

**POSITION PAPER OF THE PHILIPPINE PEDIATRIC SOCIETY ON HOUSE BILL 002 OR  
“THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY ACT”**

Introduction

The House Bill no. 002 seeks to amend specifically Section 6 of *Republic Act No. 9344 or The Juvenile Justice Welfare Act*, as amended by *Republic Act no. 10630*, by reverting the minimum age of criminal responsibility (MACR) from 15 years old to 9 years old, provided that the child acted with discernment. In the exploratory note of the said House Bill, it states that the raising of MACR to 15 years old has resulted to “pampering of youthful offenders who commit crimes knowing they can get away with it.” Furthermore, it presupposes that children above 9 years old are considered to be “fully informed because all forms and manner of knowledge are available through the internet and digital media therefore they should be taught that they are responsible for what they say and do.”

A child under the age of criminal responsibility lacks the capacity to commit a crime. This means they are immune from criminal prosecution – they cannot be formally charged by authorities with an offense nor be subjected to any criminal law procedures or measures. The significance of the minimum age of criminal responsibility is that it recognizes that a child has attained the emotional, mental and intellectual maturity to be held responsible for their actions. Hence, bearing in mind the mental, emotional and intellectual maturity of children and adolescents, the United Nations Convention on the Rights of the Child (UNCRC) which was ratified by the Philippine government in July 1990, has recommended States parties to set their minimum age of criminal responsibility not lower than 12 years and has encouraged increasing it at a higher level. This means setting an MACR below 12 years old is considered not to be internationally acceptable. Therefore,

**We at the Philippine Pediatric Society STRONGLY OPPOSE lowering of the minimum age of criminal responsibility to 9 years old. We stand by maintaining the MACR at 15 years old, as amended by RA No. 10630, and the strengthening of our juvenile justice system by strict implementation of the existing laws and supporting stakeholders in improving our facilities for children in conflict with the law.**

With this we present Neurodevelopmental and Psychosocial developmental facts that support this position:

1. Neuroscience research has proven that the brain does not fully develop until age 25. The prefrontal cortex of the frontal lobe which is responsible for executive functions such as decision making, planning and impulse control of the brain undergoes dramatic development only during the adolescent years. While the developing and immature limbic system at this period helps to process emotions, emotions are often left un-tempered and unregulated because of the underdeveloped frontal lobe. As such, decision-making and judgment are often compromised. This means that even if children have adequate intelligence for their age, their judgment can lead to faulty decisions as they may still often act in accordance with their impulse and/or emotions rather than reasoned judgment. Therefore, children do not yet have the wherewithal to independently regulate and control their own thoughts and emotions, especially in highly complex, stressful, and nuanced situations. In relation to this, discernment when it comes to matters between right and wrong is not solely based on whether a child has greater access to information through media or internet. Discernment between right and wrong requires intellectual, emotional, and psychological maturity. This is a tall order for children who are still in the process of developing in all aspects, who still have limited life experiences and therefore limited worldview to learn and apply what they are taught.
2. As drawn from theories of cognitive and moral development, children's discernment of right and wrong matures not only through education but also through the stages of their brain development. A younger child, for example, would not be able to fully anticipate all the possible consequences of their actions for themselves and society as a whole. An older child of 16 years, is able to consider rules based on intention and outcome thus can make informed decisions especially when properly guided. This older comprehension of morality is able to take into account other groups of people and society as a whole. These stages are reached incrementally and it is impossible to conclude that an individual will have reached a certain level of cognition by a particular age. These stages of development highlight that while children may appear to identify right and wrong behavior, they lack an appreciation for why rules exist and the implications of these rules in the society. Younger children, therefore, need protection from the law and should not be held criminally responsible for their actions.
3. Progress toward completion of cognitive and moral developmental stages can be detoured or delayed by cultural, intellectual and social disadvantage. Children in conflict with the law typically have risk factors such as poverty, mental illness, drug and alcohol abuse, exposure to crime and violence, homelessness, child abuse and neglect. It is unreasonable to hold a child criminally responsible for actions made when a child is exposed in an impoverished

and brutal environment. It is therefore unreasonable to expect a developing child to already discern right from wrong when he or she grew up in an environment and household where what is right may not be that different from what is wrong. Therefore, to hold a child criminally responsible for such is to put the entire community's problems on the child's shoulders. Furthermore, research has identified how hardships early in life such as experiences of child abuse and neglect can inhibit the development, result in intense and cumulative harm, and have long term impacts on health and social outcomes. In these settings, a child's ability to develop important emotional, social and cognitive skills that are necessary for criminal responsibility is diminished, leading the child to be behind his or her peers in a broad range of competencies.

The solution to the growing problem in crime must target the root cause. The problem of children in conflict with the law is a manifestation or a consequence of a dysfunctional society. The moral decadence in our society has reached such a level that calls for concern. A child offending must be seen as a product of a deteriorating values system and lack of role models in a family unit. They are not the problem to be solved but a resource to harness. The lowering of the MACR undermines all evidences regarding a child's moral, intellectual and emotional development.

The Philippine Pediatric Society reiterates its **opposition** to bring down the minimum age of criminal responsibility to 9 years old, and proposes to direct efforts in improving the juvenile justice system by mobilizing local government units to mandate provisions that support existing structures at the community level such as the Barangay Council for the Protection of Children (BCPC) and the Children's Justice Committee (CJC); For the police to adopt structural changes in their organization that will guarantee effective handling of cases of CICL wherein focus is in catching adults that make use of children to commit crimes more than punishing the children; and upgrading detention facilities and rehabilitation centers to more humane conditions, including minimizing abuse or practices that impede a child's development and training personnel that will offer multi-disciplinary approach to rehabilitation programs.

Although improving the legislative framework of the juvenile justice system is imperative, prevention offers long-term solutions. Alleviating conditions that serve as foundation to delinquent behaviour such as disintegration of the family unit, lack of education and poverty proves to be a protective strategy to prevent children offending. Therefore, it is equally important to focus on improving social systems by advocating family stability and providing opportunities for quality education that provides social and academic growth that ensure successful development of children.

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