a meeting held by the court with the social worker who prepared the case study report, together with the child in conflict with the law, the parents or guardian, and the child's counsel, as well as the private complaint together with his or her parents or guardian, if a minor, and counsel, for the purpose of determining the disposition measures appropriate to the personal and special circumstances of the child. (a)
- (n) *Diversion* 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 the child's social, cultural, economic, psychological or educational background without resorting to formal court proceedings. (a)
- (o) *Diversion programs* refer to programs the child in conflict with the law is required to undergo after the child is found by the appropriate authority responsible for an offense, without resorting to formal court proceedings. (a)
- (p) *Expedited Transfer of a Child* is a process where a child who commits an offense is immediately brought by the apprehending officer or private individual to a social worker. It includes the duty of the law enforcement officer to immediately but not later than eight hours after apprehension turn over custody of the child to the social welfare and development office or other accredited non-government organizations, and notify the child's parents/guardians and public attorney's office of the child's apprehension. It also includes the duty of the social welfare and development officer to explain to the child and the child's parents/guardians the consequences of the child's act with a view towards counseling and rehabilitation, diversion from the criminal justice system, and reparation, if appropriate. (n)

- (q) *Guardian Ad Litem* is a person appointed by the court to protect the best interest of the child.
- (r) *In conflict with the law* means being taken into custody or charged with the commission of an act defined and punished as a crime or offense under the law, except juvenile status offenses punishable by ordinances enacted by local governments in accordance with Sections 57 and 57-A, and offenses not applicable to children in accordance with Section 58 of Republic Act No. 9344, as amended. (a)
- (s) *Initial contact* 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 the child alleged to be in conflict with the law receives a subpoena under Section 3(b) of Rule 112 of the Revised Rules of Criminal Procedure or summons under Section 6(a) or Section 9(b) of the same Rule in cases that do not require preliminary investigation, or where there is no necessity to place the child alleged to be in conflict with the law under immediate custody.
- (t) *Intensive Juvenile Intervention Support Center (IJISC)* is a special facility within the youth care facility or “Bahay Pag-asa” that caters to and provides a more intensive multi-disciplinary intervention program for children in conflict with the law in accordance with the provisions of Republic Act No. 9344, as amended. (n)
- (u) *Intervention programs* refer to a series of individualized treatment activities or programs designed to address issues that caused the child to commit an offense. These may include counseling, skills training, education, and other activities that are aimed to improve and enhance the child’s psychological, emotional and psychosocial well-being.
- (v) *Law Enforcement Officer* refers to the person in authority or an agent as defined in Article 152 of the Revised Penal Code; including a *barangay tanod*.
- (w) *Probation* is an alternative disposition, ordered by the court, under which a child in conflict with the law is released after conviction and sentence and permitted to remain at home or with an appropriate custodian, subject to certain terms and conditions imposed by the court.
- (x) *Recognizance* is an undertaking in lieu of a bond, assumed by a mother or father, or appropriate guardian or custodian, or in their absence, the nearest relative, or any responsible member of the community to assume custody of a child in conflict with the law and be responsible for the appearance of the child in court whenever required during the pendency of the case.
- (y) *Serious crime* refers to 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 12 years of imprisonment. (n)
- (z) *Status offenses* refer to any conduct not considered an offense or not penalized if committed by an adult, such as curfew violations, truancy, parental disobedience and the like. (a)
- (aa) *Suspended sentence* is the holding in abeyance of the service of the sentence imposed by the court upon a finding of guilt of the child in conflict with the law, whereby the child undergoes rehabilitation within a fixed period under such terms and conditions as may be ordered by the court.
- (bb) *Victimless Crimes* refer to offenses where there is no private offended party. (a)
- (cc) *Youth rehabilitation center* refers to a 24-hour residential care facility managed by the Department of Social Welfare and Development, local government units, licensed and/or accredited non-government organizations monitored by the Department of Social Welfare and Development. The Center provides care, treatment and rehabilitation services for children in conflict with the law under a structured therapeutic environment through the guidance of a trained staff, where the physical mobility of the children may be restricted pending court disposition of their cases. (a)

**SEC. 5. Determination of Age.** – The child in conflict with the law shall enjoy the presumption of minority and shall enjoy all the rights of a child in conflict with the law until proven to be 18 years old or older at the time of the commission of offense. The age of the child shall be determined according to the following rules:

- (1) The best evidence to prove the age of a child is an original or certified true copy of the certificate of live birth;
- (2) In the absence of a certificate of live birth, similar authentic documents such as baptismal certificates and school records or any pertinent document that shows the date of birth of the child;
- (3) In the absence of the documents under paragraphs 1 and 2 of this Section due to loss, destruction or unavailability, the testimony of the child, the testimony of a member of the family related to the child by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the child pursuant to Section 40, Rule 130 of the Rules on Evidence, the testimonies of other persons, the physical appearance of the child and other relevant evidence, shall suffice. (a)

In case of doubt as to the age of the child, it shall be resolved in the child's favor. (n)

**SEC. 6. Burden of Proof of Age.** – Any person alleging the age of the child in conflict with the law has the burden of proving the age of such child.

If the age of the child is contested prior to the filing of the information in court, a case for determination of age under summary proceeding may be filed before a court which shall render its decision within 24 hours from receipt of the appropriate pleadings of all the parties.

In all cases involving a child, the court shall make a categorical findings as to the age of the child.

**SEC. 7. Exemption from Criminal Liability.** – A child 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 as provided for in Republic Act No. 9344, as amended. (a)

A child is deemed to be 15 years of age on the day of the 15<sup>th</sup> anniversary of his/her birthdate. (n)

A child above 15 years but below 18 years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with the law. (n)

Exemption from criminal liability of the child does not include exemption from civil liability of parents and other persons exercising parental authority which shall be enforced in accordance with the provisions of Article 221 of the Family Code in relation to Article 101 of Revised Penal Code and Rule 111 of the Revised Rules of Criminal Procedure. If the act or omission of the child involves a quasi-delict, Article 2180 of the Civil Code shall apply. (a)

**SEC. 8. Procedure for Handling Children Exempted from Criminal Liability.** – If it is determined at the initial contact that the child is 15 years of age or below, the procedure provided in Section 20, Republic Act No. 9344, as amended, shall be observed as follows:

- (a) 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. (a)
- (b) The child shall be subjected to a community-based intervention program supervised by the local social welfare and development officer, unless the best interest of the child requires the referral of the child to a youth care facility or "Bahay Pag-asa" managed by local governments units or licensed and/or accredited non-

government organizations monitored by the Department of Social Welfare and Development. (n)

- (c) 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. 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:
  - (1) A duly registered non-governmental or religious organization;
  - (2) A barangay official or a member of the Barangay Council for Protection of Children;
  - (3) A local social welfare and development officer; or, when and where appropriate, the Department of Social Welfare and Development. (n)
- (d) 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 be placed in a youth care facility or "Bahay Pag-asa":
  - (1) The child's parents or guardians shall execute a written authorization for the voluntary commitment of the child; or
  - (2) 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 Department of Social Welfare and Development or the local social welfare development office pursuant to Presidential Decree No. 603, as amended, otherwise known as "The Child and Youth Welfare Code" and the Supreme Court Rule on Commitment of Children. (n)

The minimum age for children committed to a youth care facility or "Bahay Pag-asa" shall be 12 years old. (n)

**SEC. 8-A. Procedure for Handling a Child Exempted from Criminal Liability Who Commits Serious Crimes.** – A child who is above 12 years of age up to 15 years of age and who commits a serious crime shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall be mandatorily placed in the Intensive Juvenile Intervention and Support Center (IJISC) of a "Bahay Pag-asa." The procedure provided in Section 20-A, Republic Act No. 9344, as amended, shall be observed as follows:

- (a) A petition for involuntary commitment and placement under IJISC shall be filed by the local social welfare and development officer of the local government unit where the offense was committed, or by the Department of

Social Welfare and Development social worker in the local social welfare and development officer's absence, within 24 hours from the time of the receipt of a report on the alleged commission of said child. (n)

- (b) The court, where the petition for involuntary commitment has been filed, shall decide on the petition within 72 hours from the time the said petition has been filed by the Department of Social Welfare and Development/ Local Social Welfare and Development Office.
- (c) The court will determine the initial period of placement of the child within the IJISC which shall not be less than one year.
- (d) The multi-disciplinary team of the IJISC will submit to the court:
  - (1) 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 IJISC; and
  - (2) 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.
- (e) 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.
- (f) The court will determine the next period of assessment or hearing on the commitment of the child. (n)

**SEC. 8-B. Procedure for Handling a Child Exempted from Criminal Liability Who Repeats Commission of Offense.** – A child who is above 12 years of age up to 15 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:

- (a) Undergo an intensive intervention program supervised by the local social welfare and development officer;
- (b) 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 or guardians shall execute a written authorization for voluntary commitment of the child;
- (c) If the child has no parents or guardians or if they refuse or fail to execute a written authorization for voluntary commitment under Section 8-B(b), the proper petition for involuntary commitment shall be immediately filed by the Department of Social Welfare and Development or the Local Social Welfare and Development Office pursuant to Presidential Decree No. 603, as amended. (n)

**SEC. 9. Procedure for Children Not Exempted from Criminal Liability.** – A child 15 years and 1 day old or above but below

18 years of age at the time of the commission of the offense shall, at the sound discretion of the court and subject to its supervision, be released on recognizance to the care of the willing and responsible mother or father, or appropriate guardian or custodian, or, in their absence, the nearest relative. However, if the prosecution determines that the child acted with discernment, the child shall be proceeded against in accordance with Sections 24 to 27 or, in case of diversion, Sections 29 to 37 of this Rule. (a)

**SEC. 10. Determination of Discernment.** – Discernment is preliminarily determined by a social worker and finally by the court. (a)

The determination of discernment shall take into account the ability of a child to understand the moral and psychological components of criminal responsibility and the consequences of the wrongful act; and whether a child can be held responsible for essentially antisocial behavior.

**SEC. 11. Procedure for Taking the Child into Custody.** – From the moment a child is taken into custody, the law enforcement officer shall:

- (a) Explain to the child in simple language and in a dialect that he/she can understand why he/she is being placed under custody and the offense that he/she allegedly committed;
- (b) Inform the child of the reason for such custody and advise the child of his/her constitutional rights in a language or dialect understood by him/her;
- (c) Properly identify himself/herself and present proper identification to the child;
- (d) Refrain from using vulgar or profane words, and from sexually harassing or abusing, or making sexual advances on the child in conflict with the law;
- (e) Avoid displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and only after all other methods of control have been exhausted and have failed;
- (f) Refrain from subjecting the child in conflict with the law to greater restraint than is necessary for his/her apprehension;
- (g) Avoid violence or unnecessary force;
- (h) Determine the age of the child pursuant to Section 7 of Republic Act No. 9344, as amended;
- (i) Immediately but not later than eight hours after apprehension, turn over custody of the child to the Social Welfare and Development Office or other accredited non-government organizations, and notify the child's parents/guardians and Public Attorney's Office of the child's apprehension. The social welfare and development officer shall explain to the child and the child's parents/

guardians the consequences of the child's act with a view towards counseling and rehabilitation, diversion from the criminal justice system, and reparation, if appropriate;

- (j) Take the child immediately to the proper medical and health officer for a thorough physical and mental examination. The examination results shall be kept confidential unless otherwise ordered by the family court. Whenever the medical treatment is required, steps shall be immediately undertaken to provide the same;
- (k) Ensure that should detention of the child in conflict with the law be necessary, the child shall be secured in quarters separate from that of the opposite sex and adult offenders;
- (l) Record the following in the initial investigation:
  - (1) Whether handcuffs or other instruments of restraint were used, and if so, the reason for such;
  - (2) That the parents or guardian of a child, the Department of Social Welfare and Development, and the Public Attorney's Office have been informed of the apprehension and the details thereof; and
  - (3) The exhaustion of measures to determine the age of a child and the precise details of the physical and medical examination or the failure to submit a child to such examination; and
- (m) Ensure that all statements signed by the child during the investigation shall be witnessed by the child's parents or guardian, social worker or legal 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 up in a detention cell. (n)

**SEC. 12. Rights of a Child Under Custody.** – At the custodial investigation, a child who has been taken into custody shall have the following rights:

- (a) At the police station, to be immediately assisted by a lawyer and a social worker who shall make sure that the child is effectively informed of his/her rights, as far as the child's maturity and discernment allow;
- (b) To demand that the questioning or interrogation take place in conditions that respect the rights of the child and are compliant with child-sensitive procedural rules;
- (c) To have the child's family located and notified with dispatch;
- (d) To be informed, together with the parents, guardians or custodians or nearest relatives, by the social welfare and development officer of the local government unit or of the Department of Social Welfare and Development of the consequences of the offense alleged to have

been committed with a view towards counseling and rehabilitation, diversion from criminal justice system and reparation if appropriate;

- (e) To have the results of the child's medical and dental examination kept confidential, unless otherwise ordered by the court;
  - Whenever medical treatment for any physical or mental defect is necessary, to demand that steps must be immediately taken by the medical officer to provide the child with the necessary and proper treatment;
- (f) To have the right of privacy respected and protected at all times, including the utilization of all measures necessary to promote this right, including the exclusion of the media; and
- (g) While under investigation, not to be fingerprinted or photographed in a humiliating and degrading manner.

**SEC. 13. Taking Custody of a Child Without a Warrant.** – The law enforcement officer or a private person taking into custody a child in conflict with the law without a warrant shall observe the provisions in Sections 5, 8 and 9 of Rule 113 of the Revised Rules of Criminal Procedure and shall forthwith deliver the child to the nearest police station. The child shall be proceeded against in accordance with Section 7 of Rule 112 of the Rules of Criminal Procedure.

**SEC. 14. 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 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 non-government organization, religious group, or member of the Barangay Council for the Protection of Children.

The social worker 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 Department of Social Welfare and Development. The initial assessment shall be without prejudice to the preparation of a more comprehensive study report. The local social worker shall do either of the following:

- (A) Proceed in accordance with Section 8 if the child is 15 years old or below, or above 15 but below 18 years old, who acted without discernment; and

- (B) If the child is above 15 years old but below 18 and who acted with discernment, proceed to diversion in accordance with Sections 28–36 of this Rule. *(n)*

**SEC. 15. Intake Report/initial Assessment by the Social Welfare Officer. (a)** – Upon the taking into custody of a child in conflict with the law, the social welfare officer assigned to the child shall immediately undertake a preliminary background investigation of the child and, should a case be filed in court, submit to the court the corresponding Intake Report prior to the arraignment.

An Intake Report is the initial written report containing the personal and other circumstances of the child in conflict with the law prepared by the social worker assigned to assist the child entering the justice system. *(n)*

The social worker 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 Department of Social Welfare and Development. The initial assessment shall be without prejudice to the preparation of a more comprehensive case study report. The local social worker shall do either of the following:

- (a) Proceed in accordance with Section 8, 8-A or 8-B of this Rule if the child is 15 years or below, or above 15 years but below 18 years old, who acted without discernment; or
- (b) If the child is above 15 years old but below 18 and who acted with discernment, proceed with diversion under this Rule. *(n)*

**SEC. 16. Filing of Criminal Action.** – A criminal action may be instituted against a child in conflict with the law by filing a complaint with the prosecutor.

All criminal actions commenced by complaint or information shall be prosecuted under the direction and control of the public prosecutor assigned to the court. Petitions for confinement of a child drug dependent shall be filed under Section 21 of the Rule on Children Charged under Republic Act No. 9165.

**SEC. 17. Prosecution of Civil Action.** – When a criminal action is instituted against a child in conflict with the law, the action for recovery of civil liability arising from the offense charged shall be governed by Rule 111 of the Revised Rules of Criminal Procedure.

**SEC. 18. Preliminary Investigation.** – As far as consistent with this Rule, the preliminary investigation of a child in conflict with the law shall be governed by Section 3 of Rule 112 of the Revised Rules of Criminal Procedure. A specially trained prosecutor shall be assigned to conduct the inquest,

preliminary investigation and prosecution of the case involving a child in conflict with the law. The child, on the other hand, shall be assisted by a private lawyer or, if none, a lawyer from the Public Attorney’s Office. If there is an allegation or evidence of torture or ill-treatment of a child in conflict with the law during custody or detention, it shall be the duty of the prosecutor to investigate the same.

**SEC. 19. Conduct of Preliminary Investigation.** – Preliminary investigation shall be conducted in the following instances:

- (a) when the child in conflict with the law does not qualify for diversion;
- (b) when the child, the parents or guardian do not agree to diversion as provided in Sections 27 and 28 of Republic Act No. 9344, as amended; or
- (c) when, after considering the assessment and recommendation of the social worker, the prosecutor determines that diversion is not appropriate for the child in conflict with the law. *(a)*

In all instances, a certification from the Barangay, police or local social welfare and development officer, as the case may be, that the child does not qualify for diversion or that diversion is not appropriate or the diversion failed at their level, shall be required before the conduct of preliminary investigation.

At the preliminary investigation, should there arise a need for clarificatory questions to be propounded on the child, the Rule on Examination of a Child Witness shall apply. *(a)*

**SEC. 20. Filing of Information.** – If the investigating prosecutor finds probable cause to hold the child in conflict with the law for trial, there being discernment, and certifies that the child does not qualify for diversion, or that diversion is not appropriate, or the diversion failed at their level, the corresponding Resolution and Information shall be prepared for the approval by the provincial or city prosecutor, as the case may be. The child and the mother or father, or guardian, or in the absence thereof, the nearest relative, and the child’s private counsel or lawyer from the Public Attorney’s Office shall be furnished forthwith a copy of the approved resolution and the Information.

Upon serving the subpoena and the affidavit of complaint, the prosecutor shall notify the Public Attorney’s Office of such service, as well as the personal information, and the name and address of the guardian of the child in conflict with the law. The Information shall be filed with the court within 45 days from the start of the preliminary investigation and must allege that the child acted with discernment.

No Information shall be filed against a child for the commission of the following:

- (a) status offenses, light offenses and misdemeanors against public order or safety as provided in Section 4(g) of this Rule;
- (b) vagrancy and prostitution under Section 202 of the Revised Penal Code;
- (c) mendicancy under Presidential Decree No. 1563; and
- (d) sniffing of rugby under Presidential Decree No. 1619.

Children taken into custody for the foregoing shall instead undergo appropriate counseling and treatment program. (a)

**SEC. 21. Duties of the Clerk of Court upon Receipt of information.** – The Clerk or Court, upon receipt of the Information, shall:

- (1) Maintain a separate case docket or logbook for cases involving children in conflict with the law. Whenever possible, the Clerk of Court shall use color coding or other method to easily distinguish the records of children in conflict with the law from the other case records;
- (2) Determine whether the offense charged qualifies for diversion, that is, it is punishable by imprisonment of not more than 12 years, regardless of fine, or fine alone regardless of the amount;
- (3) If the crime charged is punishable by such imprisonment, immediately assign a temporary case number in accordance with Section 22 of this Rule and raffle off the case to a court so that its Diversion Committee can immediately undertake the appropriate action under Section 32 of this Rule; and
- (4) If the crime charged does not qualify for diversion because it is punishable by imprisonment of more than 12 years, the case shall be assigned a regular criminal case docket number raffled off to a court for formal proceedings. (a)

**SEC. 22. Docketing of the Case.** – A case that qualifies for diversion under paragraph 3 of the preceding Section shall not be docketed as a regular criminal case but instead shall be assigned a temporary case number as follows: CICL-(no.) \_\_- (year) \_\_-D (which means diversion), before the same is raffled off to the appropriate court.

**SEC. 23. Venue.** – Subject to the provisions of Section 15, Rule 110 of the Revised Rules of Criminal Procedure, any criminal or civil action involving a child in conflict with the law shall be instituted and tried in the appropriate court nearest the place where the offense was committed or where any of its essential elements occurred.

**SEC. 24. Release of Children on Recognizance to the Parents, Guardian, Custodian or Nearest Relative.** – The release of a child from custody during the pendency of the case involving an offense not punishable by death, *reclusion perpetua* or life

imprisonment may be ordered by the court only after a hearing for that purpose, and upon favorable recommendation of the social worker assigned to the child with due notice to the public prosecutor, the Sanggunian where the accused resides, and the private complainant. The child shall be released to the custody of a willing and responsible mother or father, or appropriate guardian or custodian, or in their absence, the nearest relative, who shall be responsible for the child's good behavior and appearance in court whenever required.

No child shall be ordered detained in jail pending trial or hearing of the child's case.

(Incorporated from A.M. No. 02-1-18 Re: Rule on Juveniles in Conflict with the Law issued on June 26, 2018)

**SEC. 25. Commitment and Transfer to a Bahay Pag-asa.** – A child charged with an offense, unless released on bail or recognizance, may be transferred to a "Bahay Pag-asa" or rehabilitation center or other appropriate facility operated or accredited by the Department of Social Welfare and Development which shall ensure the implementation of appropriate intervention programs, as well as the safety and appearance of the child in court.

In the absence of a "Bahay Pag-asa" established by the local government pursuant to Section 8 of the Family Courts Act, and Republic Act No. 9344, as amended, in the city or municipality where the child resides, or a local rehabilitation center recognized by the government in the province, city or municipality within the jurisdiction of the court, or the Department of Social Welfare and Development, or other appropriate local rehabilitation center, detention pending trial may be replaced by alternative measures such as close supervision, intensive care or replacement with a family or in an educational setting or home. Institutionalization or detention of a child pending trial should be used only as a last resort and for the shortest possible time. (a)

(Incorporated from A.M. No. 02-1-18 Re: Rule on Juveniles in Conflict with the Law issued on June 26, 2018)

**SEC. 26. Bail as a Matter of Right.** – For purposes of bail, the privileged mitigating circumstance of minority shall be considered.

(Incorporated from A.M. No. 02-1-18 Re: Rule on Juveniles in Conflict with the Law issued on June 26, 2018)

**SEC. 27. Care of Child in Bahay Pag-asa or Rehabilitation Centers.** – The child in conflict with the law who has been transferred to a youth rehabilitation center or "Bahay Pag-asa" shall be provided with a healthy environment and adequate quarters separate from the opposite sex depending on the age, sex, sexual orientation, and such other circumstances and needs of the child.

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 Section 8, 8-A and 8-B of this Rule.

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 member shall operate the “Bahay Pag-asa.” The team will work on the individualized intervention plan with the child and the child’s family.

(Incorporated from A.M. No. 02-1-18 Re: Rule on Juveniles in Conflict with the Law issued on June 26, 2018)

**SEC. 28. Case Study Report.** – After the institution of the criminal action, the social worker assigned to the child shall immediately undertake a social case inquiry of the child and the child’s family, the child’s environment and such other matters relevant to aid the court in the proper disposition of the case. The report shall be submitted to the court preferably before arraignment. If not available at that time, the Report must be submitted to the court as soon as possible.

**SEC. 29. Diversion Committee.** – In each court, there shall be organized a Diversion Committee composed of its Branch Clerk of Court, as chairperson; the prosecutor, a lawyer of the Public Attorney’s Office assigned to the court, and the social worker assigned by the court to the child, as members. In the absence of a Branch Clerk of Court, the chairperson shall be designated by the judge. (a)

**SEC. 30. Proceedings Before Arraignment.** – The Diversion Committee shall determine if the child can be diverted and referred to alternative measures or services. Subject to pertinent provisions of this Rule and pending determination of diversion by the Committee, the court shall release the child on recognizance to the parents, guardian, or nearest relative; or if this is not advisable, commit the child to a “Bahay Pag-asa” or youth rehabilitation center which shall be responsible for the presence of the child during the diversion proceedings. If the Diversion Committee determines that diversion is not proper, or when the child objects to the diversion, or when there is failure of the diversion program if undertaken by the child, it shall submit a report to the court recommending that the case be subjected to formal criminal proceedings.

The court in turn shall direct the transmittal of the records of the case to the Office of the Clerk of Court for the assignment of a regular criminal docket number to the case as follows: CICL Crim. Case No. \_\_\_-\_\_\_ (year). The Office of the Clerk of Court shall thereafter return the case to the court for arraignment and formal proceedings. (a)

**SEC. 31. Proceedings Before the Diversion Committee.** – Upon receipt by the Committee of a case for diversion from

the Office of the Clerk of Court, the chairperson shall call for a conference with notice to the child, the mother or father, or guardian, or in their absence, the nearest relative, the child’s counsel, and the private complainant, his or her mother or father, or guardian, or in their absence, the nearest relative, if a minor, and counsel, to determine if the child can undergo diversion program and aftercare and community continuum services instead of subjecting the child to formal court proceedings. In determining whether diversion is appropriate for the child, the Committee shall consider the following factors:

- (a) The nature and circumstances of the offense charged;
- (b) The frequency and the severity of the act;
- (c) The circumstances of the child (e.g., age, maturity, intelligence, etc.);
- (d) The influence of the family and environment on the growth of the child;
- (e) The reparation of injury to the victim;
- (f) The weight of the evidence against the child;
- (g) The safety of the community; and
- (h) The best interest of the child.

If the Committee finds that diversion is appropriate, it shall design a diversion program in accordance with Section 33 of this Rule for the consideration and approval of the court. Should the Committee determine that diversion is not appropriate, it shall make the corresponding report and recommendation in accordance with Section 29 of this Rule. The Committee cannot recommend diversion in case the child objects.

The diversion proceedings shall be completed within 45 days from the initial diversion conference. (a)

**SEC. 32. Diversion Programs.** – The Committee shall design a diversion program taking into consideration the individual characteristics and peculiar circumstances of the child in conflict with the law.

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

- (a) The child’s feelings of remorse for the offense he/she committed;
- (b) The parents’ or legal guardian’s ability to guide and supervise the child;
- (c) The victim’s view about the propriety of the measures to be imposed;
- (d) The availability of community-based programs for rehabilitation and reintegration of the child;
- (e) The past records, if any, involving the child in conflict with the law; and

- (f) The likelihood that the child will be an obvious threat to himself/herself and the community.

The diversion program shall include adequate socio-cultural and psychological responses and services for the child. At the different stages where diversion may be resorted to, the following diversion programs may be agreed upon, such as, but not limited to:

- (a) At the level of the Punong Barangay:
- (1) Restitution of property;
  - (2) Reparation of the damage caused;
  - (3) Indemnification for consequential damages;
  - (4) Written or oral apology;
  - (5) Care, guidance and supervision orders;
  - (6) Counseling for the child in conflict with the law and the child's family;
  - (7) Attendance in trainings, seminars and lectures on:
    - i. Anger management skills;
    - ii. Problem solving and/or conflict resolution skills;
    - iii. Values formation; and
    - iv. Other skills which will aid the child in dealing with situations which can lead to repetition of the offense;
  - (8) Participation in available community-based programs, including community service; or
  - (9) Participation in education, vocation and life skills programs.
- (b) At the level of the law enforcement officer and the prosecutor:
- (1) Diversion programs specified under paragraphs (a)(1) to (a)(9) herein; and
  - (2) Confiscation and forfeiture of the proceeds or instruments of the crime;
- (c) At the level of the appropriate court:
- (1) Diversion programs specified under paragraphs (a) and (b) above;
  - (2) Written or oral reprimand or citation;
  - (3) Fine;
  - (4) Payment of the cost of the proceedings; or
  - (5) Institutional care and custody;

The Committee shall also include in the program a plan that will secure satisfaction of the civil liability of the child in accordance with Article 2180 of the Civil Code.

The parents shall be liable for damages 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. (a)

**SEC. 33. Hearing Diversion Program.** – The court shall set the Committee's diversion report and recommendation for hearing with notice to all parties, their counsel and members of the Committee within 10 days from receipt of such report. The court shall act on the recommendation within five days from the termination of the hearing.

**SEC. 34. Contract of Diversion.** – If, during the conferencing, mediation or conciliation, the child voluntarily admits the commission of the act, a diversion program shall be developed when appropriate and desirable as determined under Section 30 of Republic Act No. 9344, as amended.

Such admission shall not be used against the child in any subsequent judicial, quasi-judicial or administrative proceedings. The diversion program shall be effective and binding if accepted by the parties concerned. The acceptance shall be in writing and signed by the parties concerned and the appropriate authorities. The local social welfare and development officer shall supervise the implementation of the diversion program. The diversion proceedings shall be completed within 45 days. The period of prescription of the offense shall be suspended until the completion of the diversion proceedings but not to exceed 45 days.

The child shall present himself/herself to the competent authorities that imposed the diversion program at least once a month for reporting and evaluation of the effectiveness of the program.

Failure to comply with the terms and conditions of the contract of diversion, as certified by the local social welfare and development officer, shall give the offended party the option to institute the appropriate legal action. The period of prescription of the offense shall be suspended during the effectivity of the diversion program, but not exceeding a period of two years. (n)

**SEC. 35. Report of Social Worker.** – The court social worker shall conduct regular monthly visits to the child undergoing diversion proceedings and shall submit the corresponding reports about the status of the diverted child to the Committee. At any time before or at the end of the diversion period, the Committee shall file with the court a report recommending termination or extension of diversion, as the case may be. The report and recommendation shall be heard by the court within 15 days from receipt, with notice to the members of the Committee, the child, the mother or father, or the appropriate guardian or custodian, or in the absence thereof, the nearest relative, the child's counsel, and the complainant, his or her father or mother, or guardian, or in the absence thereof the

nearest relative, if a minor, and his or her counsel. The court shall thereafter determine whether the diversion program has been fully and satisfactorily complied with. (a)

**SEC. 36. Post-Diversion Order. (a)** – On the basis of the report and recommendation of the Committee, the court may:

- (a) Issue a closure order terminating the case if it is convinced that the child has complied satisfactorily with the diversion program; or
- (b) Extend the period of diversion if it is convinced that the child may still be rehabilitated; or
- (c) Order the case to undergo formal court proceedings if it finds that the child has not complied with the diversion program, is incorrigible, or that the program is not serving its purpose. In case of a judicially-approved transfer of residence of the child in conflict with the law, the court to which supervision of the diversion program was transferred shall make the proper finding. If it finds that diversion has been successful, it shall order the closure of the case. However, if it determines that diversion has failed, it shall return the case to the original court for formal criminal proceedings.

**SEC. 37. Rights of the Child in Conflict with the Law.** – In all criminal proceedings, the child in conflict with the law shall have the following rights which shall be respected and protected by the court:

- (a) To be presumed innocent until guilt is proved beyond reasonable doubt;
- (b) To be informed promptly and directly of the nature and cause of the charge and if appropriate, through the child's mother, father, or legal guardian;
- (c) To be present at every stage of the proceedings, from arraignment to promulgation of judgment. The child may, however, waive presence at the trial pursuant to the stipulations set forth in the bail bond, unless presence at the trial is specifically ordered by the court for purposes of identification. The absence of the child without justifiable cause at the trial of which there was due notice shall be considered a waiver of the right of the child to be present. Escape by the child under custody shall be deemed a waiver of the right to be present in all subsequent hearings until custody over such child is regained;
- (d) To have legal and other appropriate assistance in the preparation and presentation of the child's defense; in case of a child arrested for reasons related to armed conflict, to have immediate free legal assistance;
- (e) If in custody, to be released (i) on recognizance to the willing and responsible mother or father or guardian, or in the absence thereof, the nearest relative; (ii) on bail;

or (iii) by commitment to a "Bahay Pag-asa" or youth rehabilitation center;

- (f) Not to be detained in a jail or transferred to an adult facility pending trial or hearing of the case, unless detention is used as a last resort which must be done for the shortest time possible, and only upon order by the court;
- (g) In case the child has been arrested for reasons related to armed conflict, either as combatant, courier, guide or spy: (i) To be segregated and have separate detention quarters from adults except where families are accommodated as family units; (ii) To immediate free legal assistance in the absence of private counsel; (iii) To immediate notice of such arrest to the parents, guardians or nearest relatives of the child; and, (iv) To be released on recognizance within 24 hours to the custody of the Department of Social Welfare and Development or any responsible member of the community as determined by the court;
- (h) To testify as a witness in his/her own behalf, subject to cross-examination only on matters covered by direct examination. The child shall not be compelled to be a witness against himself/herself, and the child's silence shall not in any manner prejudice him/her;
- (i) To confront and cross-examine the witnesses against him/her;
- (j) To have compulsory process issued to secure the attendance of witnesses and production of other evidence in the child's behalf;
- (k) To have speedy and impartial trial, with legal or other appropriate assistance and preferably in the presence of the child's parents or legal guardian, unless such presence is considered not to be in the best interest of the child taking into account the latter's age or other peculiar circumstances;
- (l) To be accorded all the rights under the Rule on Examination of a Child Witness;
- (m) To have the child's privacy fully protected in all stages of the proceedings; and
- (n) To appeal in all cases allowed and in the manner prescribed by law;
- (o) Other rights as provided for under existing laws, rules and regulations. (a)

**SEC. 38. Rights of Victims of Offenses Committed by Children in Conflict with the Law.** – In any case involving a child in conflict with the law, the victim has the following rights:

- (1) To be reasonably protected from the child in conflict with the law;
- (2) To timely notice of any hearing involving the crime or of any release or escape of the child in conflict with the law;

- (3) Not to be excluded from any public proceeding, unless the court, after receiving clear and convincing evidence, determines that the testimony by the victim would be materially altered if the victim heard other testimony in that proceeding;
- (4) To be reasonably heard at any administrative or public proceeding involving diversion, release, plea, suspension of sentence and determination of disposition measures, or any parole proceeding;
- (5) To confer with the prosecutor in the case;
- (6) To avail of legal assistance from the Public Attorney's Office, Integrated Bar of the Philippines, any other legal aid office, or any law practitioner;
- (7) To be informed of the availability of compensation from the Department of Justice Board of Claims in accordance with the provisions of Republic Act No. 7309 (1992);
- (8) To be entitled to support services from the Department of Social Welfare and Development and local government units;
- (9) To be entitled to all legal remedies and support as provided for under the Family Code;
- (10) To be informed of the rights and the services available to victims of offenses including the right to apply for a protection order;
- (11) To full and timely restitution as provided by law;
- (12) To proceedings that are free from unreasonable delay;
- (13) To be treated with fairness and with respect for the victim's dignity and privacy; and
- (14) To be provided with the appropriate assistance and psychological intervention by the local social welfare and development office, the Department of Social Welfare and Development and other concerned agencies. (a)

**SEC. 39. Responsibilities of the Court.** – For the protection of the rights of the child in the conflict with the law, the court shall have the following responsibilities:

- (1) To monitor the status of a child whose case is pending in its court placed in a "Bahay Pag-asa" or other institution during the pendency of the child's case;
- (2) To receive and refer to the proper agency complaints concerning violations of the rights of the child whose case is pending in its court;
- (3) To require all professionals working for the welfare of the child, such as barangay captains, teachers, social workers, medical professionals, and law enforcers, to render regular monthly reports to the court;
- (4) To order access to adequate services for rehabilitation, counseling and other forms of reintegration for the child;
- (5) To ensure that the child who is capable of forming his or her own views has the right to express those views freely in all matters affecting the child, and that such views be accorded due weight in accordance with the developmental age and maturity of the child;
- (6) To ensure that the child, either directly or through a representative, is provided the opportunity to be heard in all proceedings affecting such child;
- (7) To ensure communication at all times between the judge and the child;
- (8) To ensure that the child sits with close family members and other persons of the child's choice during the court proceedings;
- (9) To ensure that the child can communicate freely with counsel at all times;
- (10) To ensure that the child is informed in age-appropriate language of all stages of the judicial proceeding affecting such child;
- (11) To ensure that a child placed in a "Bahay Pag-asa" or Youth Rehabilitation Center or in any child facility be given appropriate medical examination in order to determine and put on record any evidence of ill-treatment; to identify any physical or mental condition requiring medical attention; and thereafter make sure that the child is provided adequate treatment and medical attention;
- (12) To ensure that a child is informed as soon as possible of the death, serious illness or injury of any immediate family member and be allowed to visit the ill family member or attend the funeral, when appropriate and advisable;
- (13) To ensure that if a child dies during the pendency of the case or within six months from release, an independent inquiry is conducted on the circumstances of the death and a report thereof, including the child's death certificate, be made available to the child's mother or father, guardian, custodian or nearest relative;
- (14) When appropriate and advisable, to allow the child to temporarily leave the detention home or rehabilitation center by means of an "out-on-pass" order to attend special family occasions such as Christmas and New Year celebrations. The "out-on-pass" order shall contain reasonable restrictions to ensure safety, security and timely return to detention as may be determined by the court;
- (15) To allow at all times, and from the moment of initial contact, any member of the family or the guardian of the child to visit the child, unless prejudicial to the latter's best interest;

- (16) To allow the appointment of a Guardian Ad Litem if available and advisable, to enable the child to raise concerns and complaints without fear of retribution; and
- (17) To undertake all other appropriate measures to ensure the promotion of the best interest of the child and the child's eventual reintegration in society. (a)

**SEC. 40. Determination of the Best Interests of the Child.** –

The following factors may be considered in determining the best interests of a child in conflict with the law: the child's age and sex, the child's mental and physical health, the mental and physical health of the parents, their lifestyle and other social factors; the emotional ties between the parents and the child, the ability of the parents to provide the child with food, shelter, clothing and medical care; the established living pattern for the child concerning school, home, community and religious institution, quality of schooling, the existence of other relatives who may be in a better position to be with the child and the child's relationship with these relatives; the child's background, maturity and level of understanding, sexual orientation, lifestyle and any other characteristics and needs of the child that the court may deem relevant.

**SEC. 41. Arraignment and Plea.** – The provisions of Rules 116 and 117 of the Revised Rules of Criminal Procedure shall apply to the arraignment of the child in conflict with the law. The arraignment shall be scheduled within three days from the date of receipt of the complaint or Information by the court, unless a shorter period is provided for by law. In case the child is not assisted by a private counsel, the court shall immediately appoint its Public Attorney as the child's counsel *de officio*.

Arraignment shall be held in chambers and conducted by the judge by furnishing the child and counsel a copy of the complaint or Information, reading the same in a language or dialect known to and understood by the child, explaining the nature and consequences of a plea of guilty or not guilty and asking the child's plea.

**SEC. 42. Pre-Trial.** – The provisions of Rule 118 of the Revised Rules of Criminal Procedure shall govern the pre-trial of the child in conflict with the law. Agreements or admissions made during the pre-trial conference shall be in writing and signed by the child, the mother, father or duly appointed guardian, and counsel; otherwise, the agreements or admissions shall not be admissible against the child. Whenever possible and practicable, the court shall explore all possibilities of settlement of the case, except its criminal aspect. Plea bargaining shall be resorted to when it shall serve the best interest of the child and the demands of truth and restorative justice. (a)

**SEC. 43. Trial.** – All hearings shall be conducted in a manner conducive to the best interest of the child and in an environment that will allow the child to participate fully and freely in accordance with the Rule on Examination of a Child Witness.

**SEC. 44. Guiding Principles in Judging the Child.** – Subject to the provisions of the Revised Penal Code, as amended, and other special laws, the judgment against a child in conflict with the law shall be guided by the following principles:

- (1) The judgment shall be in proportion to the gravity of the offense, and shall consider the circumstances and the best interest of the child, the rights of the victim, and the needs of society in line with the demands of restorative justice. (a)
- (2) Restrictions on the personal liberty of the child shall be limited to the minimum. Where discretion is given by law to the judge to determine whether the penalty to be imposed is fine or imprisonment, the imposition of fine should be preferred as the more appropriate penalty.
- (3) No corporal punishment shall be imposed.
- (4) In case of the presence of any exculpatory evidence or doubt in the prosecution's evidence, the doubt shall be resolved in favor of the child.

**SEC. 45. Promulgation of Sentence.** – If, after the trial, the court should find the child in conflict with the law guilty beyond reasonable doubt of the offense charged, it shall impose the proper penalty, including any civil liability which the child may have incurred, and promulgate the sentence in accordance with Section 6, Rule 120 of the Revised Rules of Criminal Procedure.

**SEC. 46. Automatic Suspension of Sentence and Disposition Orders.** – If the child is found guilty of the offense charged, the court, instead of executing the judgment of conviction, shall place the child in conflict with the law under suspended sentence, without need of application. Suspension of sentence can be availed of even if the child is already 18 years of age or more but not above 21 years old, at the time of the pronouncement of guilt, without prejudice to the child's availing of other benefits such as probation, if qualified, or adjustment of penalty, in the interest of justice.

The benefits of suspended sentence shall not apply to a child in conflict with the law who has once enjoyed suspension of sentence, but shall nonetheless apply to one who is convicted of an offense punishable by *reclusion perpetua* or life imprisonment pursuant to the provisions of Republic Act No. 9346 prohibiting the imposition of the death penalty and

in lieu thereof, *reclusion perpetua*, and after application of the privileged mitigating circumstance of minority. If the child in conflict with the law reaches 18 years of age while under suspended sentence, the court shall determine, upon the recommendation of the social worker assigned to the child and after considering the various circumstances, whether to discharge the child in accordance with the provisions of Republic Act No. 9344, as amended, or to extend the suspended sentence for a maximum period of up to the time the child reaches 21 years of age, or to order service of sentence. (a)

**SEC. 47. *Disposition Conference.*** – In case of suspended sentence, the court shall set the case for disposition conference within 15 days from the promulgation of sentence with notice to the social worker of the court, the child and the parents or guardian of the child and the child’s counsel, the victim and counsel. At the conference, the court shall proceed to determine and issue any or a combination of the following disposition measures best suited to the rehabilitation and welfare of the child:

- (1) Care, guidance, and supervision orders;
- (2) Community service orders;
- (3) Drug and alcohol treatment;
- (4) Participation in group counseling and similar activities; and
- (5) Commitment to the Youth Rehabilitation Center of the Department of Social Welfare and Development or other centers for children in conflict with the law authorized by the Secretary of the Department of Social Welfare and Development.

**SEC. 48. *Compliance with Disposition Measures.*** – The social worker assigned to the child shall monitor the compliance by the child in conflict with the law with the disposition measures and shall submit regularly to the court a status and progress report on the matter. The court may set a conference for the evaluation of such report in the presence, if practicable, of the child, the parents or guardian, counsel and other persons whose presence may be deemed necessary.

**SEC. 49. *Discharge of Child Subject of Disposition Measures.*** – Upon the recommendation of the social worker assigned to the child, the court shall, after due notice to all parties and hearing, dismiss the case against the child who has been issued disposition measures, even before reaching 18 years of age, and order a final discharge if it finds that the child has been rehabilitated and has shown the capability to be a useful member of the community. If the court finds that the

child (a) is incorrigible; or (b) has not shown the capability of becoming a useful member of society; or (c) has willfully failed to comply with the conditions of the disposition or rehabilitation program; (d) or the child’s continued stay in the training institution is not in the child’s best interest, the child shall be brought before the court for execution of the judgment. The final release of the child shall not extinguish the civil liability. The parents and other persons exercising parental authority over the child shall be civilly liable for the injuries and damages caused by the acts or omissions of the child living in their company and under the parental authority subject to the appropriate defenses provided by law.

**SEC. 50. *Probation as an Alternative to Imprisonment.*** – The court may, after it shall have convicted and sentenced a child in conflict with the law and upon application at any time, place the child on probation if qualified, in lieu of service of sentence taking into account the best interest of the child.

**SEC. 51. *Credit in Service of Sentence.*** – The child in conflict with the law shall be credited in the service of his/her sentence with the full time spent in actual commitment and detention under Republic Act No. 9344, as amended.

Any form of physical restraint imposed on the child in conflict with the law, including community service and commitment to a rehabilitation center, shall be considered preventive imprisonment. (a)

**SEC. 52. *Confidentiality of Proceedings and Record.*** – All records and proceedings involving children in conflict with the law from initial contact until final disposition of the case by the court shall be considered privileged and confidential. The public shall be excluded during the proceedings and pursuant to the provisions of Section 31 of the Rule on Examination of a Child Witness, the records shall not be disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings for any purpose whatsoever, except to determine if the child may have the sentence suspended under Section 38 of this Rule or if the child may be granted probation under the Probation Law, or to enforce the civil liability imposed in the criminal action.

The court shall employ other measures to protect confidentiality of proceedings including non-disclosure of records to the media, the maintenance of a separate police blotter for cases involving children in conflict with the law and the adoption of a system of coding to conceal material information, which will lead to the child’s identity. The records of children in conflict with the law shall not be used in subsequent proceedings or cases involving the same offender as an adult, except when beneficial for the offender and upon his/her written consent. (a)



3<sup>rd</sup> Floor, Supreme Court Centennial Building  
Padre Faura Street corner Taft Avenue, Manila  
1000 Philippines

PRIVATE OR UNAUTHORIZED USE TO AVOID  
PAYMENT OF POSTAGE IS PENALIZED BY FINE  
OR IMPRISONMENT OR BOTH

**SEC. 53. Non-liability for Perjury or Concealment or Misrepresentation.** –

Any person who has been in conflict with the law as a child shall not be held guilty of perjury or of concealment or misrepresentation by reason of failure to acknowledge the case or recite any fact related thereto in response to any inquiry.

**SEC. 54. Sealing of Records.** –

The court, *motu proprio* or upon application of a person who has been adjudged a child in conflict with the law, or if still a minor, on motion of the parents or legal guardian, shall, upon notice to the prosecution and after hearing, order the sealing of the records of the case if it finds that two years have elapsed since the final discharge of the child after suspension of sentence or probation, or from the date of the closure order and the child has no pending case of an offense or a crime involving moral turpitude. Upon entry of the order, the case shall be treated as if it never occurred. All index references shall be deleted and in case of inquiry, the court, prosecution, law enforcement officers and all other offices and agencies that dealt with the case shall reply that no record exists with respect to the child concerned. Copies of the order shall be sent to these officials and agencies named in the order. Inspection of the sealed records thereafter may be permitted only by order of the court upon petition of the child who is the subject of the records or of other proper parties. This procedure shall be without prejudice to the rule on destruction of video or audio tapes under Section 31 of the Rule on the Examination of a Child Witness.

**SEC. 55. Prohibition of Labeling.** –

In the conduct of proceedings from initial contact with the child in conflict with the law to the final disposition of the case, there shall be no branding or labeling of the child as a young criminal, juvenile delinquent, prostitute, vagrant, or attaching to the child in any manner any derogatory description or name. Likewise, no discriminatory statements, conduct and practices shall be allowed, particularly with respect to the child's social or economic status, physical or mental disability or ethnic origin.

**SEC. 56. Contempt Powers.** –

A person who directly or indirectly disobeys any order of the court or obstructs or interferes with its proceedings or the enforcement of its orders issued under this Rule shall be liable for contempt of court.

**SEC. 57. Effectivity.** –

This 2019 Revised Rule on Children in Conflict with the Law shall take effect 15 days following its publication in the Official Gazette or in two newspapers of national circulation.

Justice Adolfo S. Azcuna  
Chancellor

Dean Sedfrey M. Candelaria  
Editor in Chief

Editorial and Research Staff  
Atty. Ma. Melissa Dimson-Bautista  
Atty. Ronald Paz Caraig  
Ms. Armida M. Salazar

Ms. Regina Maria Sofia M. Babasa  
Atty. Rizsa Rose S. Baer  
Ms. Jocelyn D. Bondoc  
Mr. Jonel M. Candelaria  
Mr. Joseph Arvin S. Cruz  
Ms. Judith B. Del Rosario  
Ms. Christine A. Ferrer  
Ms. Joanne Narciso-Medina  
Ms. Charmaine S. Nicolas  
Ms. Sarah Jane S. Salazar

Circulation and Support Staff  
Mr. Romeo A. Arcullo  
Mr. Michael Angelo P. Laude  
Mr. Lope R. Palermo  
Mr. Daniel S. Talusig

Printing Services  
Mr. Ponciano M. Santiago, Jr.  
and Staff

The **PHILJA Bulletin** is published quarterly by the Research, Publications and Linkages Office of the Philippine Judicial Academy, with office at the 3<sup>rd</sup> Floor of the Supreme Court Centennial Building, Padre Faura Street corner Taft Avenue, Manila. Tel: 552-9524; Fax: 552-9621; Email: [research\\_philja@yahoo.com](mailto:research_philja@yahoo.com); [philja@sc.judiciary.gov.ph](mailto:philja@sc.judiciary.gov.ph); Website: <http://philja.judiciary.gov.ph>