

14 Be

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 1961



Introduced by Representative Ace S. Barbers

EXPLANATORY NOTE

Child advocates and child caregivers everywhere hailed the passage of Republic Act 7610 otherwise known as the "Special protection of Children Against Child Abuse, Exploitation and Discrimination Act". This was considered internationally as a landmark piece of legislation in the area of child protection.

However, after some years of its implementation, child focussed non-government organizations and social workers observed that various areas of R.A. 7610 can still be improved. This bill would like to address these.

This bill seeks the more active involvement of government agencies like the Departments of Justice, Labor and Employment, Health, and Tourism in child protection. Considering the government's thrust of decentralization, this bill also provides for the greater participation of local social workers and law enforcers.

To keep abreast with the development in electronic gadgetry, child pornography through the internet is made punishable under this bill. This bill also bans and penalizes employment of children in all forms of "hazardous occupations".

To closely monitor the progress of child abuse cases in court, this bill mandates the creation of a central data bank. Further, a child abusers' register will be made to include all convicted child abusers even those committed by foreign nationals to hinder their re-entry in the country.

Lastly, an increase in the penalties under R.A. 7610 is sought by this bill to deter abusers.

In lieu of the aforementioned, the passage of this bill is earnestly sought.


ROBERT ACE S. BARBERS

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 1961

Introduced by Representative Ace S. Barbers

AN ACT
SEEKING TO IMPROVE CHILD PROTECTION
AGAINST ABUSE, EXPLOITATION AND DISCRIMINATION,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7610,
AS AMENDED BY REPUBLIC ACT NO. 7658, OTHERWISE KNOWN AS THE
"SPECIAL PROTECTION AND DISCRIMINATION ACT",
APPROPRIATING FUNDS THEREFOR
AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives in Congress assembled:

SECTION 1. A new section is hereby added to Article II of R.A. 7610 to be denominated as Section 4-A, and to read as follows:

SECTION 4-A. REHABILITATION OF VICTIMS OF CHILD ABUSE, EXPLOITATION AND DISCRIMINATION. - WHILE THE IMPORTANT CONTRIBUTIONS OF NON-GOVERNMENT AND PEOPLE'S ORGANIZATIONS ARE RECOGNIZED AND SHOULD BE ENCOURAGED, THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT, IN COOPERATION WITH OTHER GOVERNMENT AGENCIES, SHALL BE PRIMARILY RESPONSIBLE FOR THE REMOVAL, PSYCHOLOGICAL RECOVERY AND SOCIAL REINTEGRATION OF VICTIMS OF CHILD ABUSE, EXPLOITATION AND DISCRIMINATION. REMOVAL,

PSYCHOLOGICAL RECOVERY AND SOCIAL REINTEGRATION SERVICES MAY LIKEWISE BE DELEGATED TO LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICERS. FOR THIS PURPOSE, THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT SHALL TRAIN LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICERS TO EQUIP THEM WITH SKILLS NECESSARY FOR PROVIDING THESE SERVICES.

SECTION 2. Section 5 of Republic Act No. 7610 is hereby amended to read as follows:

Section 5. *Child Prostitution and Other Sexual Abuse.* -- Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, ENGAGE [indulge] in sexual intercourse or lascivious conduct, WHETHER HABITUALLY OR NOT, are deemed to be children exploited in prostitution and other sexual abuse.

(a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

1. Acting as a procurer of a child FOR PURPOSES OF PROSTITUTION [prostitute];

2. Inducing a person to be a client of a child EXPLOITED IN PROSTITUTION [prostitute] by means of written or oral advertisement or other similar means;

x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse: *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 FOR LASCIVIOUS CONDUCT, of Act No. 3815, as amended, [the Revised Penal Code, for rape or lascivious conduct,] as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period: *PROVIDED, FURTHER, THAT THE COMPLAINT MAY BE BROUGHT UNDER SECTION 27 HEREOF.*

(c) [Those who derive profit or advantage therefrom, whether as] THE manager or owner of the establishment where the prostitution takes place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution AS DEFINED IN THIS SECTION in addition to the activity for which the license has been issued to said establishment.

SECTION 3. Section 6 of R.A. 7610 is hereby amended to read as follows:

Section 6. *OTHER FORMS OF CHILD ABUSE [Attempt to Commit Prostitution]*. -- [There is an attempt to commit child prostitution under Section 5, paragraph (a) hereof when] Any person who, not being a relative of a child, is found alone with the said child inside the room or cubicle of a house, an inn, hotel, motel, pension house, apartelle or other similar establishments, vessels, vehicle or any other hidden or secluded area under circumstances which would lead a reasonable person to believe that the child is about to be exploited in prostitution and other sexual abuse, SHALL BE CONSIDERED AS ENGAGING IN OTHER FORMS OF CHILD ABUSE AND SHALL SUFFER THE PENALTY OF *PRISION MAYOR* IN ITS MEDIUM PERIOD.

There is also CHILD ABUSE WHEN [an attempt to commit child prostitution, under paragraph (b) of Section 5 hereof] any person is receiving services from a child in a sauna parlor or bath, massage clinic, health club and other similar establishments. SUCH PERSON SHALL ALSO SUFFER THE PENALTY PROVIDED FOR IN THE PRECEDING PARAGRAPH. [A penalty lower by two (20 degrees than that prescribed for the consummated felony under Section 5 hereof shall be imposed upon the principals of the attempt to commit the crime of child prostitution under this Act or, in the proper case, under the Revised Penal Code.]

SECTION 4. A new paragraph is hereby added to Section 7 of R.A. 7610, to read as follows:

Section 7. *Child Trafficking*. -- Any person who shall engage in trading and dealing with children including, but not limited to, the act of buying and selling of a child for money, or for any other consideration, or barter, shall suffer the penalty of *reclusion temporal* to *reclusion perpetual*. The penalty shall be imposed in its maximum period when the victim is under twelve (12) years of age.

THERE SHALL ALSO BE CHILD TRAFFICKING WHEN ANY PERSON BRINGS A CHILD, THROUGH PAYMENT OF MONEY OR PROMISES OF MONEY, JOB, EDUCATION, MARRIAGE, AND OTHER INDUCEMENTS, TO THE CITY OR OTHER PART OF THE COUNTRY WHERE THE CHILD IS MADE TO WORK IN FACTORIES, SWEATSHOPS, PLANTATIONS, FARMS, AND AS DOMESTIC WORKERS. SUCH PERSON SHALL SUFFER THE PENALTY IMPOSED IN THE PRECEDING PARAGRAPH, WITHOUT PREJUDICE TO ADDITIONAL PROSECUTION FOR VIOLATION OF SECTION 12-A OF THIS ACT ON HAZARDOUS OCCUPATIONS, WHEN CIRCUMSTANCES SO WARRANT.

SECTION 5. Section 8 of R.A. 7610 is hereby amended to read as follows:

Section 8. *OTHER FORMS OF [Attempt to Commit] Child Trafficking.* -- THE FOLLOWING ACTS SHALL ALSO BE CONSIDERED [There is an attempt to commit] child trafficking under Section 7 of this Act:

x x x

PERSONS FOUND GUILTY OF ANY OF THE FOREGOING ACTS SHALL SUFFER a penalty lower by [two (2) degrees] ONE DEGREE that that prescribed for the [consummated] felony under Section 7 hereof [shall be imposed upon the principals of the attempt to commit child trafficking under this Act].

SECTION 6. Section 9 of R.A. 7610 is hereby amended to read as follows:

Section 9. *Obscene Publications and Indecent Shows.* -- Any person who shall hire, employ, use, persuade, induce, or coerce a child to perform in obscene exhibitions and indecent shows, whether live or in video, pose, or model in obscene publications or pornographic materials, WHETHER PRINTED OR ELECTRONICALLY TRANSMITTED or to sell or distribute the said materials shall suffer the penalty of *prision mayor* in its medium period.

x x x

x x x

SECTION 7. A new section is hereby added to Article X of R.A. 7610, to be denominated as Section 9-A, and to read as follows:

SECTION 9-A. *Obscene or Pornographic Pseudo-Photographs or -Images.* -- ANY PERSON WHO ALTERS, ELECTRONICALLY OR OTHERWISE, AND SELLS, OR DISTRIBUTES, WHETHER FOR A FEE OR NOT, OBSCENE OR PORNOGRAPHIC PICTURES OF ADULT PERSONS BY SUPERIMPOSING OVER THEM PICTURES OF CHILDREN OR BY CHANGING THEM TO MAKE THEIR SUBJECTS LOOK LIKE CHILDREN SHALL ALSO SUFFER THE PENALTY OF *PRISION MAYOR* IN ITS MEDIUM PERIOD. WHEN SUCH PICTURES ARE MADE AVAILABLE OR SHOWN THROUGH THE INTERNET, THE PENALTY SHALL BE IMPOSED IN ITS MAXIMUM PERIOD.

SECTION 8. Section 10 (b) of R.A. 7610 is hereby amended to read as follows:

Section 10. *Other Acts of Neglect, Abuse, Cruelty, [or] Exploitation OR DISCRIMINATION and Other Conditions Prejudicial to the Child's Development.* --

(a) Any person who shall commit any other acts of child abuse, cruelty, [or] exploitation OR DISCRIMINATION or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, shall suffer the penalty of *prision mayor* in its medium period.

(b) Any person, NOT BEING RELATED WITH [who shall keep or have in his company] a minor, twelve (12) year under or who is ten (10) years or more his junior, WITHIN THE FOURTH DEGREE OF CONSANGUINITY OR AFFINITY OR ANY BOND RECOGNIZED BY LAW, LOCAL CUSTOM AND TRADITIONS, OR PERFORMING A SOCIAL, MORAL OR LEGAL DUTY, AND WHO SHALL KEEP OR HAVE IN HIS COMPANY SUCH MINOR in any public or private hotel, motel, beer joint, discotheque, cabaret, pension house, sauna or massage parlor, beach and/or other tourist resort or similar places shall suffer the penalty of *prision mayor* in its maximum period and a fine of not less than Fifty Thousand Pesos (P 50,000.00) [: *Provided*, That this provision shall not apply to any person who is related within the fourth degree of consanguinity or affinity or any bond recognized by law, local custom and traditions, or acts in the performance of a social, moral or legal duty].

SECTION 9. Section 11 of R.A. 7610 is hereby amended to read as follows:

Section 11. *Sanctions for Establishments or Enterprises Which Promote, Facilitate, or Conduct Activities Constituting Child Prostitution and Other Sexual Abuse, Child Trafficking, Obscene Publications and Indecent Shows, and Other Acts of Abuse.* -- x x x.

THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT SHALL COORDINATE WITH THE DEPARTMENT OF LABOR AND EMPLOYMENT, DEPARTMENT OF TOURISM AND LOCAL GOVERNMENT UNIT CONCERNED IN THE CLOSURE OF THE OFFENDING ESTABLISHMENTS OR ENTERPRISES, CANCELLATION OF THEIR AUTHORITY OR LICENSE TO OPERATE, AND DISPLAY OF THE "OFF LIMITS" SIGN OUTSIDE SUCH ESTABLISHMENTS OR ENTERPRISES. FOR THIS PURPOSE, OFFICERS OF THE DEPARTMENT OF LABOR AND EMPLOYMENT AND DEPARTMENT OF TOURISM MAY BE DEPUTIZED TO EFFECT THE CLOSURE OF THE OFFENDING ESTABLISHMENTS OR ENTERPRISES.

x x x.

SECTION 10. There is hereby inserted a new section after Section 12 of R.A. 7610, as amended by R.A. 7658, to be called Section 12-A, and to read as follows:

SECTION 12-A. *EMPLOYMENT IN HAZARDOUS OCCUPATIONS.* -- CHILDREN SHALL NOT BE EMPLOYED IN HAZARDOUS OCCUPATIONS. THE EMPLOYER SHALL SUFFER THE PENALTY OF *PRISION MAYOR* IN ITS MEDIUM PERIOD AND A FINE OF NOT LESS THAN TEN THOUSAND PESOS (P 10,000.00) NOR MORE THAN TWENTY THOUSAND PESOS (P 20,000.00). IF THE CHILD EMPLOYED IN A HAZARDOUS OCCUPATION IS BELOW FIFTEEN (15) YEARS OF AGE, THE PENALTY SHALL BE IMPOSED IN ITS MAXIMUM PERIOD AND THE FINE SHALL NOT BE LESS THAN TWENTY THOUSAND PESOS (P 20,000.00) NOR MORE THAN FIFTY THOUSAND PESOS (P 50,000.00).

FOR THE PURPOSES OF THIS ACT, THE TERM "HAZARDOUS OCCUPATIONS" SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY WORK, UNDERTAKING, PROJECT OR PROGRAM WHICH:

1. EXPOSES THE CHILD TO DANGEROUS ENVIRONMENTAL ELEMENTS, CONTAMINANTS OR WORK CONDITIONS SUCH AS IONIZING RADIATION, CHEMICALS, FIRE, FLAMMABLE SUBSTANCES, NOXIOUS COMPONENTS AND THE LIKE;
2. DEBASES, DEGRADES OR DEMEANS THE INTRINSIC WORTH AND DIGNITY OF A CHILD AS A HUMAN BEING;
3. EXPOSES THE CHILD TO PHYSICAL DANGER, SUCH AS, BUT NOT LIMITED TO, THE DANGEROUS FEAT OF BALANCING, PHYSICAL STRENGTH OR CONTORTION;
4. EXPOSES THE CHILD TO POWER-DRIVEN OR EXPLOSIVE POWER-ACTIVATED TOOLS;
5. ENDANGERS THE CHILD'S HEALTH THROUGH EXPOSURE TO BIOLOGICAL AGENTS SUCH AS BACTERIA, FUNGI, VIRUSES, PROTOZOANS, HEMATOADS, AND OTHER PARASITES, OR TO SUB-HUMAN CONDITIONS; AND
6. EMPLOYS THE CHILD IN THE MANUFACTURE OR HANDLING OF EXPLOSIVES AND OTHER PYROTECHNIC PRODUCTS.

INSPECTORS OF THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL INCLUDE IN THEIR REPORTS A STATEMENT ON THE PRESENCE OR ABSENCE OF CHILD WORKERS IN ESTABLISHMENTS SUBJECT OF INSPECTION.

THE SECRETARY OF LABOR AND EMPLOYMENT, IN CONSULTATION WITH THE SECRETARY OF SOCIAL WELFARE AND DEVELOPMENT AND THE SECRETARY OF HEALTH, MAY, FROM TIME TO TIME, UPDATE THE HEREIN LIST OF HAZARDOUS OCCUPATIONS FOR CHILDREN.

SECTION 11. Section 13 of R.A. 7610 is hereby amended to read as follows:

Section 13. *[Non-formal] Education for Working Children.* -- The Department of Education, Culture and Sports shall promulgate a course design [under its non-formal education program] aimed at promoting the intellectual, moral and vocational efficiency of working children who have not undergone or finished elementary or secondary education. Such course design, WHICH MAY EITHER BE FORMAL OR NON-FORMAL, shall integrate the learning process deemed most effective under given circumstances.

SECTION 12. Section 16 is hereby amended to read as follows:

Section 16. *Penalties.* -- Any person who shall violate any provision of this Article shall suffer the penalty of fine of not less than FIVE THOUSAND PESOS (P 5,000.00) BUT NOT MORE THAN FIFTY THOUSAND PESOS (P 50,000.00) [One Thousand Pesos (P 1,000.00) but not more than Ten Thousand Pesos (P 10,000.00)] or imprisonment of *PRISION MAYOR* [not less than three (3) months but not more than three (3) years], or both at the discretion of the court: *Provided,* That, in case of repeated violations of the provisions of this Article, the offender's license to operate shall be revoked.

SECTION 13. A new section is hereby added in Article X of R.A. 7610 to be denominated as Section 26-A, and to read as follows:

SECTION 26-A. *PENALTIES.* -- PERSONS FOUND GUILTY OF VIOLATING ANY OF THE PROVISIONS OF THIS ARTICLE SHALL SUFFER THE PENALTY OF *PRISION MAYOR* AND A FINE OF NOT LESS THAN TEN THOUSAND PESOS (P10,000) NOR MORE THAN TWENTY THOUSAND PESOS (P20,000).

SECTION 14. Section 27 of R.A. 7610 is hereby amended to read as follows:

Section 27. *Who May File a Complaint.* --

x x x

(f) Barangay chairman; [or]

(g) At least three (3) concerned and responsible citizens [where the violation occurred.], OR

(H) LAW ENFORCEMENT OFFICERS AS AUTHORIZED BY THE CHARTERS OF THEIR RESPECTIVE AGENCIES.

SECTION 15. Section 28 of R.A. 7610 is hereby amended to read as follows:

Section 28. *Protective Custody of the Child.* -- The offended party shall be immediately placed under the protective custody of the Department of Social Welfare and Development pursuant to Executive Order No. 56, series of 1986, OR THE SOCIAL WELFARE AND DEVELOPMENT OFFICER OF THE LOCAL GOVERNMENT UNIT WHERE THE OFFENDED PARTY IS LOCATED. In the regular performance of this function, the officer of the Department of Social Welfare and Development OR THE LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER, AS THE CASE MAY BE, shall be free from any administrative, civil or criminal liability. Custody proceedings shall be in accordance with the provisions of Presidential Decree No. 603.

SECTION 16. Two new sections are hereby added to Article XI of R.A. 7610 to be denominated as Sections 28-A and 28-B, and to read as follows:

SECTION 28-A. *INVESTIGATION OF CHILD ABUSE CASES.* -- INVESTIGATION OF REPORTS ON CHILD ABUSE SHALL BE DONE BY POLICE PERSONNEL DULY TRAINED FOR THE PURPOSE. THE POLICE PERSONNEL CONCERNED MAY REQUEST THE ASSISTANCE OF THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT OR OF THE LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER IN CONDUCTING THE INVESTIGATION.

SECTION 28-B. *DUTY OF ATTENDING PHYSICIAN.* -- WHEN A CHILD DIES UNDER SUSPICIOUS CIRCUMSTANCES, THE ATTENDING PHYSICIAN SHALL HAVE THE DUTY TO PERFORM AN AUTOPSY WITHOUT HAVING TO OBTAIN PRIOR PERMISSION FROM LAW ENFORCEMENT AGENCIES. THE AUTOPSY REPORT SHALL BE SUBMITTED TO THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT, THE LOCAL SOCIAL WELFARE AND DEVELOPMENT

OFFICER, OR LAW ENFORCEMENT AGENCY CONCERNED WITHIN FORTY-EIGHT (48) HOURS AFTER ITS COMPLETION.

SECTION 17. A new paragraph is hereby added at the end of Section 29 of R.A. 7610.

PERSONS FOUND GUILTY UNDER THIS SECTION SHALL SUFFER THE PENALTY OF *ARRESTO MAYOR* AND A FINE OF NOT LESS THAN FIVE THOUSAND PESOS (P5,000) NOR MORE THAN TEN THOUSAND PESOS (P10,000).

SECTION 18. Section 30 of R.A. 7610 is hereby amended to read as follows:

Section 30. *Special Court Proceedings.* -- Cases involving violations of this Act shall be heard in the chambers of the judge of the Regional Trial Court duly designated as Juvenile and Domestic Relations Court.

UPON RECOMMENDATION OF THE GUARDIAN *AD LITEM*, SOCIAL WORKER, PSYCHIATRIST OR PSYCHOLOGIST OF THE CHILD AND WHEN THE JUDGE DEEMS IT NECESSARY TO PROTECT THE CHILD'S BEST INTEREST, THE COURT MAY ALLOW THE TESTIMONY OF THE CHILD THROUGH A CLOSED CIRCUIT TELEVISION SET.

X X X.

SECTION 19. A new section is hereby inserted in Article XI of R.A. 7610 to be denominated as Section 30-A, and to read as follows.

SECTION 30-A. A CENTRAL DATA BANK SHALL BE MAINTAINED BY THE DEPARTMENT OF JUSTICE TO MONITOR THE PROGRESS OF CASES FILED UNDER THIS ACT.

SECTION 20. Section 31 of R.A. 7610 is hereby amended to read as follows:

Section 31. *Common Penal Provisions.* --

X X X

(d) When the offender is a foreigner, he shall be deported immediately after service of sentence and forever barred from entry to the country. FOR THIS PURPOSE, A LIST OF CONVICTED CHILD ABUSERS SHALL BE MADE.

X X X.

SECTION 21. *Appropriations.* -- The amount necessary to implement this Act shall be taken from the funds in the National Treasury not otherwise appropriated.

SECTION 22. *Implementing Rules and Regulations.* -- The Department of Justice, in consultation with the Department of Social Welfare and Development, shall amend the rules and regulations implementing R.A. 7610, as amended by R.A. 7658, to conform to the amendments embodied in this Act.

SECTION 23. *Repealing Clause.* -- All laws, decrees, executive orders, rules and regulations or parts thereof contrary to or inconsistent with this Act are hereby modified or repealed accordingly.

SECTION 24. *Separability Clause.* -- In the event that any provision of this Act is declared invalid or unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SECTION 25. *Effectivity.* -- This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,