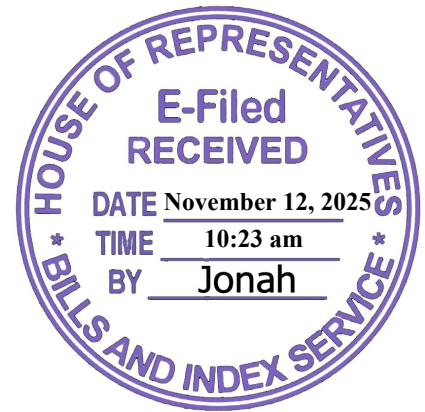


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS

First Regular Session

HOUSE BILL NO. 5884



Introduced by the **Honorable ANIELA BIANCA D. TOLENTINO**

EXPLANATORY NOTE

The importance of taking care of Filipino children cannot be overemphasized. The future of our nation rests on the proper care of our children. With the increasing incidents of child abuse, there is a need for us to ensure that our children will be aptly protected. Our Constitution mandates that: "***The State shall defend the 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***" [Section 3(2), Article XV, 1987 Constitution, Emphasis Supplied].

Making our laws stricter and meting out harsh penalties is a mode by which child abuse can be prevented. This representation believes that harsh penalties can act as a deterrent in the commission of child abuse.

The proposed law herein seeks to strengthen Republic Act No. 7610 by correcting the inconsistency in the penalties for child abuse. In a Supreme Court decision made in 2019, it was cited that there is an apparent inconsistency in the penalties for sexual abuses committed against children, to wit:

"Over and above the foregoing, we observe that despite the clear intent of R.A. No. 7610 to provide for stronger deterrence and special protection against child abuse, the penalty for violation of Section S(b) of R.A. No. 7610 [reclusion temporal medium) when the victim is under 12 years old is lower compared to the penalty [reclusion temporal medium to reclusion perpetual when the victim is 12 years old and below 18. The same holds true if the crime of acts of lasciviousness is attended by an aggravating circumstance or committed by persons under Section 31, Article XII of R.A. No. 7610, in which case, the imposable penalty is reclusion perpetua. In contrast, when no mitigating or aggravating circumstance attended the crime of acts of lasciviousness, the penalty therefor when committed against a child under 12 years old is aptly higher than the penalty when the child is 12 years old and below 18. This is because, applying the

Indeterminate Sentence Law, the minimum term in the case of the younger victims shall be taken from reclusion temporal minimum, whereas as the minimum term in the case of the older victims shall be taken from prision mayor medium to reclusion temporal minimum. It is a basic rule in statutory construction that what courts may correct to reflect the real and apparent intention of the legislature are only those which are clearly clerical errors or obvious mistakes, omissions, and misprints, but not those due to oversight. as shown by a review of extraneous circumstances, where the law is clear, and to correct it would be to change the meaning of the law. Thus, a corrective legislation is the proper remedy to address the noted incongruent penalties for acts of lasciviousness committed against a child" (People v. Tulagan, G.R. No. 227363, March 12, 2019).

The urgent enactment of the proposed law is hereby being prayed so that children in the Philippines can be protected properly, as mandated by the Constitution.

For the people of the Philippines, the passage of the proposed law is earnestly being sought.

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a vertical line and a horizontal crossbar, with a small flourish at the end.

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HOUSE BILL NO. 5884

Introduced by the **Honorable ANIELA BIANCA D. TOLENTINO**

**"AN ACT AMENDING SECTION 5 OF REPUBLIC ACT NO. 7610,
OTHERWISE KNOWN AS THE "SPECIAL PROTECTION OF
CHILDREN AGAINST ABUSE, EXPLOITATION,
AND DISCRIMINATION ACT"**

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

Section 1. Amendment to Strengthen the Special Protection to Children.

Section 5, Article 111 of Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Abuse, Exploitation, and Discrimination Act," as amended, is hereby further 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, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to reclusion perpetua shall be imposed upon the following:

(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 prostitute;

- (2) Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;
- (3) Taking advantage of influence or relationship to procure a child as prostitute;
- (4) Threatening or using violence towards a child to engage him as a prostitute; or
- (5) Giving monetary consideration goods or other pecuniary benefit to a child with intent to engage such child in prostitution.

(b) Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; *Provided*, That when the victims is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 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 TO RECLUSION PERPETUA; and

(c) Those who derive profit or advantage therefrom, whether as 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 in addition to the activity for which the license has been issued to said establishment."

Section 3. *Separability clause.* - If for any reason any part or provision of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected thereby shall remain in full force and effect.

Section 4. *Repealing clause.* All laws or parts of laws, presidential decrees, executive orders, circulars, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

Section 5. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,