



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

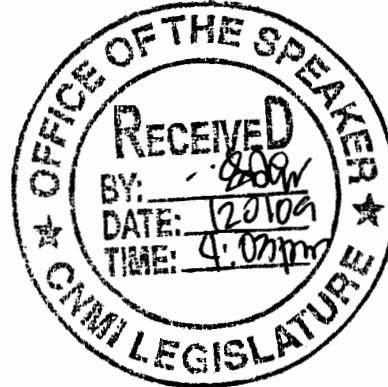
**Benigno R. Fitial**  
Governor

**Eloy S. Inos**  
Lt. Governor

The Honorable Arnold I. Palacios  
Speaker, House of Representatives  
Sixteenth Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

NOV 30 2009

The Honorable Pete P. Reyes  
Senate President, The Senate  
Sixteenth Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950



*[Handwritten mark]*

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 16-178, HD1, entitled, "To repeal and replace Title 6, Division 5, Chapters 1 and 2 and create a comprehensive juvenile justice system that will protect the community, hold the juvenile accountable for his or her actions, and assist the juvenile in developing skills to become a contributing member of a diverse community; to establish a system for the appointment and regulation of guardians ad litem to support juveniles and the community at large; and for other purposes." The bill was passed by the House of Representatives and the Senate of the Sixteenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 16-47**. Copies bearing my signature are forwarded for your reference.

Sincerely,

*[Handwritten Signature: Benigno R. Fitial]*  
BENIGNO R. FITIAL

- cc: Lt. Governor, Attorney General, Public Defender, Department of Community and Cultural Affairs, Criminal Justice Planning Agency, Department of Labor, Workforce Investment Agency, Public School System, Department of Public Safety, Department of Corrections, Department of Finance, Special Assistant for Administration, Special assistant for Youth Affairs, All Mayors, Supreme and Superior Courts, Commonwealth's Law Revision Commission, and Special Assistant for Programs and Legislative Review

*[Handwritten note: 12/12/09 10:00am]*



**HOUSE OF REPRESENTATIVES**  
**SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE**  
5TH DAY, FOURTH REGULAR SESSION, 2009

Public Law 16-47

**House Bill No. 16-178, HD1**

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**AN ACT**

To repeal and replace Title 6, Division 5, Chapters 1 and 2 and create a comprehensive juvenile justice system that will protect the community, hold the juvenile accountable for his or her actions, and assist the juvenile in developing skills to become a contributing member of a diverse community; to establish a system for the appointment and regulation of guardians ad litem to support juveniles and the community at large; and for other purposes.

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**In the HOUSE OF REPRESENTATIVES**

**Offered by Representative:** Joseph N. Camacho

**Date:** October 16, 2008

Referred to: Committee on Judiciary and Governmental Operations  
Public Hearing: None  
Standing Committee Report No. 16-92

**Passed First and Final Reading on September 23, 2009**

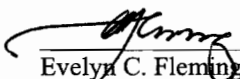
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**In the SENATE**

Referred to: None  
Public Hearing: None  
Standing Committee Report: None

**Passed First and Final Reading on October 8, 2009**

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Evelyn C. Fleming, House Clerk



**HOUSE OF REPRESENTATIVES**  
SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE  
SECOND REGULAR SESSION, 2008

Public Law 16-47  
**H. B. No. 16-178, HD1**

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**AN ACT**

To repeal and replace Title 6, Division 5, Chapters 1 and 2 and create a comprehensive juvenile justice system that will protect the community, hold the juvenile accountable for his or her actions, and assist the juvenile in developing skills to become a contributing member of a diverse community; to establish a system for the appointment and regulation of guardians ad litem to support juveniles and the community at large; and for other purposes.

**BE IT ENACTED BY THE SIXTEENTH NORTHERN MARIANAS COMMONWEALTH  
LEGISLATURE:**

1           **Section 1. Short Title.** This Act shall be referred to as the “Juvenile Justice Act of  
2 2008.”

3           **Section 2. Findings, Policy, Purpose.** The Legislature finds that the  
4 Commonwealth needs a comprehensive juvenile justice system that will be based on the  
5 following principles: accountability; community protection; and competency development.  
6 Where a juvenile has been found to be within the purview of the Juvenile Justice Act, the  
7 court shall impose a disposition that will protect the community, hold the juvenile  
8 accountable for his or her actions, and assist the juvenile in developing skills to become a  
9 contributing member of a diverse community. It is the policy of the Commonwealth that the  
10 parents or other legal guardians of the juvenile offender participate in the accomplishment of  
11 these goals through participation in counseling and treatment designed to develop positive  
12 parenting skills and an understanding of the family's role in the juvenile's behavior. The  
13 Legislature finds that the parents or legal guardians of the juvenile offender must be held  
14 accountable, where appropriate, through monetary reimbursement for supervision and  
15 confinement of the juvenile offender, and restitution to victims of the juvenile's delinquent  
16 acts. In enacting this legislation, the Legislature intends that the juvenile justice system shall

1 encompass the following aspects: day treatment, education, community programs, probation  
2 services, observation and assessment of juveniles in residential settings, secure facilities for  
3 detained juveniles, and after-care and assistance for juveniles before they exit the juvenile  
4 justice system.

5 The primary purpose of this Act is to provide a continuum of programs which  
6 emphasize the juvenile offender's accountability for his or her actions while assisting the  
7 juvenile offender in the development of skills necessary to function effectively and positively  
8 in the community in a manner consistent with public safety. These services and programs  
9 will individualize treatment and control of the juvenile offender for the benefit of the juvenile  
10 and the protection of society. Parents or other legal guardians are a vital part of the process.  
11 Where appropriate, parents or other legal guardians of the juvenile offender shall participate  
12 in counseling and treatment designed to develop positive parenting skills and an  
13 understanding of the family's role in the juvenile's behavior.

14 **Section 3. Definitions, Principles, Components.**

15 (a) **Definitions.** When used in this Act, unless the context otherwise  
16 requires:

17 (1) "**Adult**" means a person eighteen (18) years of age or older.

18 (2) "**Commit to**" means to transfer legal custody.

19 (3) "**Community-based program**" means an in-home confinement  
20 program or a nonsecure or staff secure residential or nonresidential program  
21 operated to supervise and provide competency development to juvenile  
22 offenders in the least restrictive setting, consistent with public safety, operated  
23 by the Commonwealth or under contract with the Commonwealth.

24 (4) "**Court**" means the Commonwealth Superior Court. "Juvenile  
25 court" means the Commonwealth Superior Court during the pendency of any  
26 matter falling under this Act.

27 (5) "**Department**" means the Department of Community and Cultural  
28 Affairs.

1 (6) "**Detention**" means the temporary placement in physically  
2 restricting facilities of juveniles who require secure custody for their own or  
3 the community's protection, or for the juvenile's supervision and/or treatment.

4 (7) "**Director**" means the Director of DYS.

5 (8) "**Diversion**" means the utilization of local community resources,  
6 churches, counseling for the juvenile and/or family, substance abuse  
7 counseling, informal probation, community service work, voluntary  
8 restitution, or any other available service or program as an alternative to  
9 further proceedings in court.

10 (9) "**DYS**" means the Division of Youth Services of the Department  
11 of Community and Cultural Affairs.

12 (10) "**Guardian ad litem**" means a person appointed by the court to  
13 determine, monitor and advance the best interests of a juvenile, other minor  
14 child or other incompetent individual, including a juvenile within the  
15 jurisdiction of this Act or a child subject to proceedings pursuant to Title 6,  
16 Chapter 3 of the Commonwealth Code, 6 CMC § 5311 et seq., during the  
17 course of legal proceedings. "Guardian ad litem" does not mean the attorney  
18 for the juvenile, other minor child or other incompetent individual. Rather,  
19 the guardian ad litem is an officer of the court who reports directly to the  
20 court, and who provides independent advice to the court (as compared to the  
21 attorneys advocating for one side or the other in the action) to bring balance to  
22 the decision-making process.

23 (11) "**Habitual status offender**" means any juvenile who has been  
24 reported by the Public School System's School Attendance Review  
25 Committee, DYS, or the Department of Public Safety or a parent or guardian  
26 for commission of three (3) status offenses within twelve (12) months. A  
27 status offender may be charged, petitioned and adjudicated as a habitual status  
28 offender for the third status offense committed within that twelve (12) month  
29 period.

1 (12) "**Judge**" means a judge of the Commonwealth Superior Court.

2 (13) "**Juvenile**" means any person less than eighteen (18) years of age  
3 or who was less than eighteen (18) years of age at the time of any act,  
4 omission or status bringing the person within the purview of this Act.

5 (14) "**Juvenile detention center**" means any Commonwealth-  
6 operated, secure facility intended and operated only for the detention of  
7 juveniles, wherever located.

8 (15) "**Juvenile offender**" means a person under the age of eighteen  
9 (18) years, committed by the court to the custody, care and jurisdiction of  
10 DYS following adjudication for a delinquent act which would constitute a  
11 felony or misdemeanor if committed by an adult.

12 (16) "**Legal custody**" means the relationship created by the court's  
13 decree which imposes upon the custodian responsibilities of physical  
14 possession of the juvenile, the duty to protect, train and discipline him and to  
15 provide him with food, shelter, education and ordinary medical care.

16 (17) "**Legal guardian**" means a person appointed as guardian of a  
17 minor under the laws of the Commonwealth. For the purposes of this Act,  
18 legal guardian does not include and shall not be construed to include any  
19 guardian ad litem, or the owner, operator or the agent of an owner or operator  
20 of a detention center, secure facility, work program, community based  
21 program other than an in-home confinement program, staff secure facility or  
22 other facility having temporary or long-term physical custody of the juvenile  
23 offender.

24 (18) "**Secure facility**" means any architecturally secure  
25 Commonwealth-operated facility or facility operated under contract with the  
26 Commonwealth which provides twenty-four (24) hour supervision and  
27 confinement for juvenile offenders committed to the custody of DYS .

1 (19) "**Staff secure facility**" means a community-based program other  
2 than an in-home confinement program with awake staff twenty-four (24)  
3 hours a day, seven (7) days a week for intensive supervision of juveniles.

4 (20) "**Status offense**" means any act which, if committed by an adult,  
5 would not be a crime. Such behavior shall not be considered criminal or  
6 delinquent and such children shall be termed "status offenders". Status  
7 offenses include truancy, curfew violation, and possession of alcoholic  
8 beverages or tobacco.

9 (21) "**Truant**" means a juvenile who fails to attend school as required  
10 by law, as set forth in section 19 of this Act.

11 (22) "**Work program**" means a public service work project which  
12 employs juvenile offenders at a reasonable wage for the purpose of  
13 reimbursing victims of the juvenile offender's delinquent behavior.

14 (b) The Juvenile Justice System shall operate within the framework of the  
15 following principles:

16 (1) Provide humane, disciplined confinement to all detained juveniles.

17 (2) Strengthen opportunities for the juvenile's development of  
18 competency and life skills by expanding the juvenile's access to applicable  
19 programs and community resources.

20 (3) Hold the juvenile accountable for his or her delinquent behavior  
21 through such means as victim restitution, community service programs and  
22 payment, as appropriate, of detention and treatment costs.

23 (4) Invoke the participation of the juvenile offender's parent or legal  
24 guardian in assisting the juvenile to recognize and accept responsibility for his  
25 or her delinquent or other antisocial behavior and hold the parent or legal  
26 guardian accountable, where appropriate, through the payment of supervision,  
27 detention and treatment costs and restitution to victims and through attendance  
28 at programs for the development of positive parenting skills designed to  
29 promote a functional relationship between the juvenile and his or her family.

1 (5) Provide for the appointment and supervision of guardians ad litem  
2 in appropriate cases.

3 (6) Reserve secure detention as a custody setting for juvenile  
4 offenders who pose a danger of serious bodily or material harm to others or  
5 who have engaged in a pattern of serious offenses, and who cannot be  
6 controlled in a less secure setting.

7 (c) **Juvenile Justice System Basic Components.** The basic components  
8 of the Commonwealth's juvenile justice system are as follows:

9 (1) **Probation.** Juvenile offenders ordered into the custody of DYS  
10 will be monitored by a juvenile probation officer. Juvenile probation officers  
11 shall be peace officers and shall have twenty-four (24) hour on call  
12 responsibility for supervision of juveniles. Juvenile probation officers will be  
13 responsible for assisting juveniles and their families in accessing counseling or  
14 treatment resources, close supervision of juveniles' activities, supervision of  
15 restitution and coordination of other services provided to juveniles. Juvenile  
16 probation officers shall have the powers and duties set forth for adult  
17 probation officers in 1 CMC § 3234.

18 (2) **Day treatment.** Day treatment programs will be time-limited,  
19 nonresidential treatment and educational programs. These programs will be  
20 supervised or approved by DYS for intensive supervision of juveniles through  
21 daily contact and by counseling juveniles regarding employment, education,  
22 courts, family and life skills. Nonresidential alcohol and drug programs will  
23 provide outpatient assessment and counseling for juveniles with substance  
24 abuse problems.

25 (3) **Community programs.** It is intended that community programs  
26 will exist throughout the Commonwealth to provide twenty-four (24) hour  
27 residential supervision and treatment options to juveniles in close proximity to  
28 their families and their community. It is intended that these programs will  
29 strengthen the juvenile's relationship with family, engender a commitment to



1 school and employment, promote the development of competency and life  
2 skills and help juveniles generalize appropriate behavior into their  
3 environment.

4 (4) **Observation and assessment.** DYS shall conduct observation  
5 and assessment of the juvenile, where appropriate, in a short-term residential  
6 setting. These programs shall be supervised by juvenile probation officers.

7 (5) **Secure facilities.** Secure facilities will provide secure  
8 confinement, discipline and treatment of detained juveniles. Programs at the  
9 secure facilities will be designed to help juveniles recognize accountability for  
10 delinquent behavior by confronting and eliminating delinquent behavior and  
11 making restitution to victims through community service or other restitution  
12 programs.

13 (6) **Adjudication.** Proceedings against juveniles shall be conducted  
14 in accordance with the provisions of this Act. An adjudication of a juvenile  
15 pursuant to this Act does not constitute a criminal conviction.

16 **Section 4. Powers and duties of DYS and the Director.**

17 (a) DYS is the agency responsible for the services and programs for  
18 juveniles falling within the jurisdiction of this Act. DYS shall, at a minimum:

19 (1) Develop efficient and effective juvenile programs within the  
20 framework of professional standards, legislative intent and available  
21 resources.

22 (2) Provide for a diversity of innovative, meaningful and effective  
23 programs for juveniles in and out of detention through research on delinquent  
24 behavior and the continuous evaluation of juvenile programs.

25 (3) Provide programs to increase public awareness of the mission  
26 of the juvenile justice system and encourage public participation in developing  
27 an effective juvenile justice system designed to aid in reducing juvenile crime  
28 in the Commonwealth.

1 (4) Develop and maintain a Commonwealth-wide juvenile offender  
2 information system.

3 (b) DYS shall be responsible for the administration and operation of the  
4 juvenile detention facility or facilities, as follows:

5 (1) DYS shall administer and provide general oversight of all juvenile  
6 detention centers and any other secure or nonsecure facilities as required by  
7 the Juvenile Justice Act.

8 (2) DYS shall ensure that educational services are provided to  
9 juveniles and coordinate with the Public School System to provide educational  
10 programs for juvenile detention centers which are in compliance with the  
11 educational plans and standards approved by the Commonwealth Public  
12 School System.

13 (3) The Department shall have the power to promulgate rules for the  
14 administration and operation of juvenile detention centers.

15 (c) Nothing in this section shall be construed to limit those powers and duties  
16 of DYS as provided in 1 CMC § 2374.

17 **Section 5. Jurisdiction.** The Superior Court shall have exclusive, original  
18 jurisdiction over any juvenile and over any adult who was a juvenile at the time of any act,  
19 omission or status offense:

20 (a) Where the act, omission or status offense is prohibited by federal or  
21 Commonwealth law or ordinance by reason of minority only, regardless of where the  
22 same occurred; or

23 (b) Where the act or omission is a violation of any federal or local law or  
24 ordinance which would be a crime if committed by an adult, regardless of where the  
25 same occurred.

26 (c) This Act shall not apply to a juvenile offender transferred to another court  
27 pursuant to section 8 of this Act.

28 (d) This Act shall not apply to juvenile violators of non-felony-level traffic  
29 statutes, except:

1 (1) a juvenile violator under the age of sixteen (16) years at the time  
2 of such violation may, at the discretion of the court, be treated under the  
3 provisions of this Act; and

4 (2) a juvenile charged with violation of 9 CMC § 7105(a)(5).

5 **Section 6. Transfer from other courts.** If during the pendency of a criminal or  
6 quasi-criminal charge against any juvenile in any other court than the juvenile court, it shall  
7 be ascertained that the juvenile was under the age of eighteen (18) years at the time of  
8 committing the alleged offense, except where such juvenile has left the Commonwealth, or  
9 where said charge is that such juvenile is a juvenile non-felony traffic violator, or is within  
10 the purview of section 8(a)(1) or 8(a)(2), it shall be the duty of such court forthwith to  
11 transfer the case, together with all the papers, documents and testimony connected therewith,  
12 to the court having jurisdiction over the juvenile with respect to the offense charged. The  
13 court making such transfer shall order the juvenile to be taken forthwith to the juvenile court  
14 or place of detention designated by the juvenile court or shall release the juvenile to the  
15 custody of some suitable person to be brought before the juvenile court at a time designated.  
16 The juvenile court shall then proceed as provided in this Act.

17 **Section 7. Retention of jurisdiction.** Jurisdiction obtained by the court in the case  
18 of a juvenile shall be retained by it for the purposes of this Act until the juvenile becomes  
19 twenty-one (21) years of age, unless terminated prior thereto. If a juvenile under the  
20 jurisdiction of the court is charged with a felony, after attaining eighteen (18) years of age,  
21 the juvenile shall be treated as any other adult offender. If a person eighteen (18) years of  
22 age or older already under court jurisdiction pursuant to this Act is convicted of a felony, that  
23 conviction shall terminate the jurisdiction of the court, provided, however, that nothing  
24 herein contained shall prohibit any court from proceeding as provided in section 9(b) of this  
25 Act.

26 **Section 8. Waiver of jurisdiction and transfer to other court.**

27 (a) After the filing of a petition and after full investigation and hearing, the  
28 court may waive jurisdiction over the juvenile pursuant to this Act, and order that the  
29 juvenile be held for adult criminal proceedings when:

1 (1) A juvenile is alleged to have committed any of the crimes  
2 enumerated in section 9 of this Act; or

3 (2) A juvenile is alleged to have committed an act other than those  
4 enumerated in section 9 of this Act, after the child became sixteen (16) years  
5 of age which would be a felony if committed by an adult subject to the  
6 provisions of this section; or

7 (3) An adult at the time of the filing of the petition is alleged to have  
8 committed an act prior to his or her having become eighteen (18) years of age  
9 which would be a felony if committed by an adult, and the court finds that the  
10 adult is fit for transfer to adult court pursuant to the provisions of section 8(h)  
11 of this Act; or

12 (4) An adult already under the jurisdiction of the court as a juvenile is  
13 alleged to have committed a crime while an adult.

14 (b) A motion to waive jurisdiction under this Act and prosecute a juvenile  
15 under the criminal law may be made by the prosecuting attorney or the juvenile. The  
16 motion shall be in writing and contain the grounds and reasons in support thereof.

17 (c) Upon the filing of a motion to waive jurisdiction under this Act, the court  
18 shall enter an order setting the motion for hearing at a reasonable time and date  
19 certain. The court shall inform the juvenile and the parents, guardian or custodian of  
20 the juvenile's right to court-appointed counsel and shall appoint such counsel as  
21 appropriate. The court may also order a full and complete investigation of the  
22 circumstances of the alleged offense to be conducted by juvenile probation, and/or  
23 such other agency or investigation officer designated by the court. The investigative  
24 report shall be provided to the parties for review within a reasonable time before the  
25 date of the hearing.

26 (d) Upon setting the time for the hearing upon the motion to waive  
27 jurisdiction, the court shall give written notice of said hearing to the juvenile; to the  
28 juvenile's attorney; to the parents, guardian or custodian of the juvenile; and to the  
29 prosecuting attorney, at least thirty (30) days before the date of the hearing, or any

1 lesser period stipulated by the parties. Service of the notice shall be made in the  
2 manner prescribed for service of a summons under section 11 of this Act.

3 (e) The hearing upon the motion to waive jurisdiction shall be held in the  
4 same manner as an evidentiary hearing upon the original petition and shall be made  
5 part of the record.

6 (f) If as a result of the hearing on the motion to waive jurisdiction the court  
7 shall determine that jurisdiction should not be waived, the petition shall be processed  
8 in the customary manner as a proceeding under this Act. The court shall enter  
9 findings of fact and conclusions of law upon which it bases its decision whether to  
10 waive jurisdiction, together with any order waiving Juvenile Justice Act jurisdiction  
11 and binding the juvenile over to the authorities for prosecution under the criminal  
12 laws of the Commonwealth.

13 (g) This section does not authorize an adjudication or determination of facts  
14 beyond the existence of probable cause to believe a particular crime was committed  
15 and that a particular juvenile committed it; such determination can be based on  
16 hearsay evidence.

17 (h) In considering whether or not to waive juvenile court jurisdiction over the  
18 juvenile, the juvenile court shall consider the following factors:

19 (1) The seriousness of the offense and whether the protection of the  
20 community or the juvenile requires isolation of the juvenile beyond that  
21 afforded by juvenile facilities;

22 (2) Whether the victim has suffered injury as defined in 6 CMC §§  
23 103(o) and 103(p);

24 (3) Whether the alleged offense was committed in a violent manner;

25 (4) Whether the alleged offense was premeditated and, if so, its level  
26 of sophistication, including motive, opportunity, intent, preparation, plan,  
27 knowledge, identity, or absence of mistake or accident;

28 (5) Whether the alleged offense was against persons;

1 (6) The emotional and mental maturity of the juvenile as determined  
2 by considerations of the juvenile's home, environment, emotional attitude, and  
3 pattern of living;

4 (7) The juvenile's record and previous history of contacts with the  
5 juvenile justice system, including prior adjudications that would be either  
6 felonies or violent misdemeanors if committed by an adult;

7 (8) The likelihood that the juvenile will develop sufficient life skills to  
8 become a contributing member of the community; and

9 (9) Whether the juvenile is a dangerous individual; that there exists a  
10 real possibility he or she will not be rehabilitated before reaching the age of  
11 21; and that protection of the community requires the waiver.

12 All of the factors listed in this subsection shall be considered by the court. The  
13 amount of weight to be given to each of the factors is discretionary with the  
14 court, and a determination that the juvenile is not a fit and proper subject to be  
15 dealt with under the Juvenile Justice Act may be based on any one (1) or a  
16 combination of the factors set forth above. The court's consideration of each  
17 factor shall be recited in the order of waiver or non-waiver of juvenile court  
18 jurisdiction. Nothing in this section shall preclude the participation of the  
19 victim during these proceedings.

20 (10) Upon conviction of a juvenile held for adult criminal proceedings  
21 under this section, the judge shall, if a finding is made that adult disposition  
22 measures would be inappropriate:

23 (i) Order disposition of the juvenile in accordance with the  
24 juvenile disposition options set forth in this Act; or

25 (ii) Remand the convicted juvenile to the custody of the  
26 Department of Corrections but suspend any ordered term of detention  
27 or withhold judgment and commit the juvenile to the custody of DYS  
28 for an indeterminate period of time in accordance with 1 CMC § 2374.

29 The court, in its discretion, may order that the suspended disposition or

1 withheld judgment be conditioned upon the convicted juvenile's full  
2 compliance with all reasonable program requirements of DYS,  
3 whether in the custody of juvenile detention or juvenile probation.  
4 Such a disposition may also set additional terms of probation, which  
5 may be served under the supervision of juvenile probation. However,  
6 in no event may the total of the actual time spent by the convicted  
7 juvenile in the custody of DYS plus any adult sentence imposed by the  
8 court exceed the maximum period of imprisonment that could be  
9 imposed on an adult convicted of the same crime.

10 (iii) If the convicted juvenile is given a suspended term of  
11 detention or withheld judgment conditioned upon the convicted  
12 juvenile's compliance with all reasonable program requirements of  
13 DYS pursuant to paragraph (2) of this subsection, and if DYS  
14 reasonably believes that the convicted juvenile is failing to comply  
15 with all reasonable program requirements or that continued  
16 commitment to juvenile detention or juvenile probation is no longer  
17 appropriate, DYS may request the Attorney General's office to move  
18 the court to revoke the commitment to DYS and transfer the juvenile to  
19 the custody of the DOC or adult probation for the remainder of any  
20 term of detention. The court shall then determine whether  
21 commitment of the juvenile to DYS, or to the Department of  
22 Corrections or adult probation, is most appropriate, using the factors  
23 set forth in section 8(h), above.

24 **Section 9. Violent offenses.**

25 (a) Any juvenile, age sixteen (16) years or age seventeen (17) years, who is  
26 alleged to have committed any of the crimes listed in subsection (b) of this section 9,  
27 or any person under age sixteen (16) years who is alleged to have committed any of  
28 the crimes listed in Subsection (b) of this section 9 and, pursuant to section 8 of this  
29 Act, has been ordered by the court to be held for adult criminal proceedings shall be

1 proceeded against as an adult. All other felonies or misdemeanors charged, which are  
2 based on the same act or transaction as the section 9(b) offense , shall similarly be  
3 charged and proceeded against as an adult. Any juvenile proceeded against pursuant  
4 to this section shall be accorded all constitutional and statutory rights, including bail  
5 and trial by jury, and procedural safeguards as if that juvenile were an adult  
6 defendant.

7 (b) The commission of the following crimes shall result in adult criminal  
8 proceedings pursuant to subsection (a) of this section 9.

9 (1) Murder; or

10 (2) Sexual assault as defined in 6 CMC §1301 or 6 CMC § 1302.

11 (c) Once a juvenile has been transferred for criminal prosecution as an adult  
12 pursuant to the waiver provisions of section 8 of this Act, or this section, the juvenile  
13 shall be held in the adult prison facility but separated from the adult prison population  
14 unless the court, after finding good cause, orders otherwise.

15 (d) Upon the conviction of a juvenile pursuant to this section, the judge may,  
16 if a finding is made that adult sentencing measures would be inappropriate, sentence  
17 the convicted juvenile in accordance with the juvenile disposition options set forth in  
18 subsection 8(h).

19 **Section 10. Diversion or informal disposition of the petition.** Prior to any  
20 adjudication under this Act, the prosecuting attorney may request a preliminary inquiry from  
21 the juvenile probation officer to determine whether the interest of the public or the juvenile  
22 requires a formal court proceeding. If court action is not required, the prosecuting attorney  
23 may utilize the diversion process and refer the case directly to the juvenile probation officer  
24 for a community based-diversion program.

25 **Section 11. Summons -- Notice -- Custody of juvenile.** After a petition has been  
26 filed and after such further investigation as the court may direct, and if the matter is set for  
27 hearing, the court shall issue a summons requiring the person or persons who have custody or  
28 control of the juvenile to appear personally and bring the juvenile before the court at a time  
29 and place stated. If the person so summoned shall be other than a parent or guardian of the



1 juvenile, then the parent or guardian or both shall also be notified of the pendency of the case  
2 and of the time and place appointed for the hearing. Notice shall be given as hereinafter  
3 provided. A subpoena may be issued requiring the appearance of any other person whose  
4 presence is required by the juvenile, the juvenile's guardian or any other person who, in the  
5 opinion of the judge, is necessary. If it appears the juvenile is in such condition or  
6 surroundings that the best interests of the juvenile requires that he be taken into custody  
7 immediately and probable cause exists to believe the offense has occurred, the judge may  
8 order by endorsement upon the summons that the officer serving the same shall at once take  
9 the juvenile into custody and bring him before the court within twenty-four (24) hours  
10 excluding weekends and holidays. However, the judge may not authorize, by use of  
11 summons, the detention of a juvenile who is alleged to have committed only a status offense.

12 **Section 12. Failure to obey summons, contempt – Warrant.** If any person  
13 summoned as herein provided shall, without reasonable cause, fails to appear, he may be  
14 proceeded against for contempt of court. In case the summons cannot be served, or the party  
15 served fails to obey the same, or in any case when it shall be made to appear to the judge that  
16 the service will be ineffectual, or that the best interests of the juvenile requires that he be  
17 brought forthwith into the custody of the court, a warrant may be issued for the parent,  
18 guardian or the juvenile.

19 **Section 13. Appointment of counsel -- Payment of cost of legal services.** As early  
20 as possible in the proceedings, and in any event before the hearing of the petition on the  
21 merits, the juvenile and his parents, or guardian, shall be notified of the juvenile's right to  
22 representation by counsel. When it appears to the court that the juvenile or his parents or  
23 guardian desire counsel for the juvenile but are financially unable to pay for such legal  
24 services, the court shall appoint counsel to represent the juvenile. In the event of proceedings  
25 against the parents or guardian arising from the juvenile proceedings, and the parents or  
26 guardian are financially unable to pay for legal services, the court may appoint the juvenile's  
27 counsel to represent the parents; provided, that if the court finds that there is a conflict of  
28 interest between the interests of the juvenile and his parents or guardian, then the court shall  
29 appoint separate counsel for the parents or guardian.

1           **Section 14. Apprehension and release of juveniles – Detention.**

2                   (a) A peace officer may take a juvenile into custody without order of the  
3 court:

4                               (1) When he has probable cause to believe that the juvenile has  
5 committed an act which would be a misdemeanor or felony if committed by  
6 an adult; or

7                               (2) When in the presence of a peace officer or private citizen the  
8 juvenile has violated any local or federal law or municipal ordinance; or

9                               (3) When there are reasonable grounds to believe the juvenile has  
10 committed a status offense. Status offenders shall not be placed in any jail  
11 facility but instead may be placed in shelter care facilities, except in the case  
12 of runaways, when there is a specific detention request in writing from a  
13 foreign jurisdiction to hold the juvenile pending transportation arrangements.  
14 The request by the foreign jurisdiction must be made within 24 hours of the  
15 runaway being placed in the custody of DYS.

16                   (b) A peace officer may take a juvenile into custody upon a written order or  
17 warrant signed by a judge. The judge may issue the order or warrant after finding that  
18 there is reasonable cause to believe that the juvenile comes within the purview of this  
19 Act. Jurisdiction of the court shall attach from the time the juvenile is taken into  
20 custody. When an officer takes a juvenile into custody, the officer shall attempt to  
21 notify the parent, guardian or custodian of the juvenile immediately and, if not  
22 successful, shall continue to attempt notification until the parent, guardian or  
23 custodian receives notice that the juvenile is in custody.

24                               (1) Subject to certain limitations set forth herein, all custodial  
25 interrogation(s) of a minor shall be in the presence of at least one of the  
26 following: the minor's attorney, if any, a parent, a legal guardian, or an adult  
27 relative with whom the minor is residing.

28                               (2) Notwithstanding this requirement, a minor may nonetheless be  
29 interrogated outside the presence of the minor's attorney, parent, legal

1 guardian, or adult relative with whom the minor is residing, in the following  
2 cases:

3 (i) where there are exigent circumstances or circumstances  
4 where there is a reasonable belief that the interrogation is necessary to  
5 avoid the risk of significant bodily harm or the imminent risk of loss of  
6 property or evidence;

7 (ii) where the interrogation should be conducted outside the  
8 presence of a parent, guardian, or adult relative, because the best  
9 interests of the minor are reasonably served by limiting or prohibiting  
10 access to the minor (such as in the case where there is reasonable  
11 belief that a parent or adult relative is involved in the perpetration of a  
12 crime involving or against the minor); or

13 (iii) when notice to the minor's parent, guardian, or adult  
14 relative with whom the minor is residing, is provided and the parent,  
15 guardian, or adult relative expressly waives the opportunity to be  
16 present.

17 Unless otherwise ordered by the court, or unless it appears to the officer taking  
18 the juvenile into custody that it is contrary to the welfare of society or the juvenile,  
19 the juvenile shall be released to the custody of the juvenile's parent, guardian,  
20 custodian or other responsible adult upon written promise, signed by such person, to  
21 bring the juvenile to the court at a stated time. Such written promise shall be  
22 submitted to the court as soon as possible. If the responsible person shall fail to  
23 produce the juvenile as agreed, or upon notice from the court, a summons for that  
24 person may be issued by the court and a warrant may be issued for apprehension of  
25 the juvenile.

26 (c) A juvenile who is not released shall be taken forthwith to the court or  
27 place of detention specified by the court and then, not later than twenty-four (24)  
28 hours, excluding Saturdays, Sundays and holidays, shall be brought before the court  
29 for a detention hearing to determine where the juvenile will be placed until the next

1 hearing. Juveniles shall not be placed in any jail facility. Allowable juvenile  
2 placements include, but are not limited to, the following:

- 3 (1) Parents of the juvenile;
- 4 (2) Relatives of the juvenile;
- 5 (3) Foster care;
- 6 (4) Group care;
- 7 (5) A juvenile detention facility;
- 8 (6) Community-based diversion programs; or
- 9 (7) Shelter care.

10 (d) The person in charge of a detention facility shall give immediate notice to  
11 the court that the juvenile is in custody.

12 (e) As soon as a juvenile is detained by court order, the juvenile's parents,  
13 guardian or legal custodian shall be informed by notice in writing in form acceptable  
14 to the court that the juvenile may have a prompt hearing regarding release or  
15 detention.

16 (f) A juvenile taken into detention for a nonstatus offense shall be  
17 fingerprinted and photographed. Fingerprints and photographs taken of juveniles  
18 shall be forwarded to the Juvenile Justice Information System. Access to any  
19 information in the juvenile justice information system shall be controlled by DYS,  
20 subject to the provisions of 6 CMC § 5325. If the court finds good cause it may order  
21 the fingerprints and photographs of the juvenile expunged.

22 (g) Peace officers' records of juveniles shall be kept separate from records of  
23 adults and shall be subject to disclosure only according to 6 CMC § 5325.

24 **Section 15. Juvenile Detention Centers.** The purposes of a juvenile detention  
25 center shall be:

- 26 (a) The care, control and development of adjudicated juvenile offenders;
- 27 (b) The provision of detention services for juveniles subject to administrative  
28 or court order;

1 (c) The provision of observation and assessment services for juveniles  
2 committed to DYS; and

3 (d) To accept for placement those individuals remanded to a juvenile  
4 detention center by a court of competent jurisdiction.

5 **Section 16. Standards for detention.** The following shall be minimum standards  
6 for the detention of juveniles provided for in this Act:

7 (a) Juvenile detention facilities must be so constructed and/or maintained as  
8 to keep juveniles segregated from adult offenders or those being treated as adult  
9 offenders under this Act, with no contact as to sight and/or sound between the two (2)  
10 classes.

11 (b) Juvenile detention facilities must provide supervision and observation of  
12 juvenile detainees sufficient to protect the physical and mental health of the detainees.

13 (c) Juveniles held in detention must be provided with at least three (3)  
14 adequate and nutritional meals per day.

15 (d) Juveniles held in detention must have access to reading materials on a  
16 regular and systematic basis. Detained juveniles may receive books, newspapers and  
17 periodicals from any source including delivery to the detention facilities by family  
18 members, subject to the right of detention authorities to inspect and remove  
19 dangerous or harmful materials. Detention authorities may forbid the introduction of  
20 obscene books or periodicals.

21 (e) A visiting program shall be established in juvenile detention facilities  
22 which will allow for family visits to each juvenile for at least two (2) hours each  
23 week.

24 **Section 17. Adjudication hearing.**

25 (a) If the juvenile denies the allegations in the petition, the court shall  
26 conduct a full evidentiary adjudication hearing, in the manner prescribed by the  
27 Commonwealth Rules of Evidence. The juvenile shall have the same constitutional  
28 rights afforded to criminal defendants. A record shall be made in all proceedings  
29 connected with the case and shall be preserved in the event of appeal. If at the

1 conclusion of the evidentiary hearing the court finds that the juvenile comes within  
2 the purview of the Act, the court shall so rule, and then shall set the matter down for  
3 disposition, or may, in the interest of time, hold a disposition hearing at the  
4 conclusion of the evidentiary hearing if all information necessary to the disposition of  
5 the case is available at the time.

6 (b) When a juvenile, other than the juvenile against whom the petition has  
7 been filed, is summoned as a witness in any hearing under this Act, notwithstanding  
8 any other statutory provision, parents, a counselor, a friend or other person having a  
9 supportive relationship with the juvenile shall, if available, be permitted to remain in  
10 the courtroom unless, in written findings made and entered, the court finds that the  
11 juvenile's constitutional right to a fair trial will be unduly prejudiced.

12 (c) Nothing in this section shall preclude the court from accepting an alternate  
13 disposition of any petition.

14 **Section 18. Disposition.**

15 (a) Upon the entry of an order finding the juvenile is within the purview of  
16 the Act, the court shall then hold a hearing in the manner consistent with the  
17 Commonwealth Rules of Criminal Procedure to determine the disposition that best  
18 will promote accountability, competency development and community protection.  
19 Prior to the entry of an order disposing of the case, other than an order of discharge or  
20 dismissal, the court may request and, if requested, shall receive a report containing the  
21 results of an inquiry into the home environment, past history, competency  
22 development, prevention or out of home placement services provided, and the social,  
23 physical and mental condition of the juvenile. Upon presentation and consideration  
24 of the report by the court, the court may proceed to order disposition of the juvenile as  
25 follows:

26 (1) Place the juvenile on probation for a period not to exceed three (3)  
27 years from the date of the order, except the court may place a juvenile on  
28 probation for a period not to exceed the juvenile's twenty-first birthday if the  
29 court finds that the juvenile has committed a crime of a sexual nature. Such

1 period of probation may be imposed in addition to any period of detention,  
2 provided that no such period of probation may continue beyond the juvenile's  
3 twenty-first (21st) birthday;

4 (2) Commit the juvenile to a period of detention, pursuant to this Act,  
5 for a period of time not to exceed ninety (90) days for each unlawful or  
6 criminal act the juvenile is found to have committed, if the unlawful or  
7 criminal act would be a misdemeanor if committed by an adult, or where the  
8 juvenile has been adjudicated as an habitual status offender as defined in  
9 section 3(a)(11) of this Act;

10 (3) If the juvenile has committed an unlawful or criminal act which  
11 would be a felony if committed by an adult, the court may commit the juvenile  
12 to detention for a period not to exceed three hundred sixty-five (365) days for  
13 each unlawful or criminal act;

14 (4) Commit the juvenile to detention and suspend all or part of the  
15 disposition on specific probationary conditions;

16 (5) Whenever a court commits a juvenile to a period of detention,  
17 DYS shall notify the school that the juvenile attended prior to detention;

18 (6) The court may order that the juvenile be examined or treated by a  
19 physician, psychiatrist or psychologist, or that he receive other special care,  
20 or that he submit to an alcohol or drug evaluation, if needed, and for such  
21 purposes may place the juvenile in a hospital or other suitable facility;

22 (7) In support of an order under the provisions of this section, the  
23 court may make an additional order setting forth reasonable conditions to be  
24 complied with by the parents, the juvenile, his legal guardian or custodian, or  
25 any other person who has been made a party to the proceedings, including, but  
26 not limited to, restrictions on visitation by the parents or one (1) parent,  
27 restrictions on the juvenile's associates, occupation and other activities, and  
28 requirements to be observed by the parents, guardian or custodian;

1 (8) The court may make any other reasonable order which is in the  
2 best interest of the juvenile or is required for the protection of the public,  
3 except that no person under the age of eighteen (18) years may be committed  
4 to jail, prison or a secure facility which does not meet the standards set forth in  
5 this Act unless jurisdiction over the individual has been waived pursuant to  
6 Section 8 of this Act.

7 (9) The court may combine several of the above-listed modes of  
8 disposition where they are compatible;

9 (10) An order under the provisions of this section for probation or  
10 placement of a juvenile with an individual or an agency may provide a  
11 schedule for review of the case by the court;

12 (11) Order such other terms, conditions, care or treatment as appears  
13 to the court will best serve the interests of the juvenile and the community;

14 (12) Notwithstanding any other provision of this section, a court may  
15 not commit a juvenile offender under the age of ten (10) years to a period of  
16 detention or to the custody of DYS of juvenile justice for placement in secure  
17 confinement;

18 (13) Notwithstanding any other provision of this section, no juvenile  
19 who is found to come within the purview of this Act for the commission of a  
20 status offense shall be remanded to detention in a detention facility unless an  
21 adjudication has been made that the juvenile is an habitual status offender; or

22 (14) The court, in addition to any other judgment it may make  
23 regarding the juvenile, may render judgment that the parent, guardian, or  
24 person having the control or charge of the juvenile shall deliver the juvenile to  
25 school and/or escort him to each class or program designated by school  
26 authorities;

27 (b) Unless the court determines that an order of restitution would be  
28 inappropriate or undesirable, it shall order the juvenile or his parents or both to pay  
29 restitution to or make whole any victim who suffers an economic loss as a result of



1 the juvenile's conduct in accordance with the standards and requirements 6 CMC §  
2 4109. Court-ordered restitution shall be paid prior to any other court-ordered  
3 payments unless the court specifically orders otherwise.

4 (c) The court may order any non-indigent juvenile's parents, legal guardian or  
5 custodian to pay the charges imposed by community programs ordered by the court  
6 for the juvenile, or the juvenile's parents, legal guardian or custodian.

7 (d) Any parent, legal guardian or custodian violating any order of the court  
8 entered against the person under the provisions of this Act shall be subject to  
9 contempt proceedings under the provisions 6 CMC § 3307.

10 **Section 19. Truancy.**

11 (a) Any juvenile subject to compulsory education pursuant to 3 CMC § 1141  
12 who has not been granted a waiver from the Commissioner of Education and who is  
13 absent without valid excuse for (1) Five (5) days in one semester under block  
14 scheduling; or (2) Ten (10) days in one semester for schools without block  
15 scheduling is truant, except as otherwise provided in this section.

16 (b) Block schedules, semesters and valid excused absences under this section  
17 shall be interpreted in accordance with Board of Education and Public School System  
18 rules, regulations, policies and procedures.

19 (c) School ordered suspensions and expulsions shall not be considered when  
20 determining truancy pursuant to this Section.

21 (d) Violation of this Section may be punishable by a fine, not to exceed \$500.

22 (e) Truancy is a status offense that is not punishable by detention unless the  
23 juvenile is a habitual status offender.

24 **Section 20. School Attendance-Jurisdiction Over Students and Parents.**

25 (a) The Board of Education shall establish a School Attendance Review  
26 Committee. The School Attendance Review Committee shall include, but need not be  
27 limited to, a parent of a school age child and representatives of:

28 (1) the Public School System;

1                   (2) the Coalition of Private Schools, CNMI or any successor  
2 organization recognized by the Board of Education;

3                   (3) the Juvenile Probation Unit of DYS;

4                   (4) the Child Protective Unit of DYS; and

5                   (5) the Department of Public Safety (DPS).

6                   The Public School System representative shall be appointed by the  
7 Commissioner of Education. All other members shall be appointed by the Board of  
8 Education with the input and consent of the representative agencies. Every effort  
9 shall be made to ensure members of the School Attendance Review Committee shall  
10 be individuals whose primary job responsibilities are working directly with students  
11 or juvenile clients.

12                  (b) It is the intent of this section to provide intervention for juveniles and  
13 their families to address truancy, irregularly attendance or insubordinate or disorderly  
14 behavior in school at the community level before referral to the juvenile justice  
15 system. The School Attendance Review Committee's duties shall include, but are not  
16 limited to, the following:

17                   (1) proposing, promoting and providing alternatives to the juvenile  
18 justice system, where possible;

19                   (2) addressing matters regarding an individual juvenile's truancy,  
20 failure to regularly attend school in accordance with school policies and  
21 regulations, or insubordinate or disorderly behavior;

22                   (3) setting and conducting meetings with juveniles and/or their  
23 parents to discuss consequences of the student's truancy and/or behavior and  
24 establish terms, conditions and options to reduce and eliminate the truancy of  
25 the student and improve his or her attendance. The meeting format shall be  
26 that of mediation and not adversarial; and

27                   (4) referring juveniles and their families to other agencies, such as  
28 Community Guidance Center, DYS, DPS and the Attorney General's Office  
29 for services or action, as appropriate.

1 (c) The Board of Education may adopt such policies, procedures, rules and  
2 regulations, not inconsistent with this law, that may be needed for the operation of the  
3 School Attendance Review Committee and to fulfill its obligations pursuant to this  
4 section.

5 (d) The School Attendance Review Committee shall strive to maintain a  
6 continuing inventory of community resources, including alternative educational  
7 programs, and make recommendations for the creation of new resources and  
8 programs where none exist.

9 (e) In every case in which a juvenile has been referred to it, the School  
10 Attendance Review Committee has the authority to issue subpoenas pursuant to the  
11 procedures provided in 1 CMC § 9109(d), requiring the production of pertinent  
12 information and documents and/or the attendance of any of the following persons:

- 13 (1) The juvenile;
- 14 (2) The juvenile's parents, guardians, or other person having  
15 control of the juvenile;
- 16 (3) The school authority referring the juvenile; and
- 17 (4) Any other person who has pertinent or material information  
18 concerning the juvenile.

19 The purpose of any meeting under this section is to establish and agree upon terms,  
20 conditions and options to reduce and eliminate the truancy of the student. The  
21 meeting format shall be that of mediation and not adversarial.

22 (f) The enforcement of a subpoena issued by a School Attendance Review  
23 Committee is within the jurisdiction of the juvenile court.

24 (g) In the event a juvenile, parent, guardian and/or person in charge of the  
25 juvenile fails to respond to the directives of the School Attendance Review  
26 Committee, or to services offered on behalf of the juvenile or the Committee  
27 determines that available community resources cannot resolve the problems with the  
28 juvenile's school attendance or behavior, the Committee shall direct that the juvenile  
29 be referred to the Juvenile Probation Unit and request that the Office of the Attorney

1 General file a complaint against the juvenile, parent, guardian, and/or other person  
2 having control of the juvenile.

3 (h) Whenever a committee member appointed by an agency is unavailable  
4 to participate in the School Attendance Review Committee, that member's agency  
5 may assign personnel to represent the agency either temporarily or on a continuing  
6 basis in accordance with the intent of this section. The duties, obligations, or  
7 responsibilities which may be imposed on governmental entities by this section are  
8 such that the related costs are incurred as a part of their normal operating procedures.

9 (i) Nothing in this section 20 shall be construed to interfere with the  
10 juvenile's school's authority to establish truancy procedures and to determine whether  
11 or not a matter should be referred to the Review Committee or to the Department of  
12 Public Safety or the Office of the Attorney General.

13 (j) Nothing in this section 20 alters any policy or regulation of the Board  
14 of Education or the authority of any school or the Commissioner of Education to take  
15 appropriate corrective measures, including without limitation suspension or expulsion  
16 of the juvenile.

17 **Section 21. Records -- Privileged information**

18 (a) The court shall maintain records of all cases brought before it. In  
19 proceedings under this Act, juvenile courtroom proceedings and records shall not be  
20 open to the public and shall remain confidential except upon order of the court.

21 (b) These records shall be open to inspection by the juvenile, the  
22 juvenile's parents while the juvenile remains a minor, DYS Juvenile Probation, the  
23 Family Court, AGO and any attorney representing the juvenile.

24 **Section 22. Expungement of record -- Hearing -- Findings necessary -- Special**  
25 **index -- Effect of order**

26 (a) Any person who has been adjudicated delinquent in a case under this  
27 Act may, after the expiration of five (5) years from the date of termination of the  
28 continuing jurisdiction of the court, or after reaching age eighteen (18), whichever  
29 occurs last, petition the court for the expungement of his/her record. Upon the filing

1 of the petition, the court shall set a date for a hearing and shall notify the prosecuting  
2 attorney of the pendency of the petition and of the date of the hearing. The  
3 prosecuting attorney and any other person who may have relevant information about  
4 the petitioner may testify at the hearing. Expungement proceedings and records shall  
5 be confidential, and expungement hearings shall be closed to the public.

6 (b) The court may not expunge a conviction for any of the following  
7 crimes from a juvenile's record:

8 (1) Murder; or

9 (2) Sexual assault as defined in 6 CMC §1301 or 6 CMC § 1302.

10 (c) If the court finds after hearing that the petitioner has not been  
11 adjudicated as a juvenile for any of the crimes identified in section 22(b) of this Act,  
12 and has not been convicted of a felony, or of a misdemeanor wherein violence toward  
13 another person was attempted or committed since the termination of the court's  
14 jurisdiction or the juvenile's release from the juvenile justice center, and that no  
15 proceeding involving such felony or misdemeanor is pending or being instituted  
16 against him, and if the court further finds to its satisfaction that the petitioner has been  
17 held accountable, is developing life skills necessary to become a contributing member  
18 of the community and that the expungement of the petitioner's record will not  
19 compromise public safety, it shall order all records in the petitioner's case in the  
20 custody of the court and all such records in the custody of any other agency or official  
21 sealed; and shall further order all references to said adjudication removed from all  
22 indices and from all other records available to the public. However, a special index of  
23 the expungement proceedings and records shall be kept by the court ordering  
24 expungement, which index shall not be available to the public and shall be revealed  
25 only upon order of Commonwealth Superior Court or the Commonwealth Supreme  
26 Court. Copies of the order shall be sent to each agency or official named in the order.  
27 Upon the entry of the order the proceedings in the petitioner's case shall be deemed  
28 never to have occurred and the petitioner may properly reply accordingly upon any  
29 inquiry in the matter. Inspection of the records may thereafter be permitted only by

1 the court upon petition by the person who is the subject of the records or by any other  
2 court of competent jurisdiction, and only to persons named in the petition.

3 (d) If a juvenile case does not proceed to adjudication, the juvenile may  
4 petition for expungement of the record as set forth in this section 21.

5 **Section 23. Encouraging violations**

6 (a) A person shall be guilty of a misdemeanor as defined in 6 CMC §  
7 102(s) when such person by any act or neglect

8 (1) encourages, aids or causes a juvenile to come within the purview or  
9 jurisdiction of this Act, or

10 (2) fails to comply with the requirements of compulsory school  
11 attendance pursuant to 3 CMC § 1141, or

12 (3) who after notice that the driving privileges of the juvenile have  
13 been suspended or restricted under the provisions of this Act knowingly  
14 permits or encourages said juvenile to operate a motor vehicle in violation of  
15 such suspension or restriction.

16 The court may impose conditions upon any person found guilty under this Section,  
17 and so long as such person shall comply therewith to the satisfaction of the court, the  
18 disposition imposed may be suspended.

19 **Section 24. Appeals.** All orders or final judgments made by any court in  
20 matters affecting a juvenile within the purview of this Act may be appealed by the juvenile  
21 or the Commonwealth in accordance with 6 CMC § 8101. Appeals shall be reviewed as  
22 provided by the Commonwealth Rules of Appellate Procedure. Upon filing of the notice of  
23 appeal, the Commonwealth Supreme Court shall take jurisdiction of the case and if the  
24 juvenile is in detention shall promptly hold a hearing after the filing of the request to  
25 determine whether the juvenile shall remain in detention.

26 **Section 25. Reassessment of committed juveniles -- Records -- Failure to**  
27 **reassess**

28 (a) DYS shall make periodic reassessments of all juveniles committed to  
29 detention for the purpose of determining whether existing orders and dispositions in

1 individual cases should be modified or continued in force. Assessments may be made  
2 as frequently as DYS considers desirable and shall be made with respect to every  
3 juvenile at intervals not exceeding one (1) year. Reports of periodic reassessments  
4 made pursuant to this section shall be filed with the court from which the juvenile was  
5 committed.

6 (b) DYS shall keep written records of assessments, prognosis, and all  
7 orders concerning disposition or treatment of every juvenile committed to detention.

8 (c) Failure of DYS to assess a juvenile committed to detention or to  
9 reassess him within one (1) year of a previous assessment shall not of itself entitle the  
10 juvenile to discharge from the control of DYS but shall entitle him to petition the  
11 committing court for an order of discharge and the court shall discharge him unless  
12 DYS satisfies the court of the need for further control.

13 **Section 26. Secure facilities**

14 (a) DYS shall maintain and operate secure facilities for the custody of  
15 juvenile offenders who are pending adjudication by the court or have been committed  
16 to a period of detention by the court.

17 (b) DYS shall only place minors in facilities that provide humane care and  
18 developmental opportunities for the juveniles while promoting accountability and  
19 community protection.

20 (c) DYS shall adopt standards, policies, regulations and procedures for the  
21 operation of secure juvenile facilities in compliance with law. Such standards,  
22 policies and procedures shall not be inconsistent with law.

23 (d) Facilities designated by DYS to house juveniles shall do an assessment  
24 of each individual to determine behavior, need for and amenability to treatment and  
25 counseling, abilities, learning disabilities, interests, attitudes and similar matters.

26 (e) The institution(s) shall then insure provision of educational instruction  
27 appropriate to the age, needs and range of abilities. Training in the development of  
28 competency and life skills designed to assist the juvenile in operating effectively  
29 within and becoming a contributing member of the community shall be provided.

1           **Section 27. Term of commitment -- Review after commitment.** A juvenile  
2 offender committed to a secure facility shall remain until the offender reaches eighteen (18)  
3 years of age, is retained for extended custody pursuant to section 18, or is released or  
4 discharged. For every, juvenile offender committed to a secure facility, DYS shall conduct a  
5 review of the juvenile's treatment plan and make modifications, if necessary, within ninety  
6 (90) days after commitment.

7           **Section 28. Release from custody of DYS**

8           (a) DYS may recommend that the juvenile court order the early release of  
9 a juvenile who has been committed to the detention facility.

10           (b) Juvenile offenders may be released to their own home, to a residential  
11 community based program, to a nonresidential community based treatment program,  
12 to an approved independent living setting, or to other appropriate residences, but shall  
13 remain on probation until the probation is terminated by the court. Following the  
14 release of a juvenile offender the court shall conduct a hearing to determine the  
15 appropriate conditions of probation.

16           (c) Juvenile probation officers shall enforce probation conditions and  
17 supervise juvenile offenders while on probation. As authorized by court order,  
18 probation officers may establish additional reasonable conditions of probation with  
19 which the juvenile offender must comply. The juvenile may move for a hearing  
20 before the court to contest any conditions imposed by the probation officer. If the  
21 probation officer establishes additional conditions of probation, the probation officer  
22 shall advise the juvenile at the time such additional conditions are imposed of the  
23 juvenile's right to move the court for a hearing to contest those conditions.

24           (d) When DYS recommends the release of a juvenile offender committed  
25 to DYS for confinement, DYS shall notify:

- 26                   (1) The Office of the Attorney General;
- 27                   (2) The juvenile court;
- 28                   (3) The parents or guardian of the juvenile; and
- 29                   (4) The victim(s) of the juvenile offender's unlawful conduct.



1           **Section 29. Review of programs for juveniles – Certification.** DYS shall  
2 establish compliance standards for the operation of all Commonwealth operated or  
3 Commonwealth contracted programs which provide services to juvenile offenders. DYS  
4 shall certify such programs' compliance with the standards provided by DYS. DYS shall  
5 provide written reviews to the managers of those programs. Those programs which are  
6 unable or unwilling to comply with approved standards may not be certified.

7           **Section 30. Program records as property of department -- Control of records.**  
8 Copies of records regarding individual juveniles, which records are maintained by  
9 providers under contract with DYS to provide services to juvenile offenders, and which  
10 records are not protected by privilege, are the property of DYS and shall be returned to it  
11 when each juvenile offender is terminated from the provider's programs.

12           **Section 31. Restitution to victims of juvenile offenders -- Duties of department**

13           (a) DYS probation shall make reasonable efforts to ensure that court-  
14 ordered restitution is made to the victim of the juvenile offender. Restitution may be  
15 made through the employment of juvenile offenders in work programs or through  
16 other means.

17           (b) Restitution, where appropriate, shall be made a condition of probation.

18           **Section 32. Distribution and reporting requirements for Commonwealth,**  
19 **other public and private contract facilities.** Each facility housing juvenile offenders  
20 in department custody, whether a Commonwealth, other public or private contract facility,  
21 shall within 15 days of the end of any calendar quarter provide to the Presiding Judge of the  
22 Superior Court, the Secretary of the Department of Community & Cultural Affairs and the  
23 Director of the Division of Youth Services the following reports:

24           (a) the per day population including a monthly average;

25           (b) any escapes or failure to return;

26           (c) the number of juveniles and reasons each juvenile(s) was held in high  
27 risk security confinement;

28           (d) any legal actions served on the facility or any employee as an  
29 employee thereof;

1 (e) any incident of juvenile population exceeding facility rated capacity;  
2 and

3 (f) any violation(s) of health & safety regulations as noted in official  
4 inspections.

5 **Section 33. Reports by Department.** When a juvenile offender has been  
6 committed to DYS pursuant to this Act, DYS shall supply a report of the juvenile offender's  
7 educational and developmental progress to the committing court as often as the court deems  
8 necessary in its order of commitment, but not less frequently than every three (3) months.

9 **Section 34. Compensation -- Amount -- Crediting account of juvenile --**  
10 **Juveniles not employees -- Accountability of Other Than Restitution Funds.** Each  
11 juvenile who is engaged in productive work for compensation while under the jurisdiction  
12 and in the custody of DYS, or while participating in any DYS approved work program, shall  
13 have the compensation accounted for as follows:

14 (a) Upon receiving any funds credited to a juvenile the receiving official  
15 shall deposit the funds in a savings account established by the juvenile's guardian in  
16 the name of the juvenile at an FDIC insured bank, or another financial institution  
17 requested in writing by the juvenile's guardian, and managed by the DYS and the  
18 juvenile for the purpose set forth herein. The detention facility shall not physically  
19 manage or store any funds belonging to any juvenile at the facility.

20 (b) Funds the juvenile is entitled to receive while in the custody of the  
21 DYS Juvenile Detention Facility will be strictly money earned through employment  
22 which will be deposited in the juveniles savings account with the supervision of the  
23 juvenile's assigned social worker and acknowledged by the supervisor of the facility  
24 where the juvenile is lodged. Acceptable purposes include:

25 (1) To pay any court ordered fines or restitution. No more than  
26 50% of a juvenile's earnings under this section may be used for this purpose,  
27 unless the juvenile and the juvenile's guardian request a higher percentage, in  
28 writing;

1 (2) To purchase items approved by the supervisor of any  
2 placement facility for the benefit of the juvenile; and

3 (3) Through the request of the juvenile a withdrawal from his/her  
4 savings account may be permitted for the purpose of providing financial  
5 assistance to the family. This request is subject to prior approval by the  
6 juvenile's assigned social worker.

7 (c) No juvenile compensated under this act shall be considered an  
8 employee of the Commonwealth or DYS, nor shall any juvenile come within any of  
9 the provisions of the worker's compensation law, or be entitled to any benefits  
10 thereunder whether on behalf of himself or any other person.

11 **Section 35. Guardian Ad Litem.** A new chapter within Title 8, Division 1,  
12 of the Commonwealth Code shall be created as follows:

13 (a) Findings and Intent. The Legislature finds that the only  
14 Commonwealth statute specifically concerning the appointment and conduct of  
15 guardians ad litem are in the context of wardships for the protection of abused or  
16 neglected children, at 6 CMC §§ 5323(c) and 5325(a)(3). The Legislature further  
17 finds that it is necessary to devise a coherent and consistent system for the  
18 appointment, conduct, powers and obligations of guardians ad litem when necessary  
19 for the protection of juveniles subject to the provisions of this Act, for other minor  
20 children who are subject to the provisions of Title 6, Division 5, Article of the  
21 Commonwealth Code, and for other legally incompetent individuals who are in need  
22 of such guardians ad litem. This Section 35 is intended to apply to the appointment of  
23 guardians ad litem in matters where the welfare of the subject juvenile, other minor or  
24 other legally incompetent individual is a matter of concern to the court, and is not  
25 intended to change the process of appointment or the duties and obligations of a  
26 guardian ad litem appointed pursuant to actions brought under the Probate Code, 8  
27 CMC § 2101 et seq, or appointed pursuant to the court's probate rules, including  
28 Probate Rule 26, or to modify any of the duties and obligations of a guardian ad litem  
29 appointed pursuant to the Uniform Parentage Act, 8 CMC § 1700 et seq.

1 (b) Definition. “Guardian ad litem” means a person appointed by the  
2 court to determine, monitor and advance the best interests of a juvenile, other minor  
3 child or other incompetent individual, including a juvenile within the jurisdiction of  
4 the Juvenile Justice Act of 2008 or a child subject to proceedings pursuant to Title 6,  
5 Chapter 3 of the Commonwealth Code, 6 CMC § 5311 et seq., during the course of  
6 legal proceedings. “Guardian ad litem” does not mean the attorney for the juvenile,  
7 other minor child or other incompetent individual. Rather, the guardian ad litem is an  
8 officer of the court who reports directly to the court, and who provides independent  
9 advice to the court (as compared to the attorneys advocating for one side or the other  
10 in the action) to bring balance to the decision-making process.

11 (c) Appointment of Guardian Ad Litem. Because minor children cannot  
12 make legal decisions for themselves, nor bind themselves legally to any contractual  
13 obligations, therefore in any legal proceeding where the legal interests of juvenile,  
14 other minor or other legally incompetent individual and the legal interests of the  
15 parents or other legal guardians of the juvenile, other minor or other legally  
16 incompetent individual are considered to be adverse or in conflict with each other, a  
17 guardian ad litem will be appointed for the juvenile, other minor or other legally  
18 incompetent individual by the court to provide an independent adult to act on behalf  
19 of the juvenile, other minor or other legally incompetent individual in the legal  
20 proceeding, and to make certain that the interests and legal rights of the juvenile,  
21 other minor or other legally incompetent individual are given adequate consideration  
22 and are adequately protected in that process. The legal protective status of a guardian  
23 ad litem will exist only within the confines of the particular court case in which the  
24 appointment was made.

25 (1) The Superior Court may, and in wardship cases shall, appoint a  
26 guardian ad litem for juvenile, other minor or other legally incompetent  
27 individual, to serve until discharged by the court. .

28 (2) A guardian ad litem appointed pursuant to this section is an  
29 advocate for a juvenile, other minor or other legally incompetent individual

1 whose welfare is a matter of concern for the court and shall be distinguished  
2 from a guardian ad litem appointed pursuant to actions brought under the  
3 Probate Code, 8 CMC § 2101 et seq, or appointed pursuant to the court's  
4 probate rules. Nothing in this section shall be interpreted to modify any of the  
5 duties and obligations of a guardian ad litem appointed pursuant to the  
6 Uniform Parentage Act, 8 CMC § 1700 et seq.

7 (3) The Superior Court may, at its discretion, establish a Guardian  
8 ad Litem Program within the family court, to serve as a system to provide  
9 training and supervision to volunteers who serve as court-appointed special  
10 advocates for juveniles, , other minors or other legally incompetent individuals  
11 during proceedings pursuant to this Act and for children in abuse and neglect  
12 proceedings within the family court, and in any other matters in which  
13 appointment of a protective guardian ad litem is appropriate.

14 (d) Responsibilities and Duties of Guardian Ad Litem. The  
15 responsibilities and duties of a guardian ad litem are to:

16 (1) represent the best interests of the juvenile, other minor or other  
17 legally incompetent individual;

18 (2) advocate for the welfare and rights of a juvenile, other minor or  
19 other legally incompetent individual alleged to be a victim in an abuse or  
20 neglect proceeding;

21 (3) conduct an independent assessment of the facts, the needs of  
22 the child, and the available resources within the family and community to  
23 meet those needs;

24 (4) provide the court with a written report or reports, which include  
25 without limitation evaluation and assessment of the issues brought before the  
26 court, and recommendations for disposition of the case, and, if appropriate, the  
27 wishes of the juvenile, other minor or other legally incompetent individual ;

28 (5) monitor compliance with the orders of the family court during  
29 the pendency of the court case. The guardian ad litem may, but shall not be

1 required to do so, make such motions as may be necessary to enforce the  
2 orders of the court, or to seek judicial review; and

3 (6) protect and promote the best interests of the juvenile until  
4 formally relieved of the responsibility by the court.

5 (e) Persons prohibited from appointment as guardian ad litem. No person  
6 may be appointed as a guardian ad litem for a juvenile, other minor or other legally  
7 incompetent individual in any proceeding if that person has a criminal history that  
8 poses a risk to children; these include but are not limited to:

9 (1) violent felonies in which an individual threatens to cause,  
10 attempts to cause or causes serious bodily injury;

11 (2) violent sexual offenses as defined by CNMI law, or similar  
12 offenses in other jurisdictions:

13 (3) criminal sex offense against a minor as defined by CNMI law  
14 or other similar offenses in other jurisdictions;

15 (4) child abuse or neglect as defined by CNMI law or similar  
16 offenses in other jurisdictions;

17 (5) violations of the CNMI Minor Children Firearms Control Act  
18 or similar offenses in other jurisdictions;

19 (6) distribution of a controlled substance to persons under 18 as  
20 defined by CNMI law or similar offenses in other jurisdictions.

21 All other criminal histories will be evaluated based on the nature and severity of the  
22 incident; the identity of the victim; the length of time since the incident; whether any  
23 specific pattern of criminal behavior exists; and specific efforts the individual has  
24 made towards rehabilitation.

25 (f) Guardian to represent best interests of juvenile, other minor or other  
26 legally incompetent individual; guardian to receive notice of all proceedings;  
27 obligation of guardian continuing one; authority of guardian.

28 (1) The guardian ad litem is charged in general with the duty of  
29 representation of the juvenile, other minor or other legally incompetent

1 individual's best interests. After appointment by the court to a case involving  
2 an abused or neglected juvenile, other minor or other legally incompetent  
3 individual, the guardian ad litem shall receive appropriate notice of all court  
4 hearings and proceedings regarding the juvenile, other minor or other legally  
5 incompetent individual. The obligation of the guardian ad litem to the court  
6 continues until the guardian ad litem is formally relieved by the court.

7 (2) The guardian ad litem is authorized to:

8 (i) conduct an independent assessment of the facts;

9 (ii) confer with and observe the juvenile, other minor or  
10 other legally incompetent individual involved;

11 (iii) interview persons involved in the case;

12 (iv) participate in any evaluation team for the case on which  
13 the guardian ad litem has been appointed

14 (v) make recommendations to the court concerning the  
15 child's welfare; and

16 (vi) make motions necessary to enforce the orders of the  
17 court, seek judicial review, or petition the court for relief on behalf of  
18 the child.

19 (vii) exercise additional powers ordered by the Court that  
20 may be appropriate in the circumstances of each case.

21 (3) The guardian ad litem is authorized, through counsel if  
22 appropriate, to introduce, examine, and cross-examine witnesses in any  
23 proceeding involving the juvenile, other minor or other legally incompetent  
24 individual and participate in the proceedings to any degree necessary to  
25 represent the juvenile, other minor or other legally incompetent individual  
26 adequately.

27 (g) Guardian's right to see all reports, information and records concerning  
28 juvenile being represented. All reports made and information collected by DYS must  
29 be made available to the guardian ad litem by DYS. Upon proof of appointment as

1 guardian ad litem and upon the guardian ad litem's request, access to information  
2 must be made available to the guardian ad litem by the appropriate medical and dental  
3 authorities and service providers, psychologists, psychiatrists, psychotherapists, social  
4 workers, counselors, schools, and any agency providing services to the juvenile, other  
5 minor or other legally incompetent individual to the extent authorized by  
6 Commonwealth and federal law.

7 (h) Confidentiality of records and information. All reports and  
8 information collected pursuant to this section are confidential except as otherwise  
9 provided for in 6 CMC § 5325.

10 (i) Immunity from liability for guardian ad litem. A person who is  
11 appointed to serve as guardian ad litem is not liable for any civil damages for any  
12 personal injury or property damages as a result of any act or omission by the guardian  
13 ad litem in the discharge of his or her responsibilities as guardian ad litem, if the  
14 person acts in good faith and is not guilty of gross negligence.

15 **Section 36. Construction.** Construction – This Act shall be interpreted under the  
16 laws of the Commonwealth of the Northern Mariana Islands.

17 **Section 37. Severability.** If any provision of this Act or the application of any  
18 such provision to any person or circumstance should be held invalid by a court of competent  
19 jurisdiction, the remainder of this Act or the application of its provisions to persons or  
20 circumstances other than those to which it is held invalid shall not be affected thereby.

21 **Section 38. Savings Clause.** This Act and any repealer contained herein shall  
22 not be construed as affecting any existing right acquired under contract or acquired under  
23 statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers  
24 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.  
25 The enactment of the Act shall not have the effect of terminating, or in any way modifying,  
26 any liability, civil or criminal, which shall already be in existence on the date this Act  
27 becomes effective.




1  
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**Section 39. Effective Date.** This Act shall take effect upon its approval by the Governor or becoming law without such approval.

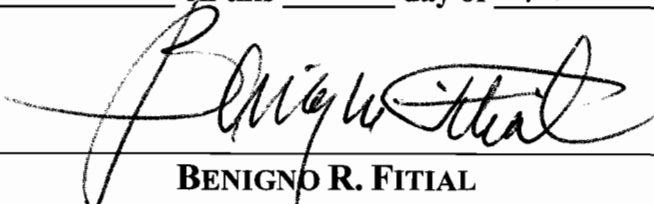
**CERTIFIED BY:**

**ATTESTED TO BY:**

  
\_\_\_\_\_  
**ARNOLD I. PALACIOS**  
SPEAKER OF THE HOUSE

  
\_\_\_\_\_  
**EVELYN C. FLEMING**  
HOUSE CLERK

APPROVED on this 30<sup>th</sup> day of NOVEMBER, 2009

  
\_\_\_\_\_  
**BENIGNO R. FITIAL**  
GOVERNOR  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS