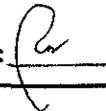




'11 FEB 28 P6:21

SENATE

P.S. Res. No. 404

RECEIVED BY: 

INTRODUCED BY SENATOR MANNY VILLAR

RESOLUTION

URGING THE SENATE COMMITTEES ON CONSTITUTIONAL AMENDMENTS, REVISION OF CODES AND LAWS, YOUTH, WOMEN AND FAMILY RELATIONS TO REVISIT, IN AID OF LEGISLATION, REPUBLIC ACT NO. 9344 OTHERWISE KNOWN AS JUVENILE JUSTICE AND WELFARE ACT OF 2006, WITH THE END IN VIEW OF STRENGTHENING AND ENSURING THE EFFECTIVENESS OF THE MEASURE TO FULLY ACHIEVE THE NOBLE OBJECTIVES OF THE LAW

WHEREAS, Section 2 of Republic Act No. 9344 states:

(a) The State recognizes the vital role of children and youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs;

(b) The State shall protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those to which the Philippines is a party. Proceedings before any authority shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express himself/herself freely. The participation of children in the program and policy formulation and implementation related to juvenile justice and welfare shall be ensured by the concerned government agency;

(c) The State likewise recognizes the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty and exploitation, and other conditions prejudicial to their development;

(d) Pursuant to Article 40 of the United Nations Convention on the Rights of the Child, the State recognizes the right of every child alleged as, accused of, adjudged, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, taking into account the child's age and desirability of promoting his/her reintegration. Whenever appropriate and desirable, the State shall adopt measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. It shall ensure that children are dealt with in a manner appropriate to their well-being by providing for, among others, a variety of disposition measures such as care, guidance and supervision orders, counseling, probation, foster care, education and vocational training programs and other alternatives to institutional care;

(e) The administration of the juvenile justice and welfare system shall take into consideration the cultural and religious perspectives of the Filipino people, particularly the indigenous peoples and the Muslims, consistent with the protection of the rights of children belonging to these communities;

(f) The State shall apply the principles of restorative justice in all its laws, policies and programs applicable to children in conflict with the law;

WHEREAS, upon the effectivity of the law, over 500 children have been transferred from jails to youth homes and an estimated of over 1,500 criminal cases against young offenders age 15 and below has been dismissed as the law is implemented retroactively. In 2009, the Public Attorney's Office alone has represented and terminated a total of 4,254 cases involving children in conflict with the law;¹

WHEREAS, despite the noble objectives of the law, that is, protecting and promoting the welfare of the children, the crime rates involving minors seems to be increasing and the courts are replete with cases involving them which includes gang fights that sometimes lead to the deaths of other people;

WHEREAS, the Supreme Court in the case of Ortega vs. People of the Philippines (G.R. No. 151085, August 20, 2008) lauded the enactment of the law by Congress; however, it has not escaped the High Court that major concerns have been raised on the effects of the law;

WHEREAS, Supreme Court in the above-entitled case declared that: "It is worth mentioning that in the Rationale for the Proposed Rule on Children Charged under R.A. No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, it was found that: The passage of Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006 raising the age of criminal irresponsibility from 9 years old to 15 years old has compounded the problem of employment of children in the drug trade several times over. Law enforcement authorities, *Barangay Kagawads* and the police, most particularly, complain that drug syndicates have become more aggressive in using children 15 years old or below as couriers or foot soldiers in the drug trade. They claim that Republic Act No. 9344 has rendered them ineffective in the faithful discharge of their duties in that they are proscribed from taking into custody children 15 years old or below who openly flaunt possession, use and delivery or distribution of illicit drugs, simply because their age exempts them from criminal liability under the new law";

WHEREAS, the enactment of RA 9344 is a no-mean feat in advancing the cause of children's rights, however, much remains to be desired in its implementation and understanding of this law. Some of the weaknesses in the system include the absence of comprehensive rehabilitation and aftercare programs for Children in Conflict with the Law ("CICL"), the limited government funds to address the needs of CICL, and the lack of effective monitoring systems, among others;

WHEREAS, due to its weaknesses, there is a growing clamor to amend or repeal Republic Act No. 9344, thus, the need to revisit the same;

NOW THEREFORE, BE IT RESOLVED, by the Senate of the Philippines to urge the Senate Committees on Constitutional Amendments, Revision of Codes and Laws, Youth, Women and Family Relations to revisit, in aid of legislation, Republic Act No. 9344 otherwise known as Juvenile Justice and Welfare Act of 2006, with the end in view of strengthening and ensuring the effectiveness of the measure to fully achieve the noble objectives of the law.

Adopted,



MANNY VILLAR

¹ RA 9344: A Critical Analysis, by Marchell Jumawan, Rudylen Laurente and Stacy Pino, The Purple Map, Issue No. 1, May 2010, page 66.