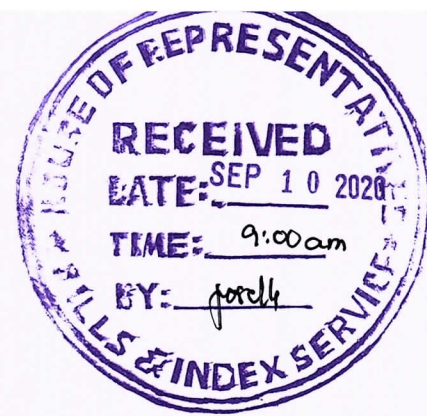


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session



House Bill No. 7633

Introduced by: **REP. JUAN FIDEL FELIPE F. NOGRALES, 2nd District, RIZAL**

The State recognizes the vital role of the youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual, emotional, psychological and social well-being. Thus, it is mandated by Republic Act No. 9775 or the Anti-Child Pornography Act of 2009 that the state should guarantee the fundamental rights of every child from all forms of neglect, cruelty and other conditions prejudicial to his/her development and protect every child from all forms of exploitation and abuse like the use of a child in pornographic performances and materials; and the inducement or coercion of a child to engage or be involved in pornography through whatever means.

The above mandates are also in compliance with international treaties to which the Philippines is a signatory or a State party concerning the rights of children which include, but not limited to, the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child of the Child on the Sale of Children, Child Prostitution and Child Pornography, the International Labor Organization (ILO) Convention No.182 on the Elimination of the Worst Forms of Child Labor and the Convention Against Transnational Organized Crime.

However, more than a decade since its creation, R.A No. 9775 has not fully prevented child pornography. Most recent data show that the dangerous situation where children are exposed to exploitation still proliferate. There is continuing rise of sexual abuse and exploitation of children offline and online.

As Filipinos top the world in terms of social media use, there is a lot of room for abusers to engage in sexual exploitation of children behind closed doors and in front of a webcam. According to the United Nations Children's Fund (Unicef) the Philippines is the "global epicenter of the live-stream sexual abuse trade." One in 5 Filipino children are vulnerable to online sexual exploitation. The Department of Justice (DOJ) Office of Cybercrime received at least 600,000 cybertips of sexual

images of Filipino children in 2018. This is more than a 1,000% increase from the previous 45,645 in 2017.¹

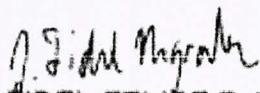
The numbers even became worse with the onset of the COVID-19 pandemic as parts of the country were placed under enhanced community quarantine (ECQ). The lockdown left more children vulnerable to exploitation by human traffickers and cash-strapped relatives while the strict home quarantine rules are observed and internet use increases in households. The Department of Justice (DOJ) said that there were 279,166 cases of online child sex abuse in the Philippines from March 1 to May 24, 2020 using data from the U.S.-based National Center for Missing and Exploited Children as opposed to 76,561 cases during the same time in 2019.²

Meanwhile, with the lack of intensified cooperation among government agencies and private sector and with policy conflict among existing laws, there is limited effectiveness of these well-crafted and intentioned laws.

The Philippine Chamber of Telecom Operators (PCTO), has called on the DOJ and Congress to reconcile conflicting provisions in various laws to help in the fight against child pornography.³ PCTO argued that the Anti-Child Pornography Act of 2009, the Data Privacy Act of 2012 and the Anti-Cybercrime Act of 2012 prevented them from monitoring online traffickers of child pornography. The proliferation of these online materials in social media platforms has also been continuously on the rise. Worse, sex offenders and consumers of online sexual exploitation of children contents are openly able to travel to the Philippines to pursue their evil agenda.

There has to be an effective policy intervention that will put an end to this dire situation. The continuing sexual abuse and exploitation of children has to end.

This law seeks to remedy the gaps presented by experience and practice in the hope of finding effective and efficient means to eliminate online sexual exploitation of children. The urgent passage of this bill is hereby sought.


REP. JUAN FIDEL FELIPE F. NOGRALES
2nd District, RIZAL

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Introduced by: **REP. JUAN FIDEL FELIPE F. NOGRALES, 2nd District, RIZAL**

**AN ACT DEFINING THE CRIME OF SEXUAL ABUSE AND EXPLOITATION
OF CHILDREN AMENDING FOR THE PURPOSE THE "ANTI-CHILD
PORNOGRAPHY ACT OF 2009." OR "REPUBLIC ACT (RA) NO. 9775 - AN
ACT DEFINING THE CRIME OF CHILD PORNOGRAPHY, PRESCRIBING
PENALTIES THEREFOR AND FOR OTHER PURPOSES"**

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

SECTION 1. Short Title. – This Act shall be known as the **"ANTI- SEXUAL
ABUSE AND EXPLOITATION OF CHILDREN ACT OF 2020."**

SEC. 2. Declaration of Policy –

- a) It shall be the policy of the State to guarantee the fundamental rights of every child from all forms of neglect, cruelty and other conditions prejudicial to his/her development and protect every child from all forms of exploitation and abuse like the use of a child in pornographic performances and materials; and the inducement or coercion of a child to engage or be involved in pornography through whatever means;
- b) The State shall protect children from child sexual exploitation and abuse, child trafficking, child pornography, and violent crime on children by prohibiting ingress of aliens who are foreign sex offenders and in conflict with children protection laws even with pending investigations, cases, indictments, or convictions regarding such offenses to prevent future sex-related crimes against minors. The paramount consideration, in all such cases, is the best interests of the children concerned;

program or software to ensure that access to or transmittal of any form of child pornography will be blocked or filtered.

All ICTSP shall notify the Philippine National Police (PNP) or the National Bureau of Investigation (NBI) within seven (7) days from obtaining facts and circumstances that any form of child pornography is being committed or has been committed using its server or facility or platform. All ICTSP shall maintain the privacy of the data captured relevant to this section while complying with notification requirements of this section. *Provided*, That no ISP shall be held civilly liable for damages on account of any notice given in good faith in compliance with this section. *Provided further* that the data captured solely for complying to this Section shall be exempt from the application of the Data Privacy Act.

Furthermore, an ICTSP shall preserve such evidence for purpose of investigation and prosecution by relevant authorities.

An ICTSP shall, upon the request of proper authorities, furnish the particulars of users who gained or attempted to gain access to an internet address which contains any form of child pornography.

An ICTSP who shall knowingly, willfully and intentionally violate this provision shall be subject to the penalty provided under Section on Penalties of this of this Act.

The Department of Information and Communications Technology (DICT) and the National Telecommunications Commission (NTC) shall promulgate within ninety (90) days from the effectivity of this Act the necessary rules and regulations for the implementation of this provision which shall include, among others, the installation of filtering software that will block access to or transmission of any form of the child pornography.

SEC. 6. An additional section of R.A. No. 9775 is added as follows:

Section 15. Excluded Aliens. – A foreign national or aliens may be excluded from any form of travel, visit, entry or passage through the Philippines or any area within which the Philippines exercises jurisdiction, including minors, which include:

- a) Any alien who has committed or participated on the commission of, any violation of national, state or domestic law whether in his/her state of citizenship or in any state of territorial jurisdiction outside the Philippines, related to any sex offense, sex related offenses or any specified offense presumably of a sexual nature or complexion involving children;
- b) Any alien who has committed any offense by reason of his/her omission of an obligation to protect or rescue a minor in violation of

- c) The State shall also abide by and comply with international treaties to which the Philippines is a signatory or a State party concerning the rights of children.

SEC. 3. Objectives. The purposes and objectives of this Act are:

- a) To better address to the growing and expanding issue of online sexual exploitation of children and provide mechanisms to provide solution to this social menace
- b) To better serve and safeguard public interest, more particularly the interests of children, by prohibiting the issuance of passport visa documents and/or the ingress of child-sex offenders, whether undergoing law enforcement or prosecutorial investigation or judicial trial;
- c) To engage the consulates, embassies or foreign affairs divisions of other States in inter-State and inter-agency cooperation and coordination in utilizing their respective national database and providing relevant information and data therein towards the prohibition of such child-sex offenders from ingress into the Philippines and vice-verza.

SEC. 4. Section 3 of R.A. No. 9775 shall be amended as follows:

“(g) **Information and Communications Technology Service Provider (ICTSP)** is a person or entity that captures, transmits, posts, or displays or any combination thereof of voice, image, text or data and information electronically for the recording, processing, monitoring or transmission of voice or data, image or text or any combination in data processing, including the person or entity that supplies or proposes to supply internet carriage service to the public and social media and social networking platforms;”

The following additional definition of terms are added:

“(l) **Sexual abuse or exploitation material** refers to any online or offline representation whether visual, audio or written combination thereof, by electronic, mechanical, digital, optical, magnetic or any other means, of a child engaged or involved in real or simulated explicit sexual activities;

(m) **Other business establishments** refers to any physical infrastructure used for business or residential purposes, that include room for rent, hotels, inns, condominiums, notwithstanding the nature of ownership or possession.”

SEC. 5. Section 9 shall be amended as follows:

“**Section 9. Duties of an Information and Communication Technology Service Providers (ICTSP).** – All Information and Communication Technology Service Providers (ICTSP) shall install available technology,

any national, state or domestic law, related to any sex offenses, sex-related offense, or any specified offense presumably of a sexual nature or complexion involving children whether in his state of citizenship or any state or territorial jurisdiction outside the Philippines;

- c) Any alien who is in conflict with the law, whether it is in the law of the state of his citizenship or in any other state or territorial jurisdiction outside the Philippines, if he has pending case whether administrative, civil, or criminal in complexion, before any police, prosecutorial, quasi-judicial or judicial authorities, related to any sex offense, sex-related offense or any specified offense of a sexual nature or complexion involving children;
- d) Any alien who is in conflict with the law, more particularly for violations of law or for acts in other states or territorial jurisdictions which would constitute criminal offense in the Philippines if it had been committed in the Philippines and for violations of such other related and/or subsequent laws which cover criminal acts involving sex offenses, sex-related offenses, and specific offenses against minors.
- e) Any alien whose name is included in the Sex Offenders Registry, Watchlist or Lookout Bulletin for any sex offense or any such similar database or any country outside the Philippines.

Section 16. The aliens covered in this law shall include minors, diplomats, ambassador, consular officers or official representing the country or State or the United Nations or any of their offices, branches or organizational structures to which he/she belongs.”

SEC 7. Section 15 of RA No. 9775 is amended as follows:

Section 17. *Penalties and Sanctions.* – The following penalties and sanctions are hereby established for offenses enumerated in this Act:

(j) Any person found guilty of violating Section 11 of this Act shall suffer the penalty of *prision correccional* in its medium period and a fine of not less than two million pesos (Php2,000,000.00) but not more than five million pesos (Php 5,000,000.00) for the first offense. In the case of a subsequent offense, the penalty shall be a fine not less than five million pesos (Php 5,000,000.00) but not more than Ten million pesos (Php 10,000,000.00) and revocation of its license to operate and immediate closure of the establishment;

(k) Any ICTSP found guilty of willfully and knowingly failing to comply with the notice and installation requirements under Section 9 of this Act shall

suffer the penalty of a fine of not less than Five million pesos pesos (Php 5,000,000.00) but not more than Ten million pesos (Php10,000,000.00) for the first offense. In case of subsequent offense, the penalty shall be a fine of not less than Ten million pesos (Php10,000,000.00) but not more than Twenty million pesos (Php20,000,000.00) and revocation of its license to operate;

(l) Any mall owner-operator and owner or lessor of other business establishments including photo developers, information technology professionals, credit card companies and banks, found guilty of willfully and knowingly failing to comply with the notice requirements under Section 10 of this Act shall suffer the penalty of a fine of not less than Five million pesos (Php 5,000,000.00) but not more than Ten million pesos (Php 10,000,000.00) for the first offense. In the case of a subsequent offense, the penalty shall be a fine of not less than Ten million pesos (Php10,000,000.00) but not more than Twenty million pesos (Php20,000,000.00) and revocation of its license to operate and immediate closure of the establishment;”

SEC. 8. Section 20 of R.A. NO. 9775 is hereby amended as follows:

Section 20. *Inter – Agency Council against Sexual Abuse and Exploitation of Children.* – There is hereby established an Inter-Agency Council Against Sexual Abuse and Exploitation of Children (IACASEC) to be composed of the Secretary of the DSWD as chairperson and the following as members:

- (a) Secretary of the Department of Justice;
- (b) Secretary of the Department of Labor and Employment
- (c) Secretary of the Department of Science and Technology
- (d) Chief of the Philippine National Police;
- (e) Secretary of the Department of Information and Communications Technology;
- (g) Secretary of the Department of Interior and Local Government;
- (h) Secretary of the Department of Education;
- (i) Commissioner of the National Telecommunications Commission;
- (j) Executive Director of the Council for the Welfare of Children;
- (k) Executive Director of the Philippine Center for Transnational Crimes;
- (l) Executive Director of the Optical Media Board;

(m) Director of the National Bureau of Investigation; and

(n) Three (3) representatives from children's nongovernmental organizations. These representatives shall be nominated by the government agency representatives of the Council for appointment by the President for a term of three (3) years and may be renewed upon renomination and reappointment by the Council and the President respectively.

The members of the Council may designate their permanent representatives, who shall have a rank not lower than assistant secretary or its equivalent, to meetings and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations.

The DSWD shall establish the necessary Secretariat for the Council.

SEC. 9 Internet Safety Campaign. The IACASEC shall convene to prepare and implement internet safety information, education and communication campaign suitable to children and their parents to be cascaded to the local government units.

The IEC campaign shall be targeted to enhance young people's capacity to accurately understand and use information necessary for the promotion of the sound use of media, the internet, and social media.

SEC. 10. Implementing Rules and Regulations. – The shall promulgate the necessary implementing rules and regulations within ninety (90) days from the effectivity of this Act, including the necessary amendments of such rules.

SEC. 11. Suppletory Application of the Revised Penal Code. – The Revised penal Code shall be suppletorily applicable to this Act.

SEC 12. Separability Clause. – If any part of this Act is declared unconstitutional or invalid, the other provisions not affected thereby shall continue to be in full force and effect.

SEC. 13 Repealing Clause. – All laws, presidential decrees, executive orders, administrative orders, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly.

SEC. 14. Effectivity. – This Act shall effect after fifteen (15) days following its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,