

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

13th Congress
Second Regular Session

House Bill No. **4613**



Introduced by
CONGRESSMAN CHRISTIAN M. SEÑERES

EXPLANATORY NOTE

Children are the hope of our nation. Under our Constitution, the State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. Moreover, the Constitution protects right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development. Among the international instruments that we have entered into is the Convention on the Rights of the Child. Under Article 19 of the Convention: "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child".

Despite the policy enshrined in our Constitution and the international agreements we have entered into, children remain one of the most abused groups in the country today. Child abuse or maltreatment constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power. (World Health Organization Consultation on Child Abuse Prevention in 1999).

In the Philippines, the number of sexually exploited children in the country is estimated at 60,000 to 75,000. Many of the children have suffered from incest or sexual abuse in the past. (UNICEF Philippines: Annual Report 2002, p. 5.). According to a study by End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT): "Child pornography is one manifestation of violence against children that is exacerbated by new online technology. Acts of making a child the subject of pornographic material, disseminating depictions of child sexual abuse for the gratification of others as well as profit, accessing such materials online, and keeping the materials for one's own sexual gratification are known to occur across the region."

Christian M. Seneres

This Bill seeks to provide a stronger measure against purveyors and facilitators of child pornography.

Accordingly, approval of this measure is earnestly sought.


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AN ACT
DEFINING THE CRIME OF CHILD PORNOGRAPHY,
IMPOSING PENALTIES THEREFORE, AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as the “Anti-Child Pornography Act”.

SEC. 2. *Statement of Policy.* – The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It is a policy of the State to protect minors and ensure that their best interests are taken into consideration in all matters that affect them.

SEC. 3. *Definition of Terms.* – For the purposes of this Act, the term—

(1) “sexually explicit conduct” means actual or simulated—

- (A) sexual intercourse, including but not limited to genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
- (B) bestiality;
- (C) masturbation;
- (D) sadistic or masochistic abuse; or
- (E) lascivious exhibition of the genitals, buttocks, or pubic area of a minor;

(2) “producing” means producing, directing, manufacturing, issuing, publishing, or advertising;

(3) “visual depiction” includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image;

CM Seneres

(6) knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography in the maritime and territorial jurisdiction of the Philippines; or

(7) knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography that has been mailed, or shipped or transported by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported by any means, including by computer.

SEC. 6. Referral to DSWD. – A minor who has been involved in child pornography shall be taken into the custody of the Department of Social Welfare and Development (DSWD) with the consent of the parents of the child. Should the parents withhold consent, the court shall issue an order granting custody of the minor to the DSWD, with rights of visitation granted to the parents, unless, for good reasons, the court should find that the child's best interest require that the parents are not allowed visitation.

Should one or both parents be charged under this Act, the court shall require the consent of the substitute parental authority for custody to be allowed; *Provided*, that should there be no one entitled to substitute parental authority, the court shall issue the order of custody.

SEC. 7. Repealing Clause. – All laws inconsistent with this Act are hereby repealed or amended accordingly.

SEC. 8. Effectivity. – This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of national circulation.

Approved,

A handwritten signature in black ink, appearing to read "M. Arnes", is written over a faint, circular official stamp.