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First Regular Session



SENATE
Office of the Secretary

SENATE
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RECEIVED BY: 

Introduced by Senator Poe

RESOLUTION

TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NEED TO OPPOSE ANY MOVE TO LOWER THE LEGISLATED MINIMUM AGE OF CRIMINAL RESPONSIBILITY (MACR) OF CHILDREN IN CONFLICT WITH THE LAW, AND RETAIN THE EXISTING MACR OF FIFTEEN (15) YEARS OF AGE, AS IT IS IN CONSONANCE WITH THE COGNITIVE, PSYCHOSOCIAL, AND NEUROBIOLOGICAL DEVELOPMENT IN CHILDREN AND WITH INTERNATIONAL LEGAL INSTRUMENTS THAT BIND THE PHILIPPINES

WHEREAS, following reports that criminal gangs are using children to peddle illegal drugs, President Rodrigo Duterte reportedly expressed interest to lower the minimum age of criminal responsibility (MACR) from the current fifteen (15) years of age to twelve (12) years of age¹—or to even lower, at nine (9) years of age;²

WHEREAS, Republic Act No. 9344, as amended, otherwise known as the Juvenile Justice and Welfare Act of 2006, adopted the prevailing United Nations standard on juvenile justice³;

WHEREAS, the law likewise prohibited the incarceration of children, raised the age of criminal responsibility from nine (9) years of age to fifteen (15) years of age,⁴ and established a comprehensive and child-sensitive reformatory justice system for children in conflict with the law;

WHEREAS, lowering the MACR from 15 to 9 years of age will profoundly have a negative impact on young people's mental and physical well-being; it can result in depression and poor mental health; it can also affect their education by failing to address learning disabilities not previously diagnosed; and their future employment, such that it reduces their ability to remain in the workforce);⁵

WHEREAS, the move to lower the MACR ignores scientific proof about normal brain development of children and isolates a particularly vulnerable episode in every child's brain development history,⁶ all of which R.A. 9344 seeks to safeguard;

¹ <http://newsinfo.inquirer.net/760834/duterte-cayetano-want-minimum-age-of-criminal-liability-lowered-to-12>

² <http://interaksyon.com/article/130879/minority-to-buck-at-least-3-palace-bills>

³ Republic Act No. 9344 § 2(d), *citing* Article 40 of the United Nations Convention on the Rights of the Child.

⁴ *Id.* § 6.

⁵ Philippine Action for Youth Offenders (PAYO) & Child Rights Network (CRN), *Position Paper on the Lowering of the Minimum Age of Criminal Responsibility*, July 15, 2016, at 1 (studies omitted) (hereinafter "PAYO & CRN").

⁶ Juvenile Justice and Welfare Council (JJWC), *Keeping the Minimum Age of Criminal Responsibility at 15 Years: When It is Not a Matter of Choice*, at 10.

WHEREAS, knowledge about cognitive, psychosocial, and neurobiological development in adolescence point to the fact that young people should not be held to the same standards of criminal responsibility as adults;⁷

WHEREAS, scientific consensus supports the modern view that non-punitive, welfare-based and education-oriented measures are more effective in dealing with juvenile crime, which programs and services focus on:

- a. Addressing the underlying factors behind offending children (e.g. violence, neglect, poverty, exclusion, etc.);
- b. Emphasizing the need to divert children from entering the criminal justice system altogether;
- c. Addressing the factors behind criminal behavior before it occurs (prevention programs);
- d. Early intervention (for children of pre-school age) which provide parenting training and support (from teachers, nurses and other agents) for disadvantaged and marginalized households; and,
- e. Family, community and schools-based prevention programs that are equally balanced with institutional programs and post-release programs and services;⁸

WHEREAS, the lack of evidence-based information to support the moves to lower the MACR and the negative impact of criminalizing children is glaring⁹—a burden of proof that proponents of a lower MACR have failed to discharge;¹⁰

WHEREAS, while many children in conflict with the law stay either at DSWD facilities, or are in the custody of family members or guardians, a great number of children are detained in jails;¹¹

WHEREAS, detention/jail conditions in the Philippines are not rehabilitative: while in jail, children have been subjected to torture, physical, emotional, and sexual abuse;¹² experience the same disciplinary measures imposed on adults;¹³ and that due to a lack of resources, many jails and detention centers lack separate facilities for children in conflict with the law;¹⁴

WHEREAS, detention will increase the likelihood that young people will recidivate, compromising public safety¹⁵ and negating the purported objective of a lower MACR;

WHEREAS, lowering the MACR will be *anti-poor*, as most children in conflict with the law come from poor, distressed, and low-income families,¹⁶ having no meaningful access to legal services, and are likely motivated by a desire to survive;¹⁷

⁷ *Id.* at 9 (citations omitted).

⁸ *Id.* at 5 (citing United Nations Children's Fund (UNICEF)).

⁹ PAYO & CRN, *supra* note 5, at 2.

¹⁰ UNICEF, Matrix of Arguments and Counterarguments Regarding MACR.

¹¹ Save the Children UK, Research on the Situation of Children in Conflict with the Law in Selected Metro Manila Cities 174 (2004).

¹² PAYO & CRN, *supra* note 5, at 1. See also <http://interaksyon.com/article/130530/child-rights-groups-oppose-lowering-age-of-criminal-responsibility>.

¹³ Save the Children, *supra* note 11, at 154.

¹⁴ *Id.* at 156.

¹⁵ PAYO & CRN, *supra* note 5, at 1 (citations omitted).

¹⁶ JJWC, at 7.

¹⁷ *Id.* at 8.

WHEREAS, lowering MACR does not address the root causes of juvenile offending and vulnerabilities arising from illiteracy, oppression, extreme hunger and destitution;¹⁸

WHEREAS, if children are indeed being used by organized crime syndicates ran by adults to circumvent the law, then law enforcement should go after the adults instead of punishing the children of the poor;

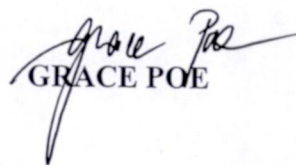
WHEREAS, lowering the MACR violates the fundamental principles of child protection and welfare as provided by international treaties, standards, and principles which bind the Philippines,¹⁹ such as the UN Convention on the Rights of the Child (CRC), the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines);

WHEREAS, while the Senate as a body is with the President in the war against drugs and against criminality generally, the Senate cannot agree on the specific measure of lowering the MACR because it distracts society from the real causes as to why children offend, such as poor parenting and supervision, peer pressure, social isolation, family conflict, and poverty;²⁰ and from the real solutions, which include improving the justice system for adult offenders, improving child protection policies to lessen exploitation, and enhancing poverty reduction measures,²¹ all of which focus on child-sensitive restorative justice;

WHEREAS, in the true spirit of our Constitution, our legislators must recognize the vital role of the youth in nation-building and promote and protect their physical, moral, spiritual, intellectual, and social well-being;²²

BE IT RESOLVED, AS IT IS HEREBY RESOLVED, by the Senate of the Philippines, to conduct an inquiry, in aid of legislation, on the need to oppose any move to lower the legislated minimum age of criminal responsibility (MACR) of children in conflict with the law, and retain the existing MACR of fifteen (15) years of age as, it is in consonance with the cognitive, psychosocial, and neurobiological development in children and with international legal instruments that bind the Philippines.

Adopted,


GRACE POE

¹⁸ *Id.*

¹⁹ PAYO & CRN, *supra* note 5, at 2-3.

²⁰ *Id.* at 1.

²¹ UNICEF, *supra* note 10, at 2.

²² Philippine Constitution, Art. II § 13.