

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress
Third Regular Session

House Bill No. 6815



Introduced by GABRIELA Women's Party Representatives Emmi De Jesus and
Luzviminda C. Ilagan

EXPLANATORY NOTE

On the occasion of the International Women's Day in 2004, the Anti-Violence Against Women and Their Children Act was signed into law as R.A. 9262. This law had since offered protection and legal alternative to women who were subjected to various forms of violence, identified therein as follows: a) physical violence; b) sexual violence; c) psychological violence; and d) economic abuse. Not a few women went to court invoking the provisions of R.A. 9262. Not a few women was protected by this law.

Then in 2008, a video scandal involving famous actress Katrina Iren P. Halili, a.k.a. Katrina Halili, broke out. This became the subject of a court litigation that spawned the passage of the Anti-Photo and Video Voyeurism Act of 2009. In many respects, the Katrina Halili case and the more recent video scandal involving another actress, Rhian Ramos, also showed the apparent inadequacy of the definition vis-à-vis the forms of violence identified under R.A. 9262.

In the course of the trial of the complaint for R.A. 9262 filed by Katrina Halili against her lover Hayden Kho, the arguments centered on whether the videotaping of their sexual act was consented or not by Katrina Halili and on whether there was a law that was violated by such an act of videotaping.

Despite the passage of the Anti-Photo and Video Voyeurism Act of 2009 (R.A. 9995), however, the special relationship component among parties in R.A. 9262 was not taken into account. And while it is not difficult to see that in this age and time and given its speed and reach, the internet and communications technology (ICT) can cause more damage and violence which are often indelible in nature, in retrospect, it is also regrettable that R.A. 9262 failed to positively mention the existence of this form of violence now known as electronic violence against women or E-VAW.

It is in this regard that amendments to the law are sought.

The amendments being proposed positively recognizes and includes E-VAW. E-VAW is proposed to be defined as "any acts or omissions that involves the use or exploitation of information and communications technology (ICT) which causes or

likely to cause mental, emotional or psychological distress or suffering to the victim. It includes, but is not limited to, the following:

1. Unauthorized recording, reproduction or distribution of video/s showing the victim's private area or the victim's naked or undergarment clad genitals, pubic area, buttocks or breasts;
2. Uploading or sharing without the consent of the victim, any media that contain pictures, voice or video with lewd, indecent or sexual content or context;
3. Harassing or threatening the victim;
4. Stalking; and
5. Using the victim's picture, video, voice, name or any other aspect of the victim's identity in any video game, phone application, program and the likes, which puts or tends to put the victim in a bad light.

The proposed positive inclusion of E-VAW in the law is designed to obviate any creative legal defense that may be used by violators of the law who manipulate technology to inflict violence against women and their children.

In this growing technology-dependent society, it is our beholden duty to also update our laws in order to address the fast-changing realities and means of commission of crimes. It is in this light that we believe that the proposed amendments to R.A. 9262 are necessary.

Your support to this bill is therefore earnestly sought.


Rep. Emmi A. De Jesus
Gabriela Women's Party


Rep. Luzviminda C. Ilagan
Gabriela Women's Party

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Introduced by GABRIELA Women's Party Representatives Emmi De Jesus and
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**AN ACT AMENDING REPUBLIC ACT NO. 9262, DEFINING ELECTRONIC
VIOLENCE AGAINST WOMEN OR E-VAW, PROVIDING PROTECTIVE
MEASURES AND PRESCRIBING PENALTIES THEREFORE, AND FOR
OTHER PURPOSES**

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

SECTION 1. Title. - This Act shall be known as "*The E-VAW Law of 2013*".

SECTION 2. Section 3(a) is hereby amended to read as follows:

SEC. 3. Definition of Terms.- As used in this Act, (a) "Violence against women and their children" refers to any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:

- A. "Physical Violence" refers to acts that include bodily or physical harm;
- B. "Sexual violence" refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:
 - a. rap, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;

- b. acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;
 - c. Prostituting the woman or child.
- C. "Psychological violence" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.
- D. "Economic abuse" refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:
 - 1. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
 - 2. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;
 - 3. destroying household property;
 - 4. controlling the victims' own money or properties or solely controlling the conjugal money or properties.
- E. "ELECTRONIC VIOLENCE AGAINST WOMEN AND THEIR CHILDREN (E-VAW)" REFERS TO ANY ACTS OR OMISSIONS THAT INVOLVES THE USE OR EXPLOITATION OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) WHICH CAUSES OR LIKELY TO CAUSE MENTAL, EMOTIONAL OR PSYCHOLOGICAL DISTRESS OR SUFFERING TO THE VICTIM. IT INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING:
 - 1. UNAUTHORIZED RECORDING, REPRODUCTION OR DISTRIBUTION OF VIDEOS SHOWING THE VICTIM'S PRIVATE AREA OR THE VICTIM'S NAKED OR UNDERGARMENT CLAD GENITALS, PUBIC AREA, BUTTOCKS OR BREASTS;
 - 2. UPLOADING OR SHARING WITHOUT THE CONSENT OF THE VICTIM, ANY MEDIA THAT CONTAIN PICTURES, VOICE OR VIDEO OF THE VICTIM WITH LEWD, INDECENT OR SEXUAL CONTENT;
 - 3. HARASSING OR THREATENING THE VICTIM;
 - 4. STALKING; AND

5. USING THE VICTIM'S PICTURE, VIDEO, VOICE, NAME OR ANY OTHER ASPECT OF THE VICTIM'S IDENTITY IN ANY VIDEO GAME, PHONE APPLICATION, PROGRAM AND THE LIKES, WHICH PUTS OR TENDS TO PUT THE VICTIM IN A BAD LIGHT."

SECTION 3. Section 5 of the law is hereby amended to read as follows:

SEC. 5. Acts of Violence Against Women and Their Children.- The crime of violence against women and their children is committed through any of the following acts:

- a. Causing physical harm to the woman or her child;
- b. Threatening to cause the woman or her child physical harm;
- c. Attempting to cause the woman or her child physical harm;
- d. Placing the woman or her child in fear of imminent physical harm;
- e. Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:
 - 1. Threatening to deprive or actually depriving the woman or her child of custody to her/his family;
 - 2. Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;
 - 3. Depriving or threatening to deprive the woman or her child of a legal right;
 - 4. Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties;
- f. Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;
- g. Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family;
- h. Engaging in purposeful, knowing, or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the woman or her child. This shall include, but not be limited to, the following acts:
 - 1. Stalking or following the woman or her child in public or private places;

2. Peering in the window or lingering outside the residence of the woman or her child;
3. Entering or remaining in the dwelling or on the property of the woman or her child against her/his will;
4. Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child;
5. Engaging in any form of harassment or violence;
- i. Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or access to the woman's child/children.
- j. CAUSING ELECTRONIC VIOLENCE AGAINST A WOMAN OR HER CHILD; AND
- k. THREATENING TO CAUSE ELECTRONIC VIOLENCE AGAINST A WOMAN OR HER CHILD.

SECTION 4. Section 6 of the law is hereby amended to read as follows:

SEC. 6. Penalties.- The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

- a. Acts falling under Section 5(a) constituting attempted, frustrated or consummated parricide or murder or homicide shall be punished in accordance with the provisions of the Revised Penal Code.

If these acts resulted in mutilation, it shall be punishable in accordance with the Revised Penal Code; those constituting serious physical injuries shall have the penalty of prison mayor; those constituting less serious physical injuries shall be punished by prison correccional; and those constituting slight physical injuries shall be punished by arresto mayor.

Acts falling under Section 5(b) shall be punished by imprisonment of two degrees lower than the prescribed penalty for the consummated crime as specified in the preceding paragraph but shall in no case be lower than arresto mayor.

- b. Acts falling under Section 5(c) and 5(d) shall be punished by arresto mayor;
- c. Acts falling under Section 5(e) shall be punished by prison correccional;
- d. Acts falling under Section 5(f) shall be punished by arresto mayor;
- e. Acts falling under Section 5(g) shall be punished by prison mayor;
- f. Acts falling under Section 5(h) and Section 5(i) shall be punished by prison mayor;
- g. ACTS FALLING UNDER SECTION 5(J) SHALL BE PUNISHED BY *PRISION CORRECCIONAL*;
- h. ACTS FALLING UNDER SECTION 5(K) SHALL BE PUNISHED BY *ARESTO MAYOR*.

If the acts are committed while the woman or child is pregnant or committed in the presence of her child, the penalty to be applied shall be the maximum period of penalty prescribed in the section.

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Three Hundred Thousand Pesos (P300,000.00), PROVIDED THAT IF THE VIOLENCE IS E-VAW, THE FINE THAT MAY BE IMPOSED IS NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

SECTION 5. Section 8 of the law is hereby amended to read as follows:

SEC. 8. Protection Orders.- A protection order is an order issued under this act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act and granting other necessary relief. The relief granted under a protection order serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Act are the barangay protection order (BPO), temporary protection order (TPO) and permanent protection order (PPO). The protection orders that may be issued under this Act shall include any, some or all of the following reliefs:

- a. Prohibition of the respondent from threatening to commit or committing, personally or through another, any of the acts mentioned in Section 5 of this Act;
- b. Prohibition of the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the petitioner, directly or indirectly;
- c. Removal and exclusion of the respondent from the residence of the petitioner, regardless of ownership of the residence, either temporarily for the purpose of protecting the petitioner, or permanently where no property rights are violated, and if respondent must remove personal effects from the residence, the court shall direct a law enforcement agent to accompany the respondent has gathered his things and escort respondent from the residence;
- d. Directing the respondent to stay away from petitioner and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member;
- e. Directing lawful possession and use by petitioner of an automobile and other essential personal effects, regardless of ownership, and directing the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to the possession of the automobile and other essential personal effects, or to

- supervise the petitioner's or respondent's removal of personal belongings;
- f. Granting a temporary or permanent custody of a child/children to the petitioner;
 - g. Directing the respondent to provide support to the woman and/or her child if entitled to legal support. Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent's employer for the same to be automatically remitted directly to the woman. Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause shall render the respondent or his employer liable for indirect contempt of court;
 - h. Prohibition of the respondent from any use or possession of any firearm or deadly weapon and order him to surrender the same to the court for appropriate disposition by the court, including revocation of license and disqualification to apply for any license to use or possess a firearm. If the offender is a law enforcement agent, the court shall order the offender to surrender his firearm and shall direct the appropriate authority to investigate on the offender and take appropriate action on matter;
 - i. Restitution for actual damages caused by the violence inflicted, including, but not limited to, property damage, medical expenses, childcare expenses and loss of income;
 - j. Directing the DSWD or any appropriate agency to provide petitioner may need;
 - k. Provision of such other forms of relief as the court deems necessary to protect and provide for the safety of the petitioner and any designated family or household member, provided petitioner and any designated family or household member consents to such relief;
 - l. FOR E-VAW CASES, ORDERING THE IMMEDIATE BLOCKING, BLACKLISTING, REMOVAL OF ANY UPLOAD, PROGRAM OR APPLICATION THAT CAUSES OR TENDS TO CAUSE VIOLENCE AGAINST THE VICTIM.

Any of the reliefs provided under this section shall be granted even in the absence of a decree of legal separation or annulment or declaration of absolute nullity of marriage.

The issuance of a BPO or the pendency of an application for BPO shall not preclude a petitioner from applying for, or the court from granting a TPO or PPO.

SECTION 6. There is hereby inserted Section 16-A to read as follows:

SEC. 16-A. E-VAW PROTECTION ORDER. - THERE IS HEREBY CREATED A PROTECTION ORDER ISSUED FOR E-VAW CASES OR CASES OF VIOLENCE INVOLVING ELECTRONIC VIOLENCE AND WHICH PROTECTION ORDER SHALL BE KNOWN AS E-VAW PROTECTION ORDER.

E-VAW PROTECTION ORDERS SHALL BE ISSUED BY THE COURTS INDEPENDENTLY OF OR IN ADDITION TO NON-E-VAW PROTECTION

ORDER/S. HOWEVER, AN E-VAW PROTECTION ORDER, ONCE ISSUED, DOES NOT EXPIRE AND CONTINUES TO TAKE EFFECT WHILE THE CASE IS PENDING AND UNTIL THE SAME IS REVOKED BY THE ORDER OF THE COURT.

SECTION 7. *Separability Clause.* – If any portion or provision of this Act is declared void and unconstitutional, the remaining portions or provisions hereof shall not be affected by such declaration.

SECTION 8. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspaper of general circulation.

Approved,