



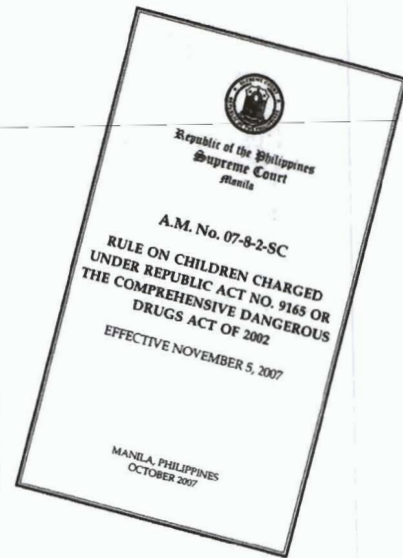
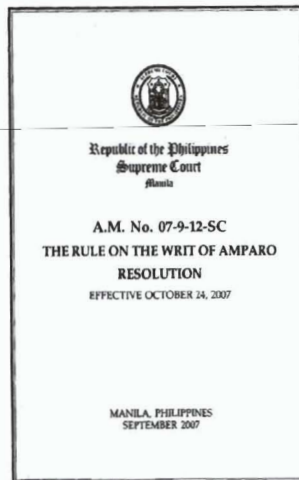
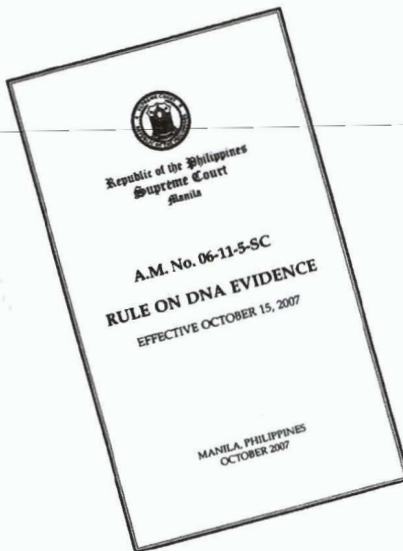
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Republic of the Philippines
Supreme Court
Manila

EN BANC

A.M. No. 06-11-5-SC

RULE ON DNA EVIDENCE

RESOLUTION

Acting on the recommendation of the Chairperson and Members of the Subcommittee on Evidence submitting for this Court's consideration and approval the proposed Rule on DNA Evidence, the Court Resolved to **APPROVE** the same.

The Resolution shall take effect on October 15, 2007 following its publication in a newspaper of general circulation.

October 2, 2007.

(Sgd.) PUNO, CJ, QUISUMBING, YNARES-SANTIAGO, SANDOVAL-GUTIERREZ, CARPIO, AUSTRIA MARTINEZ, CORONA, CARPIO MORALES, AZCUNA, TINGA, CHICO-NAZARIO, GARCIA, VELASCO, JR., NACHURA, REYES, JJ.

A.M. No. 07-9-12-SC

THE RULE ON THE WRIT OF AMPARO

RESOLUTION

Acting on the recommendation of the Chairperson of the Committee on Revision of the Rules of Court submitting for this Court's consideration and approval the proposed Rule on Writ of Amparo, the Court Resolved to **APPROVE** the same.

This Rule shall take effect on October 24, 2007 following its publication in three (3) newspapers of general circulation.

September 25, 2007.

(Sgd.) PUNO, CJ, QUISUMBING, YNARES-SANTIAGO, SANDOVAL-GUTIERREZ, CARPIO, AUSTRIA MARTINEZ, CORONA, CARPIO MORALES, AZCUNA, TINGA, CHICO-NAZARIO, GARCIA, VELASCO, JR. (on leave), NACHURA, REYES, JJ.

A.M. No. 07-8-2-SC

**RULE ON CHILDREN CHARGED UNDER REPUBLIC ACT NO. 9165
OR THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002**

RESOLUTION

Acting on the recommendation of the Chairperson and Members of the Subcommittee on Rules of Procedure for Family Courts submitting for this Court's consideration and approval the proposed Rule on Children Charged under Republic Act No. 9165 or The Comprehensive Dangerous Drugs Act of 2002, the Court Resolved to **APPROVE** the same.

This Resolution shall take effect on November 5, 2007 following its publication in three (3) newspapers of general circulation.

September 11, 2007.

(Sgd.) PUNO, CJ, QUISUMBING, YNARES-SANTIAGO, SANDOVAL-GUTIERREZ, CARPIO, AUSTRIA MARTINEZ, CORONA, CARPIO MORALES, AZCUNA, TINGA, CHICO-NAZARIO, GARCIA, VELASCO, JR., NACHURA, REYES, JJ.

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RULE ON DNA EVIDENCE

SECTION. 1. Scope. – This Rule shall apply whenever DNA evidence, as defined in Section 3 hereof, is offered, used, or proposed to be offered or used as evidence in all criminal and civil actions as well as special proceedings.

SEC. 2. Application of other Rules on Evidence. – In all matters not specifically covered by this Rule, the Rules of Court and other pertinent provisions of law on evidence shall apply.

SEC. 3. Definition of Terms. – For purposes of this Rule, the following terms shall be defined as follows:

- (a) "Biological sample" means any organic material originating from a person's body, even if found in inanimate objects, that is susceptible to DNA testing. This includes blood, saliva and other body fluids, tissues, hairs and bones;
- (b) "DNA" means deoxyribonucleic acid, which is the chain of molecules found in every nucleated cell of the body. The totality of an individual's DNA is unique for the individual, except identical twins;
- (c) "DNA evidence" constitutes the totality of the DNA profiles, results and other genetic information directly generated from DNA testing of biological samples;
- (d) "DNA profile" means genetic information derived from DNA testing of a biological sample obtained from a person, which biological sample is clearly identifiable as originating from that person;
- (e) "DNA testing" means verified and credible scientific methods which include the extraction of DNA from biological samples, the generation of DNA profiles and the comparison of the information obtained from the DNA testing of biological samples for the purpose of determining, with reasonable certainty, whether or not the DNA obtained from two or more distinct biological samples originates from the same person (direct biological samples originates from the same person (direct identification) or if the biological samples originate from related persons (kinship analysis); and
- (f) "Probability of Parentage" means the numerical estimate for the likelihood of parentage of a putative parent compared with the probability of a random match of two unrelated individuals in a given population.

SEC. 4. Application for DNA Testing Order. – The appropriate court may, at any time, either *motu proprio* or on application of any person who has a legal interest in the matter in litigation, order a DNA testing. Such order shall issue after due hearing and notice to the parties upon a showing of the following:

- (a) A biological sample exists that is relevant to the case;
- (b) The biological sample: (i) was not previously subjected to the type of DNA testing now requested; or (ii) was previously subjected to DNA testing, but the results may require confirmation for good reasons;
- (c) The DNA testing uses a scientifically valid technique;
- (d) The DNA testing has the scientific potential to produce new information that is relevant to the proper resolution of the case; and
- (e) The existence of other factors, if any, which the court may consider as potentially affecting the accuracy or integrity of the DNA testing.

This Rule shall not preclude a DNA testing, without need of a prior court order, at the behest of any party, including law enforcement agencies, before a suit or proceeding is commenced.

SEC. 5. DNA Testing Order. – If the court finds that the requirements in Section 4 hereof have been complied with, the court shall:

- (a) Order, where appropriate, that biological samples be taken from any person or crime scene evidence;
- (b) Impose reasonable conditions on DNA testing designed to protect the integrity of the biological sample, the testing process and the reliability of the test results, including the condition that the DNA test results shall be simultaneously disclosed to parties involved in the case; and
- (c) If the biological sample taken is of such an amount that prevents the conduct of confirmatory testing by the other or the adverse party and where additional biological samples of the same kind can no longer be obtained, issue an order requiring all parties to the case or proceedings to witness the DNA testing to be conducted.

An order granting the DNA testing shall be immediately executory and shall not be appealable. Any petition for *certiorari* initiated therefrom shall not, in any way, stay the implementation thereof, unless a higher court issues an injunctive order. The grant of a DNA testing application shall not be construed as an automatic admission into evidence of any component of the DNA evidence that may be obtained as a result thereof.

SEC. 6. Post-conviction DNA Testing. – Post-conviction DNA testing may be available, without need of prior court order, to the prosecution or any person convicted by final and executory judgment provided that (a) a biological sample exists, (b) such sample is relevant to the case, and (c) the testing would probably result in the reversal or modification of the judgment of conviction.

SEC. 7. Assessment of probative value of DNA evidence. – In assessing the probative value of the DNA evidence presented, the court shall consider the following:

- (a) The chain of custody, including how the biological samples were collected, how they were handled, and the possibility of contamination of the samples;
- (b) The DNA testing methodology, including the procedure followed in analyzing the samples, the advantages and disadvantages of the procedure, and compliance with the scientifically valid standards in conducting the tests;
- (c) The forensic DNA laboratory, including accreditation by any reputable standards-setting institution and the qualification of the analyst who conducted the tests. If the laboratory is not accredited, the relevant experience of the laboratory in forensic casework and credibility shall be properly established; and
- (d) The reliability of the testing result, as hereinafter provided.

The provisions of the Rules of Court concerning the appreciation of evidence shall apply suppletorily.

SEC. 8. Reliability of DNA Testing Methodology. – In evaluating whether the DNA testing methodology is reliable, the court shall consider the following:

- (a) The falsifiability of the principles or methods used, that is, whether the theory or technique can be and has been tested;
- (b) The subjection to peer review and publication of the principles or methods;

- (c) The general acceptance of the principles or methods by the relevant scientific community;
- (d) The existence and maintenance of standards and controls to ensure the correctness of data generated;
- (e) The existence of an appropriate reference population database; and
- (f) The general degree of confidence attributed to mathematical calculations used in comparing DNA profiles and the significance and limitation of statistical calculations used in comparing DNA profiles.

SEC. 9. Evaluation of DNA Testing Results. – In evaluating the results of DNA testing, the court shall consider the following:

- (a) The evaluation of the weight of matching DNA evidence or the relevance of mismatching DNA evidence;
- (b) The results of the DNA testing in the light of the totality of the other evidence presented in the case; and that
- (c) DNA results that exclude the putative parent from paternity shall be conclusive proof of non-paternity. If the value of the Probability of Paternity is less than 99.9%, the results of the DNA testing shall be considered as corroborative evidence. If the value of the Probability of Paternity is 99.9% or higher, there shall be a disputable presumption of paternity.

SEC. 10. Post-conviction DNA Testing. Remedy if the Results are Favorable to the Convict. – The convict or the prosecution may file a petition for a writ of *habeas corpus* in the court of origin if the results of the post-conviction DNA testing are favorable to the convict. In case the court, after due hearing, finds the petition to be meritorious, it shall reverse or modify the judgment of conviction and order the release of the convict, unless continued detention is justified for a lawful cause.

A similar petition may be filed either in the Court of Appeals or the Supreme Court, or with any member of said courts, which may conduct a hearing thereon or remand the petition to the court of origin and issue the appropriate orders.

SEC. 11. Confidentiality. – DNA profiles and all results or other information obtained from DNA testing shall be confidential. Except upon order of the court, a DNA profile and all results or other information obtained from DNA testing shall only be released to any of the following, under such terms and conditions as may be set forth by the court:

- (a) Person from whom the sample was taken;
- (b) Lawyers representing parties in the case or action where the DNA evidence is offered and presented or sought to be offered and presented;
- (c) Lawyers of private complainants in a criminal action;
- (d) Duly authorized law enforcement agencies; and
- (e) Other persons as determined by the court.

Whoever discloses, utilizes or publishes in any form any information concerning a DNA profile without the proper court order shall be liable for indirect contempt of the court wherein such DNA evidence was offered, presented or sought to be offered and presented.

Where the person from whom the biological sample was taken files a written verified request to the court that allowed the DNA testing for the disclosure of the DNA profile of the person and all results or other information obtained from the DNA testing, the same may be disclosed to the persons named in the written verified request.

SEC. 12. *Preservation of DNA Evidence.* – The trial court shall preserve the DNA evidence in its totality, including all biological samples, DNA profiles and results or other genetic information obtained from DNA testing. For this purpose, the court may order the appropriate government agency to preserve the DNA evidence as follows:

(a) In criminal cases:

- i. for not less than the period of time that any person is under trial for an offense;
or,
- ii. in case the accused is serving sentence, until such time as the accused has served his sentence;

and

(b) In all other cases, until such time as the decision in the case where the DNA evidence was introduced has become final and executory.

The court may allow the physical destruction of a biological sample before the expiration of the periods set forth above, provided that:

- (a) A court order to that effect has been secured; or
- (b) The person from whom the DNA sample was obtained has consented in writing to the disposal of the DNA evidence.

SEC. 13. *Applicability to Pending Cases.* – Except as provided in Sections 6 and 10 hereof, this Rule shall apply to cases pending at the time of its effectivity.

SEC. 14. *Effectivity.* – This Rule shall take effect on October 15, 2007, following publication in a newspaper of general circulation.

THE RULE ON THE WRIT OF AMPARO

SECTION 1. *Petition.* – The petition for a writ of *amparo* is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

The writ shall cover extralegal killings and enforced disappearances or threats thereof.

SEC. 2. *Who May File.* – The petition may be filed by the aggrieved party or by any qualified person or entity in the following order:

- (a) Any member of the immediate family, namely: the spouse, children and parents of the aggrieved party;
- (b) Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph; or
- (c) Any concerned citizen, organization, association or institution, if there is no known member of the immediate family or relative of the aggrieved party.

The filing of a petition by the aggrieved party suspends the right of all other authorized parties to file similar petitions. Likewise, the filing of the petition by an authorized party on behalf of the aggrieved party suspends the right of all others, observing the order established herein.

SEC. 3. *Where to File.* – The petition may be filed on any day and at any time with the Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred, or with the Sandiganbayan, the Court of Appeals, the Supreme Court, or any justice of such courts. The writ shall be enforceable anywhere in the Philippines.

When issued by a Regional Trial Court or any judge thereof, the writ shall be returnable before such court or judge.

When issued by the Sandiganbayan or the Court of Appeals or any of their justices, it may be returnable before such court or any justice thereof, or to any Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred.

When issued by the Supreme Court or any of its justices, it may be returnable before such Court or any justice thereof, or before the Sandiganbayan or the Court of Appeals or any of their justices, or to any Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred.

SEC. 4. *No Docket Fees.* – The petitioner shall be exempted from the payment of the docket and other lawful fees when filing the petition. The court, justice or judge shall docket the petition and act upon it immediately.

SEC. 5. *Contents of Petition.* – The petition shall be signed and verified and shall allege the following:

- (a) The personal circumstances of the petitioner;
- (b) The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;
- (c) The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;

- (d) The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;
- (e) The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and
- (f) The relief prayed for.

The petition may include a general prayer for other just and equitable reliefs.

SEC. 6. Issuance of the Writ. – Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk of court shall issue the writ under the seal of the court; or in case of urgent necessity, the justice or the judge may issue the writ under his or her own hand, and may deputize any officer or person to serve it.

The writ shall also set the date and time for summary hearing of the petition which shall not be later than seven (7) days from the date of its issuance.

SEC. 7. Penalty for Refusing to Issue or Serve the Writ. – A clerk of court who refuses to issue the writ after its allowance, or a deputized person who refuses to serve the same, shall be punished by the court, justice or judge for contempt without prejudice to other disciplinary actions.

SEC. 8. How the Writ is Served. – The writ shall be served upon the respondent by a judicial officer or by a person deputized by the court, justice or judge who shall retain a copy on which to make a return of service. In case the writ cannot be served personally on the respondent, the rules on substituted service shall apply.

SEC. 9. Return; Contents. – Within five (5) working days after service of the writ, the respondent shall file a verified written return together with supporting affidavits which shall, among other things, contain the following:

- (a) The lawful defenses to show that the respondent did not violate or threaten with violation the right to life, liberty and security of the aggrieved party, through any act or omission;
- (b) The steps or actions taken by the respondent to determine the fate or whereabouts of the aggrieved party and the person or persons responsible for the threat, act or omission;
- (c) All relevant information in the possession of the respondent pertaining to the threat, act or omission against the aggrieved party; and
- (d) If the respondent is a public official or employee, the return shall further state the actions that have been or will still be taken:
 - (i) to verify the identity of the aggrieved party;
 - (ii) to recover and preserve evidence related to the death or disappearance of the person identified in the petition which may aid in the prosecution of the person or persons responsible;
 - (iii) to identify witnesses and obtain statements from them concerning the death or disappearance;
 - (iv) to determine the cause, manner, location and time of death or disappearance as well as any pattern or practice that may have brought about the death or disappearance;
 - (v) to identify and apprehend the person or persons involved in the death or disappearance; and

(vi) to bring the suspected offenders before a competent court.

The period to file a return cannot be extended except on highly meritorious ground.

The return shall also state other matters relevant to the investigation, its resolution and the prosecution of the case.

A general denial of the allegations in the petition shall not be allowed (as amended by the Resolution of the Court *En Banc* dated October 16, 2007).

SEC. 10. *Defenses not Pleaded Deemed Waived.* – All defenses shall be raised in the return, otherwise, they shall be deemed waived.

SEC. 11. *Prohibited Pleadings and Motions.* – The following pleadings and motions are prohibited:

- (a) Motion to dismiss;
- (b) Motion for extension of time to file opposition, affidavit, position paper and other pleadings;
- (c) Dilatory motion for postponement;
- (d) Motion for a bill of particulars;
- (e) Counterclaim or cross-claim;
- (f) Third-party complaint;
- (g) Reply;
- (h) Motion to declare respondent in default;
- (i) Intervention;
- (j) Memorandum;
- (k) Motion for reconsideration of interlocutory orders or interim relief orders; and
- (l) Petition for *certiorari*, *mandamus* or prohibition against any interlocutory order (as amended by the Resolution of the Court *En Banc* dated October 16, 2007).

SEC. 12. *Effect of Failure to File Return.* – In case the respondent fails to file a return, the court, justice or judge shall proceed to hear the petition *ex parte*.

SEC. 13. *Summary Hearing.* – The hearing on the petition shall be summary. However, the court, justice or judge may call for a preliminary conference to simplify the issues and determine the possibility of obtaining stipulations and admissions from the parties.

The hearing shall be from day to day until completed and given the same priority as petitions for *habeas corpus*.

SEC. 14. *Interim Reliefs.* – Upon filing of the petition or at anytime before final judgment, the court, justice or judge may grant any of the following reliefs:

- (a) *Temporary Protection Order.* – The court, justice or judge, upon motion or *motu proprio*, may order that the petitioner or the aggrieved party and any member of the immediate family be protected in a government agency or by an accredited person or private institution capable of keeping and securing their safety. If the petitioner is an organization, association or institution referred to in Section 2(c) of this Rule, the protection may be extended to the officers involved.

The Supreme Court shall accredit the persons and private institutions that shall extend temporary protection to the petitioner or the aggrieved party and any member of the immediate family, in accordance with guidelines which it shall issue.

The accredited persons and private institutions shall comply with the rules and conditions that may be imposed by the court, justice or judge.

- (b) *Inspection Order.* – The court, justice or judge, upon verified motion and after due hearing, may order any person in possession or control of a designated land or other property, to permit entry for the purpose of inspecting, measuring, surveying, or photographing the property or any relevant object or operation thereon.

The motion shall state in detail the place or places to be inspected. It shall be supported by affidavits or testimonies of witnesses having personal knowledge of the enforced disappearance or whereabouts of the aggrieved party.

If the motion is opposed on the ground of national security or of the privileged nature of the information, the court, justice or judge may conduct a hearing in chambers to determine the merit of the opposition.

The movant must show that the inspection order is necessary to establish the right of the aggrieved party alleged to be threatened or violated.

The inspection order shall specify the person or persons authorized to make the inspection and the date, time, place and manner of making the inspection and may prescribe other conditions to protect the constitutional rights of all parties. The order shall expire five (5) days after the date of its issuance, unless extended for justifiable reasons.

- (c) *Production Order.* – The court, justice or judge, upon verified motion and after due hearing, may order any person in possession, custody or control of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, or objects in digitized or electronic form, which constitute or contain evidence relevant to the petition or the return, to produce and permit their inspection, copying or photographing by or on behalf of the movant.

The motion may be opposed on the ground of national security or of the privileged nature of the information, in which case the court, justice or judge may conduct a hearing in chambers to determine the merit of the opposition.

The court, justice or judge shall prescribe other conditions to protect the constitutional rights of all the parties.

- (d) *Witness Protection Order.* – The court, justice or judge, upon motion or *motu proprio*, may refer the witnesses to the Department of Justice for admission to the Witness Protection, Security and Benefit Program, pursuant to Republic Act No. 6981.

The court, justice or judge may also refer the witnesses to other government agencies, or to accredited persons or private institutions capable of keeping and securing their safety.

SEC. 15. Availability of Interim Reliefs to Respondent. – Upon verified motion of the respondent and after due hearing, the court, justice or judge may issue an inspection order or production order under paragraphs (b) and (c) of the preceding section.

A motion for inspection order under this section shall be supported by affidavits or testimonies of witnesses having personal knowledge of the defenses of the respondent.

SEC. 16. Contempt. – The court, justice or judge may order the respondent who refuses to make a return, or who makes a false return, or any person who otherwise disobeys or resists a lawful process or order of the court to be punished for contempt. The contemnor may be imprisoned or imposed a fine.

SEC. 17. Burden of Proof and Standard of Diligence Required. – The parties shall establish their claims by substantial evidence.

The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade responsibility or liability.

SEC. 18. Judgment. – The court shall render judgment within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall grant the privilege of the writ and such reliefs as may be proper and appropriate; otherwise, the privilege shall be denied.

SEC. 19. Appeal. – Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

The period of appeal shall be five (5) working days from the date of notice of the adverse judgment.

The appeal shall be given the same priority as in *habeas corpus* cases.

SEC. 20. Archiving and Revival of Cases. – The court shall not dismiss the petition, but shall archive it, if upon its determination it cannot proceed for a valid cause such as the failure of petitioner or witnesses to appear due to threats on their lives.

A periodic review of the archived cases shall be made by the *amparo* court that shall, *motu proprio* or upon motion by any party, order their revival when ready for further proceedings. The petition shall be dismissed with prejudice upon failure to prosecute the case after the lapse of two (2) years from notice to the petitioner of the order archiving the case.

The clerks of court shall submit to the Office of the Court Administrator a consolidated list of archived cases under this Rule not later than the first week of January of every year.

SEC. 21. Institution of Separate Actions. – This Rule shall not preclude the filing of separate criminal, civil or administrative actions.

SEC. 22. Effect of Filing of a Criminal Action. – When a criminal action has been commenced, no separate petition for the writ shall be filed. The reliefs under the writ shall be available by motion in the criminal case.

The procedure under this Rule shall govern the disposition of the reliefs available under the writ of *amparo*.

SEC. 23. Consolidation. – When a criminal action is filed subsequent to the filing of a petition for the writ, the latter shall be consolidated with the criminal action.

When a criminal action and a separate civil action are filed subsequent to a petition for a writ of *amparo*, the latter shall be consolidated with the criminal action.

After consolidation, the procedure under this Rule shall continue to apply to the disposition of the reliefs in the petition.

SEC. 24. *Substantive Rights.* – This Rule shall not diminish, increase or modify substantive rights recognized and protected by the Constitution.

SEC. 25. *Suppletory Application of the Rules of Court.* – The Rules of Court shall apply suppletorily insofar as it is not inconsistent with this Rule.

SEC. 26. *Applicability to Pending Cases.* – This Rule shall govern cases involving extralegal killings and enforced disappearances or threats thereof pending in the trial and appellate courts.

SEC. 27. *Effectivity.* – This Rule shall take effect on October 24, 2007, following its publication in three (3) newspapers of general circulation.

RULE ON CHILDREN CHARGED UNDER REPUBLIC ACT NO. 9165 OR THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002

SECTION 1. *Applicability.* – This Rule, together with the pertinent provisions of the Rule on Juveniles in Conflict with the Law, the Rule on the Examination of a Child Witness, and Republic Act No. 9344 or The Juvenile Justice and Welfare Act of 2006, applies to all cases involving children charged under Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Rules of Court shall apply suppletorily.

SEC 2. *Objectives.* – It is the policy of the State to safeguard the integrity of its territory and the well-being of its citizenry, particularly children, from the harmful effects of dangerous drugs on their physical and mental well-being and to defend them against acts or omissions detrimental to their development and preservation.

Pursuant to this policy and the mandate of Republic Act No. 8369, also known as The Family Courts Act of 1997, vesting exclusive jurisdiction in Family Courts to hear and decide cases against minors charged with drug-related offenses, the objective of this Rule is to ensure that the rights of children charged with violation of any of the offenses under The Comprehensive Dangerous Drugs Act of 2002 are well protected, and that their interests and those of their family and the community are adequately balanced. Towards this end, the Rule aims to:

- (a) Provide a rule of procedure in the Family Courts or the Regional Trial Courts, as the case may be, for children charged with any of the acts penalized under The Comprehensive Dangerous Drugs Act of 2002, taking into consideration their developmental age and potential to recover from dependence on drugs and to stop substance abuse, so that they can live productive, substance-free and crime-free lives;
- (b) Ensure a more active and continuous judicial supervision and monitoring of the compliance by and progress of the child and family members in the treatment programs and rehabilitation services provided; and
- (c) Establish greater coordination among the courts, the treatment community and other community-based support agencies, the faith community, the school system and the family in responding to the needs of the child under a holistic intervention and integration policy focused on changing problem behavior rather than merely punishing criminal conduct.

SEC. 3. *Interpretation.* – This Rule shall be construed and interpreted liberally in favor of the child in conflict with the law, consistent with the best interest of the child, the declared state policy, the rights of the child in conflict with the law and the principle of balanced and restorative justice.

SEC. 4. *Definitions.* – As used in this Rule:

- (a) Act – means Republic Act No. 9165 or The Comprehensive Dangerous Drugs Act of 2002.
- (b) Administer – means any act of introducing any dangerous drug into the body of any person, with or without his/her knowledge, by injection, inhalation, ingestion or other means, or of committing any act of indispensable assistance to a person in administering a dangerous drug to himself/herself, unless administered by a duly licensed practitioner for purposes of medication.
- (c) Board – refers to the Dangerous Drugs Board under Section 77, Article IX of Republic Act No. 9165.
- (d) Center – means any of the treatment and rehabilitation centers for drug dependents referred to in Section 75, Article VIII of Republic Act No. 9165.

- (e) Child – refers to any person above 15 years of age but below 18 under Section 6 of Republic Act No. 9344.
- (f) Confirmatory Test – means an analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test.
- (g) Controlled precursors and essential chemicals – include those listed in Tables I and II of the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances as enumerated in the annex attached to and made an integral part of Republic Act No. 9165.
- (h) Dangerous drugs – refer to those listed in the Schedules annexed to the 1961 United Nations Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 United Nations Single Convention on Psychotropic Substances, attached as annexes to and made an integral part of Republic Act No. 9165.
- (i) Deliver – refers to any act of knowingly passing a dangerous drug or controlled precursor and essential chemical to another, personally or otherwise, and by any means, with or without consideration.
- (j) Dispense – means any act of giving away, selling or distributing medicine or any dangerous drug with or without the use of prescription.
- (k) Drug Dependence – as based on the World Health Organization definition means a cluster of physiological, behavioral and cognitive phenomena of variable intensity, in which the use of a psychoactive drug takes on a high priority, thereby involving, among others, a strong desire or a sense of compulsion to take the substance; and the difficulties in controlling substance-taking behavior in terms of its onset, termination, or level of use.
- (l) Drug Syndicate – means any organized group of two or more persons forming or joining together, with the intention of committing any offense prescribed under Republic Act No. 9165.
- (m) Illegal Trafficking – means the illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical.
- (n) Instrument – means anything that is used in or intended to be used in any manner in the commission of illegal drug trafficking or related offenses.
- (o) PDEA – refers to the Philippine Drug Enforcement Agency.
- (p) Pusher – means any person who sells, trades, administers, dispenses, delivers or gives away to another, on any terms whatsoever, or distributes, dispatches in transit or transports dangerous drugs or who acts as a broker in any of such transactions, in violation of Republic Act No. 9165.
- (q) Rehabilitation – refers to the dynamic process, including after-care and follow-up treatment, directed towards the physical, emotional/psychological, vocational, social and spiritual well-being, change or enhancement of a child drug dependent to enable him/her to live without dangerous drugs, enjoy the fullest life compatible with the child's capabilities and potentials and enable him/her to become a law-abiding and productive member of the community.
- (r) Screening Test – means a rapid drug test performed to establish potential/presumptive positive result.
- (s) Sell – means any act of giving away any dangerous drug and/or controlled precursor and essential chemical whether for money or any other consideration.

- (t) Use – means any act of injecting, intravenously or intramuscularly, of consuming, either by chewing, smoking, sniffing, eating, swallowing, drinking or otherwise introducing into the physiological system of the body, any of the dangerous drugs or controlled precursors and essential chemicals.

SEC. 5. *Mandatory Drug Test.* – A child charged before the prosecutor's office with a criminal offense not penalized by the Act, but with an impossible penalty of imprisonment of not less than six years and one day, shall be subjected to a mandatory drug test.

SEC. 6. *Screening Laboratory Test and Confirmatory Test.* – A child taken into custody for alleged violation of the Act shall be subjected to a screening laboratory test within twenty-four hours from the time the child was taken into custody. The apprehending officer must have reasonable grounds to believe that the child, on account of physical signs or symptoms or other visible or outward manifestation, is under the influence of dangerous drugs. If the result of the test is positive, it shall be challenged by the child personally or through his/her parents, guardian, custodian or any relative within the fourth degree of consanguinity or affinity, within fifteen days after receipt thereof, through a confirmatory test conducted in any accredited analytical laboratory equipped with gas chromatograph/mass spectrometry equipment or some other modern accepted method. If confirmed, the same shall be *prima facie* evidence that the child has used dangerous drugs, which shall be without prejudice to prosecution for other violations of the Act.

A positive screening laboratory test must be confirmed for the positive finding to be valid in court.

SEC. 7. *Intake Report.* – An Intake Report shall be prepared by the social welfare officer assigned to the child, as soon as the child is taken into custody by the apprehending officer pursuant to Section 10 of the Rule on Juveniles in Conflict with the Law. The report shall describe the results of a preliminary background investigation of the child, and shall form part of the records of the case to aid the proper authorities in properly addressing the substance abuse problem of the child.

SEC. 8. *Voluntary Submission of a Child Drug Dependent to Confinement, Treatment and Rehabilitation.* – A child who is a drug dependent or suspected to be one may – personally or through the parent, guardian or relative within the fourth degree of consanguinity or affinity – apply with the Board or its duly recognized representative for treatment and rehabilitation of the drug dependency. The Board shall then submit the matter to the court, which shall immediately order that the child be examined for drug dependency.

SEC. 9. *Case Study Report.* – The court shall likewise direct the court social worker to prepare and submit to it a Case Study Report for its consideration pursuant to Section 19 of the Rule on Juveniles in Conflict with the Law. The case study report shall identify the child's environmental, family and psychosocial functioning problems, including a strengths-based biophysical assessment done on the child by a Department of Health (DOH)-accredited physician, to help the court in properly addressing the substance abuse problem of the child.

SEC. 10. *Examination for Drug Dependency.* – The examination for drug dependency shall be conducted by an accredited physician of the DOH. If the results show that the child is a drug dependent, the court shall order that the child undergo treatment and rehabilitation in a Center designated by the Board for a period of not less than six months.

SEC. 11. *Treatment and Care by a DOH-Accredited Physician.* – A child drug dependent may be placed under the care of a DOH-accredited physician if:

- (a) no Center is near or accessible to the residence of the child; or

- (b) where the child is a first-time offender and non-confinement in a Center will not pose a serious danger to his/her family or community.

SEC. 12. *Treatment Program Design.* – The court shall direct the Center or DOH-accredited physician to ensure that the treatment program designed for the child shall consider the following factors:

- (a) Family history of drug or substance abuse;
- (b) Personality characteristics such as low self-esteem, sensation-seeking attitude, lower intellectual achievement and aggressive behavior;
- (c) Gender-based violence;
- (d) Lack of family or relational attachments;
- (e) Peer pressure; or
- (f) School or education environment.

The court shall also direct that the intervention treatment program include the active participation and collaboration of the child's family, the law enforcers, the child's school, if any, various community organizations dealing with at-risk youths, and the court system itself.

SEC. 13. *Period of Confinement in a Center or Under the Care of DOH-Accredited Physician.* – Confinement in a Center for treatment and rehabilitation or under the care of a DOH-accredited physician shall not exceed one year, after which time the head of the Center or the said physician, as the case may be, shall apprise the court, as well as the Board, of the status of the treatment and rehabilitation of the child. The court, together with the Board, shall determine whether further confinement or care will be for the welfare and best interest of the child drug dependent and his/her family or the community.

SEC. 14. *Discharge Under the Voluntary Submission Program.* – A child drug dependent under the voluntary submission program who is finally discharged from confinement shall be exempt from criminal liability under Section 15 of this Act, subject to the following conditions:

- (a) He/she has complied with the rules and regulations of the Center or those imposed by the DOH-accredited physician, the applicable rules and regulations of the Board, including the after-care and follow-up program for at least eighteen months following temporary discharge from confinement in the Center or, in the case of a child drug dependent placed under the care of the DOH-accredited physician, the after-care program and follow-up schedule formulated by the Department of Social Welfare and Development (DSWD) and approved by the Board;
- (b) He/she has never been charged with or convicted of any offense punishable under the Act, the Dangerous Drugs Act of 1972 or Republic Act No. 6425, as amended, the Revised Penal Code, as amended, or any other special penal law;
- (c) He/she has no record of escape from a Center or, if an escapee, has surrendered personally or through the parents, guardian or relative within the fourth degree of consanguinity or affinity, within one week from the date of the escape; and
- (d) He/she poses no serious danger to his/her person, family or community.

Should the child fail to comply with any of the above conditions, the case shall be referred to the prosecutor for regular preliminary investigation.

SEC. 15. *Temporary Release from the Center, After-Care and Follow-up Treatment Under the Voluntary Submission Program.* – Upon certification by the Center or the DOH-accredited physician that the

child drug dependent under the voluntary submission program may be temporarily released, the court shall order such release on condition that the child shall report to the DOH for after-care and follow-up treatment, including urine testing, for a period not exceeding eighteen months under such terms and conditions that the court may impose.

The DOH-accredited physician can recommend to the court the temporary release of the child drug dependent at least forty-five days after initial admission to a facility and may likewise prescribe a comprehensive after-care and follow-up program approved by the court to which the child drug dependent should adhere in order to complete at least eighteen months.

If at any time during the period of after-care and follow-up program, the child is certified to be rehabilitated, the court shall order his/her final discharge, subject to the provisions of Section 12 of this Rule, without prejudice to the outcome of any pending case filed in court.

SEC. 16. *Recommitment.* – Should the DOH find that during the initial after-care and follow-up program of eighteen months, the child drug dependent requires further treatment and rehabilitation in the Center or by the DOH-accredited physician, he/she shall be so recommitted. Thereafter, he/she may again be certified for temporary release and ordered released for another after-care and follow-up program pursuant to Section 13 of this Rule.

SEC. 17. *Probation and Community Service Under the Voluntary Submission Program.* – A child drug dependent under the voluntary submission program who is discharged as rehabilitated by the Center or DOH-accredited physician, but does not qualify for exemption from criminal liability under Section 55 of the Act, may be charged under the provisions of the Act. However, the court upon its discretion may order that the child be placed on probation and that he/she undergo community service in lieu of imprisonment and/or fine, without prejudice to the outcome of any pending case filed in court.

The child drug dependent shall undergo community service as part of his/her after-care and follow-up program which may be done in coordination with non-governmental civic organizations accredited by the DSWD, with the recommendation of the Board.

Both the after-care and follow-up programs shall employ a strengths-based approach which shall focus on reinforcing the positive internal resources of the child, such as his/her innate talents or skills, what he/she is good at, as well as what his/her life goals are and what may be done to achieve them.

SEC. 18. *Filing of Charges Against a Child Drug Dependent Who is not Rehabilitated Under the Voluntary Submission Program.* – A child drug dependent under the voluntary submission program who is not rehabilitated after a second commitment to the Center or a DOH-accredited physician under the voluntary submission program shall be charged and prosecuted, upon recommendation of the Board, with violation of Section 15 of the Act. If convicted, the child shall be credited for the period of confinement and rehabilitation in the Center or by the DOH-accredited physician, in the service of the sentence. In addition thereto, the child shall enjoy all the rights provided under the Rule on Juveniles in Conflict with the Law that are not inconsistent with the provisions of the Act.

SEC. 19. *Escape and Recommitment for Confinement and Rehabilitation Under the Voluntary Submission Program.* – A child drug dependent under the voluntary submission program who escapes from the Center or from the custody and care of a DOH-accredited physician may submit himself/herself for recommitment and rehabilitation within one week from such escape. The parent, guardian or relative within the fourth degree of consanguinity or affinity may, within this period, also surrender the child for recommitment and rehabilitation in which case the corresponding order shall be issued by the Board.

If the child fails to submit himself/herself or is not surrendered for recommitment or rehabilitation after one week from his/her escape, the Board shall apply to the court for a recommitment and rehabilitation order. Upon proof of previous commitment or voluntary submission of the child to the Board, the court shall issue an order for recommitment and rehabilitation within one week from submission of such proof.

If, subsequent to a recommitment, the child once again escapes from confinement, he/she shall be charged with violation of Section 15 of the Act and be subjected to compulsory confinement upon order of the Board or upon order of the court, as the case may be.

SEC. 20. Confidentiality of Records Under the Voluntary Submission Program. – The judicial and medical records of a child drug dependent under the voluntary submission program shall be confidential and shall not be used against him/her for any purpose, except to determine how many times the child by himself/herself, or through his/her parent, guardian, or relative within the fourth degree of consanguinity or affinity underwent voluntary submission for confinement, treatment and rehabilitation or commitment to a Center or to the custody and care of a DOH-accredited physician under the program.

Where the child is not exempt from criminal liability under Section 55 of the Act, or when he/she is not rehabilitated under the voluntary submission program, or when he/she escapes again from confinement after recommitment, the records mentioned in the immediately preceding provisions that are necessary for conviction may be utilized in court as evidence against such child.

SEC. 21. Compulsory Confinement of a Child Drug Dependent Who Refuses to Apply Under the Voluntary Submission Program. – Notwithstanding any law, rule and regulation to the contrary, any child found to be dependent on dangerous drugs who refuses to apply under the voluntary submission program shall, upon petition by the Board or any of its authorized representatives, be confined for treatment and rehabilitation in any Center duly designated or accredited by the DOH.

A petition for the confinement to a Center of a child alleged to be drug dependent may be filed by any person authorized by the Board with the Family Court, or, in the absence thereof, the Regional Trial Court of the province or city where such person is found.

After the petition is filed, the court shall immediately order a hearing, fix a date therefor, and serve a copy of such order on the child and his/her parents, guardian or custodian.

If the facts established at the hearing so warrant, the court shall order the child to be examined by two physicians accredited by the Board. If both physicians conclude that the child is not a drug dependent, the court shall order his/her discharge. If either physician finds the child to be a dependent, the court shall conduct a hearing and consider all relevant evidence which may be offered. If the court finds the child to be drug dependent, it shall issue an order for his/her commitment to a treatment and rehabilitation center under the supervision of the DOH. In any event, the order of discharge or order of confinement or commitment shall be issued by the court not later than fifteen days from the filing of the appropriate petition.

SEC. 22. Compulsory Submission to Treatment and Rehabilitation of a Child Drug Dependent Charged with an Offense. – If a child charged with an offense where the imposable penalty is imprisonment of less than six years and one day is found by the prosecutor or by the court, at any stage of the proceedings, to be a drug dependent, the prosecutor or the court, as the case may be, shall suspend all further proceedings and transmit copies of the records of the case to the Board.

In the event the Board determines, after the medical examination, that public interest requires that such child drug dependent be committed to a Center for treatment and rehabilitation, it shall file a petition for commitment with the Family Court or, in the absence thereof, the Regional Trial Court of the province or city where the child is being investigated or tried: *Provided*, that where a

criminal case is pending court, the petition shall be filed in such court. The court shall take judicial notice of the prior proceedings in the case and shall proceed to hear the petition. If the court finds the child to be a drug dependent, it shall order his/her commitment to a Center for treatment and rehabilitation. The head of the Center shall submit to the court every four months, or as often as the court may require, a written report on the progress of the treatment. If the child drug dependent is rehabilitated, as certified by the Center and the Board, he/she shall be returned to the court, which committed him/her, for discharge therefrom.

Thereafter, the prosecution of the child for any offense punishable by law shall be instituted or shall continue, as the case may be. In case of conviction and the child has been certified by the treatment and rehabilitation center to have maintained good behavior, the judgment shall indicate that the child shall be given full credit for the period he/she was confined in the Center: *Provided*, however, that when the offense is for violation of Section 15 of the Act and the child is not a recidivist, the penalty therefor shall be deemed to have been served in the Center upon the release of the child therefrom after certification by the Center and the Board that the child has been rehabilitated.

SEC. 23. *Prescription of the Offense Charged Against a Child Drug Dependent Under the Compulsory Submission Program.* – The period of prescription of the offense charged against a child drug dependent under the compulsory submission program shall not run during the time that said child is under confinement in a Center or otherwise under the treatment and rehabilitation program approved by the Board.

SEC. 24. *Temporary and Final Discharge of the Child from Treatment and Rehabilitation in Compulsory Submission; Recommitment.* – Upon certification by the Center that the child may temporarily be discharged therefrom, the court shall order the release of the child on the condition that he/she shall report to the Board through the DOH for after-care and follow-up treatment for a period not exceeding eighteen months under such terms and conditions as may be imposed by the Board.

If at any time during the after-care and follow-up period the Board certifies to the complete rehabilitation of the child, the court shall order his/her final discharge and the immediate resumption of the trial of the case for which the child has been originally charged. Should the Board through the DOH find at any time during the after-care and follow-up period that the child requires further treatment and rehabilitation, it shall file a petition in court for his/her recommitment.

SEC. 25. *Recommitment for Confinement and Rehabilitation Under the Compulsory Submission Program in Case of Escape.* – A child drug dependent who escapes from the Center may submit himself/herself to the Board for recommitment within one week from the date of his escape. The child may likewise be surrendered for recommitment within the same period by the parent, guardian or relative within the fourth degree of consanguinity or affinity.

If the child does not resubmit for confinement or is not surrendered for recommitment, the Board may apply with the court for the issuance of a recommitment order.

Upon proof of previous commitment of the child, the court shall issue an order for recommitment. If, subsequent to such recommitment, the child should escape again, he/she shall no longer be exempt from criminal liability for use of any dangerous drug, in which case, the corresponding charge for violation of Section 15 of the Act shall be filed against him/her.

SEC. 26. *Effect of Final Discharge.* – A child drug dependent committed under Sections 20, 22 and 23 of this Rule who is finally discharged from confinement shall be exempt from criminal liability for the use of a dangerous drug under Section 15 of the Act, without prejudice to the outcome of any pending case filed in court.

SEC. 27. *Non-rehabilitation After Recommitment.* – A child drug dependent who is not rehabilitated after a second commitment to the Center shall, upon conviction by the appropriate court, suffer the same penalties provided for under Section 15 of the Act, without prejudice to the outcome of any pending case filed in court.

SEC. 28. *Confidentiality of Records Under the Compulsory Submission Program.* – The provisions of Section 18 of this Rule regarding Confidentiality of Records Under the Voluntary Submission Program shall apply to a child drug dependent who is rehabilitated and discharged under a compulsory submission program, or is charged with violation of Section 15 of the Act. However, the records of a child who has not been rehabilitated or who escaped but has not surrendered within the prescribed period shall be forwarded to the court and the use of those records shall be determined by the court, taking into consideration the best interest of the child and public safety.

SEC. 29. *Automatic Suspension of Sentence.* – If a child drug dependent is under eighteen years of age at the time of the commission of the offense and is found guilty thereof, the court shall determine and ascertain any civil liability. However, instead of pronouncing the judgment of conviction, the court shall place the child under suspended sentence, without need of application. Suspension of sentence shall still be applied even if the child is already eighteen years of age at the time of the conviction.

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures under the Rule on Juveniles in Conflict with the Law. While under suspended sentence, the child shall be under the supervision and rehabilitation surveillance of the Board, under such conditions that the court may impose for a period ranging from six to eighteen months.

Upon recommendation of the Board, the court may commit the child under suspended sentence to a Center, or to the care of a DOH-accredited physician for at least six months, with after-care and follow-up program for not more than eighteen months.

SEC. 30. *Discharge After Compliance with Conditions of Suspended Sentence.* – If the child drug dependent under suspended sentence complies with the applicable rules and regulations of the Board, including confinement in a Center or care of a DOH-accredited physician, the court, upon a favorable recommendation of the Board or the physician, shall discharge him and dismiss all proceedings under Section 11 of the Act.

SEC. 31. *Confidentiality of Records.* – Upon the dismissal of the proceedings against the child, the court shall enter an order to expunge all official records, other than the confidential record to be retained by the Department of Justice relative to the case. Such order, which shall be kept confidential, shall restore the child to his/her status prior to the case.

SEC. 32. *Non-liability for Perjury, Concealment or Misrepresentation.* – The child so discharged shall not be held thereafter to be guilty of perjury, concealment or misrepresentation by reason of failure to acknowledge the case or recite any fact related thereto in response to any inquiry made for any purpose.

SEC. 33. *Promulgation of Sentence.* – If the child violates any of the conditions of the suspended sentence, the applicable rules and regulations of the Board exercising supervision and rehabilitative surveillance, including the rules and regulations of the Center should confinement be required, he/she shall be returned to the court which, after due notice and hearing and after finding sufficient basis therefor, shall execute the judgment of conviction.

SEC. 34. Probation in Lieu of Imprisonment. – In cases involving violations of Sections 11 and 15 of the Act, the court, upon application and in its discretion, may place the child under probation. Probation may still be availed of even if the sentence provided under the Act is higher than that provided under the Probation Law.

The supervision and rehabilitative surveillance of the child who is placed under probation shall be undertaken by the Board or the DOH-accredited physician through the DOH in coordination with the Board of Pardons and Parole and the Probation Administration. Upon compliance with the conditions of the probation, the Board or the DOH-accredited physician shall submit a written report to the court recommending termination of probation and final discharge of the probationer. Thereupon, the court shall issue such an order.

SEC. 35. Compliance with Community Service Orders. – In cases involving violations of Section 15 of the Act, the court may impose community service in lieu of imprisonment. When so imposed, the order of the court shall be complied with under such conditions, time and place as it may determine according to its discretion, and upon the recommendation of the Board or the DOH-accredited physician.

The completion of the community service by the child shall be under the supervision and rehabilitative surveillance of the Board or the DOH-accredited physician during the period required by the court. Thereafter, the Board or physician shall tender a report to the court on the manner of compliance with the community service. The court in its discretion may order the extension of the community service or issue an order of final discharge.

In both cases, the confidentiality of the judicial records shall be maintained.

SEC. 36. Credit in Service of Sentence. – If the sentence promulgated by the court for the child requires imprisonment, the period spent by the child in the Center or under the care of the physician during the suspended sentence shall be deducted from the sentence to be served.

SEC. 37. Records to be kept by the Department of Justice (DOJ). – The DOJ shall keep a confidential record of the proceedings on suspension of sentence, and the record shall not be used for any other purpose unless beneficial to the child and ordered by the Court that handled the case.

SEC. 38. Liability of a Parent or Guardian Who Refuses to Cooperate with the Board or any Concerned Agency. – Any parent or guardian who, without valid reason, refuses to cooperate with the Board or any concerned agency in the treatment and rehabilitation of a child, or in any manner prevents or delays the after-care, follow-up or other programs for the welfare of the child drug dependent, whether under a voluntary or a compulsory submission program, may be cited for contempt by the court.

SEC. 39. Gender-Sensitivity Training. – No personnel of rehabilitation and training facilities shall handle children in conflict with the law without having undergone gender-sensitivity training.

SEC. 40. Effectivity. – This Rule shall take effect on November 5, 2007, after its publication in a newspaper of general circulation not later than October 5, 2007.

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