S. No. 2155
H. No. 4235

Republic of the Philippines
Congress of the Philippines
Metro Manila

Twelfth Congress

Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-eighth day of July, two thousand three.

[REPUBLIC ACT NO. 9231]

AN ACT PROVIDING FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOR AND AFFORDING STRONGER PROTECTION FOR THE WORKING CHILD, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 7610, AS AMENDED, OTHERWISE KNOWN AS THE "SPECIAL PROTECTION OF CHILDREN AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION ACT"

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

SECTION 1. Section 2 of Republic Act No. 7610, as amended, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act", is hereby amended to read as follows:

"SEC. 2. *Declaration of State Policy and Principles.* - It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development including child labor and its worst forms; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

"It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.

"The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life."

SEC. 2. Section 12 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 12. *Employment of Children* - Children below fifteen (15) years of age shall not be employed except:

"1) When a child works directly under the sole responsibility of his/her parents or legal guardian and where

only members of his/her family are employed: *Provided, however*, That his/her employment neither endangers his/her life, safety, health, and morals, nor impairs his/her normal development: *Provided, further*, That the parent or legal guardian shall provide the said child with the prescribed primary and/or secondary education; or

"2) Where a child's employment or participation in public entertainment or information through cinema, theater, radio, television or other forms of media is essential: *Provided*, That the employment contract is concluded by the child's parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment: *Provided, further*, That the following requirements in all instances are strictly complied with:

"(a) The employer shall ensure the protection, health, safety, morals and normal development of the child;

"(b) The employer shall institute measures to prevent the child's exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and

"(c) The employer shall formulate and implement, subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisition of the child.

"In the above-exceptional cases where any such child may be employed, the employer shall first secure, before engaging such child, a work permit from the Department of Labor and Employment which shall ensure observance of the above requirements.

"For purposes of this Article, the term "child" shall apply to all persons under eighteen (18) years of age."

SEC. 3. The same Act, as amended, is hereby further amended by adding new sections to be denominated as Sections 12-A, 12-B, 12-C, and 12-D to read as follows:

"SEC. 12-A. *Hours of Work of a Working Child.* - Under the exceptions provided in Section 12 of this Act, as amended:

"(1) A child below fifteen (15) years of age may be allowed to work for not more than twenty (20) hours a week: *Provided,* That the work shall not be more than four (4) hours at any given day;

"(2) A child fifteen (15) years of age but below eighteen (18) shall not be allowed to work for more than eight (8) hours a day, and in no case beyond forty (40) hours a week;

"(3) No child below fifteen (15) years of age shall be allowed to work between eight o'clock in the evening and six o'clock in the morning of the following day and no child fifteen (15) years of age but below eighteen (18) shall be allowed to work between ten o'clock in the evening and six o'clock in the morning of the following day."

"SEC. 12-B. *Ownership, Usage and Administration of the Working Child's Income.* - The wages, salaries, earnings and other income of the working child shall belong to him/her in ownership and shall be set aside primarily for his/her support, education or skills acquisition and secondarily to the collective needs of the family: *Provided,* That not more than twenty percent (20%) of the child's income may be used for the collective needs of the family.

"The income of the working child and/or the property acquired through the work of the child shall be administered by both parents. In the absence or incapacity of either of the parents, the other parent shall administer the same. In

case both parents are absent or incapacitated, the order of preference on parental authority as provided for under the Family Code shall apply.

"SEC. 12-C. *Trust Fund to Preserve Part of the Working Child's Income.* - The parent or legal guardian of a working child below eighteen (18) years of age shall set up a trust fund for at least thirty percent (30%) of the earnings of the child whose wages and salaries from work and other income amount to at least two hundred thousand pesos (P200,000.00) annually, for which he/she shall render a semi-annual accounting of the fund to the Department of Labor and Employment, in compliance with the provisions of this Act. The child shall have full control over the trust fund upon reaching the age of majority.

"SEC. 12-D. *Prohibition Against Worst Forms of Child Labor.*- No child shall be engaged in the worst forms of child labor. The phrase "worst forms of child labor" shall refer to any of the following:

"(1) All forms of slavery, as defined under the "Anti-trafficking in Persons Act of 2003", or practices similar to slavery such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including recruitment of children for use in armed conflict; or

"(2) The use, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances; or

"(3) The use, procuring or offering of a child for illegal or illicit activities, including the production and trafficking of dangerous drugs and volatile substances prohibited under existing laws; or

"(4) Work which, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children, such that it:

"a) Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or

"b) Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals; or

"c) Is performed underground, underwater or at dangerous heights; or

"d) Involves the use of dangerous machinery, equipment and tools such as power-driven or explosive power-actuated tools; or

"e) Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads; or

"f) Is performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations; or

"g) Is performed under particularly difficult conditions; or

"h) Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes and other parasites; or

"i) Involves the manufacture or handling of explosives and other pyrotechnic products."

SEC. 4. Section 13 of the same Act is hereby amended to read as follows:

"SEC. 13. *Access to Education and Training for Working Children* - "a) No child shall be deprived of formal or non-formal education. In all cases of employment allowed in this Act, the employer shall provide a working child with access to at least primary and secondary education.

"b) To ensure and guarantee the access of the working child to education and training, the Department of Education (DEPED) shall: (1) formulate, promulgate, and implement relevant and effective course designs and educational programs; (2) conduct the necessary training for the implementation of the appropriate curriculum for the purpose; (3) ensure the availability of the needed educational facilities and materials; and (4) conduct continuing research and development program for the necessary and relevant alternative education of the working child.

"c) The DEPED 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 shall integrate the learning process deemed most effective under given circumstances."

SEC. 5. Section 14 of the same Act is hereby amended to read as follows:

"SEC. 14. *Prohibition on the Employment of Children in Certain Advertisements.* - No child shall be employed as a model in any advertisement directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its byproducts, gambling or any form of violence or pornography."

SEC. 6. Section 16 of the same Act, is hereby amended to read as follows:

"SEC. 16. *Penal Provisions* -

"a) Any employer who violates Sections 12, 12-A, and Section 14 of this Act, as amended, shall be penalized by imprisonment of six (6) months and one (1) day to six (6) years or a fine of not less than Fifty thousand pesos (P50,000.00) but not more than Three hundred thousand pesos (P300,000.00) or both at the discretion of the court.

"b) Any person who violates the provision of Section 12-D of this Act or the employer of the subcontractor who employs, or the one who facilitates the employment of a child in hazardous work, shall suffer the penalty of a fine of not less than One hundred thousand pesos (P100,000.00) but not more than One million pesos (P1,000,000.00), or imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years, or both such fine and imprisonment at the discretion of the court.

"c) Any person who violates Sections 12-D(1) and 12-D(2) shall be prosecuted and penalized in accordance with the penalty provided for by R. A. 9208 otherwise known as the "Anti-trafficking in Persons Act of 2003": *Provided,* That such penalty shall be imposed in its maximum period.

"d) Any person who violates Section 12-D (3) shall be prosecuted and penalized in accordance with R.A 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002": *Provided,* That such penalty shall be imposed in its maximum period.

"e) If a corporation commits any of the violations aforecited, the board of directors/trustees and officers, which include the president, treasurer and secretary of the said corporation who participated in or knowingly allowed the violation, shall be penalized accordingly as provided for under this Section.

"f) Parents, biological or by legal fiction, and legal guardians found to be violating Sections 12, 12-A, 12-B and 12-C of this Act shall pay a fine of not less than Ten thousand pesos (P10,000.00) but not more than One hundred thousand pesos (P100,000.00), or be required to render community service for not less than thirty (30) days but not more than one (1) year, or both such fine and community service at the discretion of the court: *Provided,* That the maximum length of community service shall be imposed on parents or legal guardians who have violated the provisions

of this Act three (3) times: *Provided, further*, That in addition to the community service, the penalty of imprisonment of thirty (30) days but not more than one (1) year or both at the discretion of the court, shall be imposed on the parents or legal guardians who have violated the provisions of this Act more than three (3) times.

"g) The Secretary of Labor and Employment or his/her duly authorized representative may, after due notice and hearing, order the closure of any business firm or establishment found to have violated any of the provisions of this Act more than three (3) times. He/she shall likewise order the immediate closure of such firm or establishment if:

"(1) The violation of any provision of this Act has resulted in the death, insanity or serious physical injury of a child employed in such establishment; or

"(2) Such firm or establishment is engaged or employed in prostitution or in obscene or lewd shows.

"h) In case of such closure, the employer shall be required to pay the employee(s) the separation pay and other monetary benefits provided for by law."

SEC. 7. The same Act is hereby further amended by adding a new section to be denominated as Section 16-A, to read as follows:

"SEC. 16-A. - *Trust Fund from Fines and Penalties* - The fine imposed by the court shall be treated as a Trust Fund, administered by the Department of Labor and Employment and disbursed exclusively for the needs, including the costs of rehabilitation and reintegration into the mainstream of society of the working children who are victims of the violations of this Act, and for the programs and projects that will prevent acts of child labor."

SEC. 8. Section 27 of the same Act is hereby amended to read as follows:

"SEC. 27. *Who May File a Complaint* - Complaints on cases of unlawful acts committed against children as enumerated herein may be filed by the following:

"(a) Offended party;

"(b) Parents or guardians;

"(c) Ascendant or collateral relative within the third degree of consanguinity;

"(d) Officer, social worker or representative of a licensed child-caring institution;

"(e) Officer or social worker of the Department of Social Welfare and Development;

"(f) Barangay chairman of the place where the violation occurred, where the child is residing or employed; or

"(g) At least three (3) concerned, responsible citizens where the violation occurred."

SEC. 9. The same Act is hereby further amended by adding new sections to Section 16 to be denominated as Sections 16-A, 16-B and 16-C to read as follows:

"SEC. 16-A. *Jurisdiction* - The family courts shall have original jurisdiction over all cases involving offenses punishable under this Act: *Provided,* That in cities or provinces where there are no family courts yet, the regional trial courts and the municipal trial courts shall have concurrent jurisdiction depending on the penalties prescribed for the offense charged.

"The preliminary investigation of cases filed under this Act shall be terminated within a period of thirty (30) days from the date of filing.

"If the preliminary investigation establishes a *prima facie* case, then the corresponding information shall be filed in court within forty eight (48) hours from the termination of the investigation.

"Trial of cases under this Act shall be terminated by the court not later than ninety (90) days from the date of filing of information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case.

"SEC. 16-B. *Exemptions from Filing Fees.* - When the victim of child labor institutes a separate civil action for the recovery of civil damages, he/she shall be exempt from payment of filing fees.

"SEC. 16-C. *Access to Immediate Legal, Medical and Psycho-Social Services* - The working child shall have the right to free legal, medical and psycho-social services to be provided by the State."

SEC. 10. *Implementing Rules and Regulations* -The Secretary of Labor and Employment, in coordination with the Committees on Labor and Employment of both Houses of Congress, shall issue the necessary Implementing Rules and Regulations (IRR) to effectively implement the provisions of this Act, in consultation with concerned public and private sectors, within sixty (60) days from the effectivity of this Act.

Such rules and regulations shall take effect upon their publication in two (2) national newspapers of general circulation.

SEC. 11. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SEC. 12. *Repealing Clause.* - All laws, decrees, or rules inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 13. *Effectivity.* - This Act shall take effect fifteen (15) days from the date of its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,

JOSE DE VENECIA JR.
Speaker of the House of Representatives

FRANKLIN M. DRILON
President of the Senate

This Act, which is a consolidation of Senate Bill No. 2155 and House Bill No. 4235 was finally passed by the Senate and the House of Representatives on October 14, 2003 and October 13, 2003, respectively.

ROBERTO P. NAZARENO
Secretary General
House of Representatives

OSCAR G. YABES
Secretary of the Senate

Approved: DEC 19 2003

GLORIA MACAPAGAL-ARROYO
President of the Philippines

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