

-HOUSE OF REPRESENTATIVES

H. No. 35354

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AN ACT INSTITUTING THE PROTECTION AND REHABILITATION OF CHILDREN IN ESPECIALLY DIFFICULT CIRCUMSTANCES, PRESCRIBING PENALTIES FOR VIOLATION THEREOF AND APPROPRIATING FUNDS THEREFOR

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1 **As such, it is the duty of the State, in its role as *parens patriae***
 2 **to provide protection and promote their best interest in an atmo-**
 3 **sphere of compassionate justice, consistent with the principle of First**
 4 **Call for Children.**

5 **Every effort should be exerted to promote their welfare and**
 6 **enhance their opportunities for a useful and happy life. In all ac-**
 7 **tions concerning children, whether undertaken by public or private**
 8 **social welfare institutions, courts of law, administrative authorities,**
 9 **and legislative bodies, the best interests of children shall be the**
 10 **paramount consideration. A holistic approach to address the needs**
 11 **of children in especially difficult circumstances which is preventive,**
 12 **rehabilitative and protective shall be adopted.**

13 **SEC. 3. *Definition of Terms.* - For purposes of this Act, the**
 14 **following terms shall mean as follows:**

15 **(a) "Child" - Refers to any person below eighteen (18)**
 16 **years of age;**

17 **(b) "Children in especially difficult circumstances" -**
 18 **Refers to children who experience exploitative, alienating and**
 19 **traumatic situations that hamper their normal physical, intellectual,**
 20 **emotional, social and spiritual development. It also includes those**
 21 **threatened by abuse, neglect and exploitation;**

1 (c) "Guardian" - Refers to any person who is actually
2 exercising substitute parental authority or custody over the person
3 and property of the child, with or without court order or authority;

4 (d) "Child abuse" - Refers to the act of inflicting or caus-
5 ing another person to inflict injuries upon a child or unreasonably
6 depriving him of his basic needs for survival such as food, shelter, or
7 both to a degree that if not immediately remedied could seriously
8 impair the child's growth and development or result in permanent
9 incapacity or death. It includes any act which debases, degrades or
10 demeans the intrinsic worth and dignity of a child as a human being.

11 Child abuse includes the following:

12 (1) Physical abuse or maltreatment - Any act which re-
13 sults in non-accidental physical injury or unreasonable infliction of
14 physical injury to a child;

15 (2) Physical neglect - Deprivation of the child's basic
16 needs such as food, clothing, shelter, education, general care and
17 supervision by parents or guardians;

18 (3) Emotional abuse or maltreatment - Infliction of
19 unreasonable punishment other than physical, through excessive
20 verbal assault or non-verbal acts of harassment, threats, emotional
21 neglect or deprivation of emotional needs;

1 (4) Sexual abuse – The involvement of a child in sexual
 2 activity with any person in which the child is used as a sexual object;
 3 and

4 (5) It also includes the failure to prevent someone from
 5 engaging in sexual conduct or activity with a child.

6 (e) "Sexual exploitation" – Refers to the act by which a
 7 person induces, promotes or coerces children to engage or assist in
 8 sexually explicit activities for any consideration or gain;

9 (f) "Sexually explicit activity" – Refers to any physical
 10 activity, whether performed or engaged in alone or with other
 11 persons, where the predominant appeal to the average person,
 12 applying contemporary standards, is to prurient interest, or a
 13 shameful or morbid interest in nudity or sex, and which goes sub-
 14 stantially beyond customary limits of candor without redeeming
 15 social importance;

16 (g) "Sale or trafficking of children" – Refers to the illicit
 17 transfer of custody of a child from one party to another, for whatev-
 18 er purpose in exchange for monetary or other consideration;

19 (h) "Working children" – Refers to children engaged in
 20 various types of work for consideration;

21 (i) "Streetchildren" – Refers to those children who live or



1 spend a significant amount of time in the streets of urban areas to
2 fend for themselves and their families. They are either abandoned,
3 neglected, inadequately protected, unsupervised or uncared for by
4 responsible adults;

5 (j) "Employer" - Refers to any person who exercises
6 direct or indirect control over the child worker;

7 (k) "Indigenous cultural communities" - Refers to a
8 homogeneous society identified by self-ascription and ascription by
9 others, who have lived as community on communally bounded and
10 defined territory, sharing common bonds of language, customs,
11 traditions and other distinctive cultural traits, and who, through
12 resistance to the political, social and cultural inroads of coloniza-
13 tion, became historically differentiated from the majority of Filipi-
14 nos, such as but not limited to, the Cordillera peoples, Mindanao
15 tribes, Caraballo tribes, Negritos, Mangyans, and Palawan groups;

16 (l) "Armed conflict" - Refers to a violent confrontation
17 between the Government and its armed forces on the one hand, and
18 opposition and insurgent groups on the other hand. It also includes
19 political feuds and conflicts between clans or families and between
20 indigenous cultural communities;

21 (m) "Children in situations of armed conflict" - Refers to:

- 1 (1) Children facing threat to life due to armed conflict;
- 2 (2) Children of displaced families as a result of armed con-
- 3 flict;
- 4 (3) Those physically weakened, abandoned, lost, orphaned
- 5 or disabled as a result of armed conflict;
- 6 (4) Emotionally traumatized children due to armed conflict;
- 7 (5) Children whose immediate family members/guardians
- 8 have been detained, killed or have disappeared due to armed con-
- 9 flict;
- 10 (6) Children combatants and those mobilized for other
- 11 armed conflict related activities;
- 12 (7) Children whose schooling or lives have been disrupted
- 13 due to an armed conflict; and
- 14 (8) Children deprived of liberty due to armed conflict.



CHAPTER II

CHILD ABUSE

17 **SEC. 4. Child Abuse.** - The penalty of *arresto mayor* in its
 18 medium period to *prision correccional* in its minimum period shall
 19 be imposed upon any person who shall commit child abuse as de-
 20 fined in Paragraph d(1) of Section 3 hereof.

1 The penalty of *arresto mayor* in its medium period to *prision*
 2 *correccional* in its minimum period shall be imposed upon any
 3 person who shall commit child abuse as defined in Paragraph d(2)
 4 of Section 3 hereof.

5 The penalty of *prision correccional* shall be imposed upon any
 6 person who shall commit child abuse as defined in Paragraph d(3)
 7 of Section 3 hereof.

8 The penalty of *reclusion temporal* in its medium period to
 9 *reclusion perpetua* shall be imposed upon any person who shall
 10 commit child abuse as defined in Paragraph d(4) of Section 3 here-
 11 of.

12 **SEC. 5. Other Acts of Neglect, Abuse, Cruelty and Other**
 13 **Conditions Prejudicial to the Child's Development.** - The penalty
 14 of *reclusion perpetua* shall be imposed when child abuse results to
 15 death and mutilation of the victim.

16 The penalty of *reclusion temporal* in its maximum period shall
 17 be imposed when child abuse results in serious physical injuries.

18 Any person who shall commit any other act of child abuse
 19 including those covered by Article 59 of Presidential Decree No.
 20 603, as amended, but not covered by the Revised Penal Code, as
 21 amended, shall be punished by *prision mayor* in its minimum period.

CHAPTER III

SEXUAL EXPLOITATION AND SALE

OR TRAFFICKING OF CHILDREN

SEC. 6. *Child Prostitution.* - The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed on the following:

(a) Those who engage in or promote, facilitate or induce child prostitution which acts constitute 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/her as prostitute; or

(5) Giving monetary consideration, goods or other pecuniary benefit to a child with the intent to make such child as a prostitute.

(b) Those who have carnal knowledge with or lascivious conduct upon a child exploited in prostitution: *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall

1 be prosecuted under Article 335, Paragraph 3, and Article 336 of
 2 Act No. 3815, as amended, the Revised Penal Code, for rape or
 3 lascivious conduct as the case may be; and

4 (c) Those who derive profit or advantage from child prosti-
 5 tution whether as manager or owner of the establishment where the
 6 prostitution takes place: *Provided*, That when the establishment
 7 serving as a cover or which engages in prostitution in addition to the
 8 activity for which the license has been issued to said establishment
 9 or when it has no license to operate, or such license has expired or
 10 has been revoked, the penalty in its maximum period shall be
 11 imposed upon the manager or owner of the said establishment.

12 SEC. 7. *Sale or Trafficking of Children.* - The penalty of
 13 *reclusion temporal* in its medium period to *reclusion perpetua* shall
 14 be imposed upon any person who shall engage in trading and deal-
 15 ing with children, including the act of buying and selling of a child
 16 for money, or for any other consideration, or barter.

17 SEC. 8. *Illegal Recruitment.* - The penalty of *reclusion*
 18 *temporal* in its medium period to *reclusion perpetua* shall be im-
 19 posed upon any person who recruits a child under the pretext of
 20 lawful employment but actually for the purpose of turning over such

1 child to another or others to work as a prostitute. When the person
 2 who recruits the child is also the perpetrator of the offense commit-
 3 ted against the child, such person shall be prosecuted both for the
 4 illegal recruitment and for the offense committed against the child.

5 **SEC. 9. Other Forms of Sexual Exploitation.** - The penalty
 6 of *prison mayor* in its medium period shall be imposed upon any
 7 person who shall commit but are not limited to the following acts:

8 (a) Those who exhibit children in lewd or indecent shows;

9 (b) Those who hire, employ, use, persuade, induce, entice or
 10 coerce a child to perform in obscene exhibitions and indecent shows
 11 whether live or in video, posing or modeling in obscene publications
 12 or pornographic materials or advertisements, or selling or distribut-
 13 ing said materials.

14 The penalty for the commission of acts punishable under
 15 Articles 336, 337 and 339 of Act No. 3815, as amended, of the
 16 Revised Penal Code, for the crimes of acts of lasciviousness, quali-
 17 fied seduction and acts of lasciviousness with the consent of the
 18 offended party, respectively, shall be one (1) degree higher than that
 19 imposed by law.

20 **SEC. 10. Prima Facie Presumptions.** - The following per-
 21 sons are presumed to be engaged in sexual exploitation, or sale or
 22 trafficking of children:

1 (a) Any person who, not being a relative of a child, is found
 2 alone under suspicious circumstances with the said child inside the
 3 room or cubicle of an inn, hotel, motel, pension house, apartelle or
 4 other similar establishments;

5 (b) Any person who, in the company of a child not related
 6 to him/her, is found showing or exhibiting pornographic films,
 7 photographs and other similar materials to such child;

8 (c) Any person receiving services from a child in sauna
 9 parlor or bath, massage clinic, health club and other similar estab-
 10 lishments;

11 (d) Any establishment where the acts constituting sexual
 12 exploitation and sale or trafficking under this Act or in violation of
 13 the Revised Penal Code, as amended, occur in the premises of said
 14 establishment. Any establishment or enterprise which promotes
 15 sexual exploitation or sale or trafficking as part of a tour for foreign
 16 tourists; exhibits children in lewd or indecent shows; provides child
 17 masseurs and services that include any lascivious conduct with the
 18 customer; solicits children for activities constituting sexual exploita-
 19 tion, or sale or trafficking of children shall be deemed to promote,
 20 facilitate or induce sexual exploitation and sale or trafficking of
 21 children;



1 (c) Any person who, not being the parent or legal guardian
 2 of the child, travels with said child to a foreign country without valid
 3 reasons therefor and without clearance issued by the Department of
 4 Social Welfare and Development;

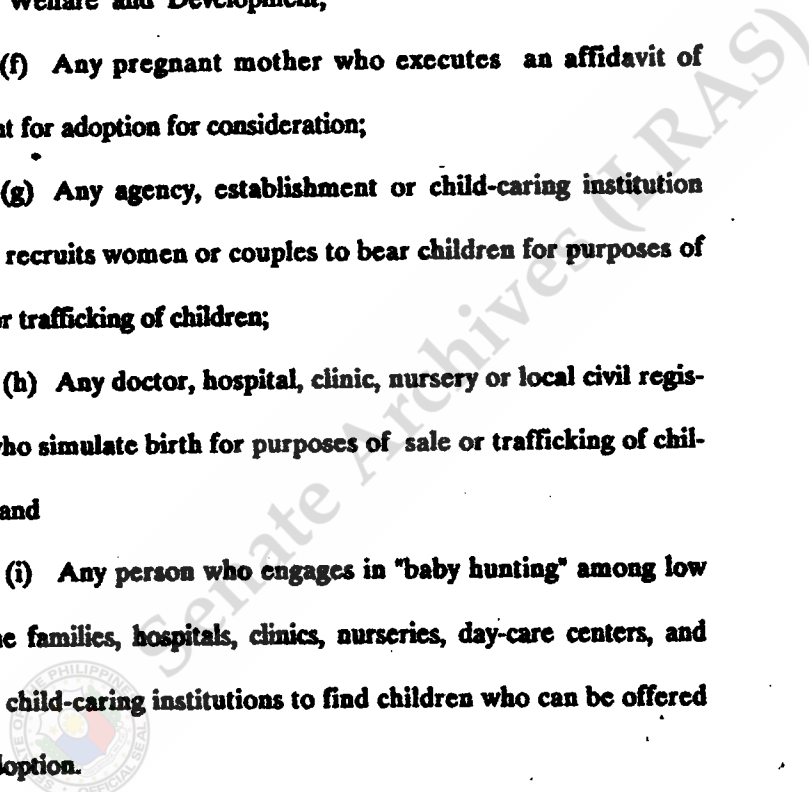
5 (f) Any pregnant mother who executes an affidavit of
 6 consent for adoption for consideration;

7 (g) Any agency, establishment or child-caring institution
 8 which recruits women or couples to bear children for purposes of
 9 sale or trafficking of children;

10 (h) Any doctor, hospital, clinic, nursery or local civil regis-
 11 trar who simulate birth for purposes of sale or trafficking of chil-
 12 dren; and

13 (i) Any person who engages in "baby hunting" among low
 14 income families, hospitals, clinics, nurseries, day-care centers, and
 15 other child-caring institutions to find children who can be offered
 16 for adoption.

17 **SEC. 11. Sanctions for Establishments, Enterprises or Child-**
 18 **caring Institutions.** - If any establishment, enterprise or child-
 19 caring institution shall have been found to have engaged in promot-
 20 ing sexual exploitation or sale or trafficking of children, the same
 21 shall be immediately closed.



CHAPTER IV

WORKING CHILDREN AND STREETCHILDREN

SEC. 12. *Work Conditions.* - Unless otherwise covered by existing laws, the conditions of work of children shall be based on the following:

(a) The employed child shall not be exposed to:

(1) Hazardous conditions such as:

(i) Conditions that would endanger the life and limb of the child; and

(ii) Conditions that are injurious to the health development, safety and morals of the child.

(2) Exploitative or discriminatory conditions taking into consideration the following criteria:

(i) System and level of remuneration;

(ii) Duration and arrangement of working time;

(iii) Training and skill acquisition; and

(iv) Welfare facilities and social services.

(b) Employer must secure for the child a work permit from the Department of Labor and Employment and a certificate of enrollment from the Department of Education, Culture and Sports.

SEC. 13. *Protected Work Conditions.* - Children below

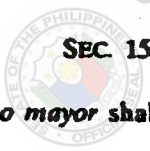
1 fifteen (15) years of age shall not be employed except where it is
2 unavoidable and under additional protective conditions as follows:

- 3 (a) Light work;
- 4 (b) Development and progressive extension of adequate
5 facilities for the protection and welfare of working children;
- 6 (c) Prohibition from night work; and
- 7 (d) Adequate rest.

8 **SEC. 14. Education for Working Children.** - The Depart-
9 ment of Education, Culture and Sports shall promulgate a course
10 design under its non-formal education program aimed at promoting
11 the intellectual, moral and vocational efficiency of working children
12 who have not undergone or finished elementary or secondary
13 education. Such course design shall integrate the learning process
14 deemed most effective under given circumstances.

15 **SEC. 15. Children in Advertisements.** - The penalty of *arres-*
16 *to mayor* shall be imposed upon any person who employs child
17 models in commercial or advertisements in print and broadcast
18 media and motion pictures promoting alcoholic beverages, intoxicat-
19 ing drinks, tobacco and its byproducts, and violence.

20 **SEC. 16. Duty of Employer to Submit Report.** - The em-
21 ployer shall submit to the Department of Labor and Employment a



1 report of all children employed by him. A separate report shall be
 2 made of all such children who are found to be handicapped after
 3 medical examination. The Secretary of Labor shall refer such
 4 handicapped children to the proper government or private agencies
 5 for vocational guidance, physical and vocational rehabilitation and
 6 placement in employment.

7 **SEC. 17. Register of Children.** - Every employer in any
 8 commercial, industrial or agricultural establishment or enterprise
 9 shall keep:

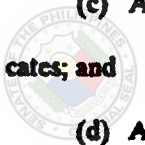
10 (a) A register of all children employed by him, indicating the
 11 dates of their birth;

12 (b) A separate file for the written consent to their employ-
 13 ment given by their parents or guardians;

14 (c) A separate file for their educational and medical certifi-
 15 cates; and

16 (d) A separate file for special work permits issued by the
 17 Secretary of Labor in accordance with existing laws.

18 **SEC. 18. Penalties.** - The penalty of a fine of not less than
 19 One thousand pesos (P 1,000) nor more than Ten thousand pesos
 20 (P 10,000), or imprisonment of not less than three (3) months nor
 21 more than three (3) years, or both such fine and imprisonment at



1 the discretion of the court, shall be imposed upon any person who
2 shall violate any provision of this chapter: *Provided, however,* That
3 in case of repeated violations of the provisions of this chapter, the
4 offender's license to operate shall be revoked.

5 SEC. 19. *Streetchildren.* - The penalty of *prison correccional*
6 in its medium period to *reclusion perpetua* shall be imposed upon
7 any person who shall use, coerce, force or intimidate streetchildren
8 to:

9 (a) Beg or use begging as a means of living;

10 (b) Act as conduit or middlemen in drug trafficking or
11 pushing; and

12 (c) Conduct illegal activities such as robbery, stealing and
13 pimping.

14 CHAPTER V

15 CHILDREN OF INDIGENOUS CULTURAL COMMUNITIES

16 SEC. 20. *Survival, Protection and Development.* - In addi-
17 tion to the rights guaranteed to children under this Act and existing
18 laws, children of indigenous cultural communities shall be entitled
19 to an upbringing and environment consistent with the traditions of
20 their community that promote their protection, survival and devel-
21 opment.

1 **SEC. 21. *System of and Access to Education.*** - The De-
 2 partment of Education, Culture and Sports shall develop and insti-
 3 tute an alternative system of education for children of indigenous
 4 cultural communities which is culture-specific and relevant to the
 5 needs and the existing situation in the communities. The Depart-
 6 ment of Education, Culture and Sports shall also accredit and
 7 support non-formal but functional indigenous educational programs
 8 conducted by nongovernmental organizations in indigenous cultural
 9 communities.

10 **SEC. 22. *Health and Nutrition.*** - Delivery of basic social
 11 services in health and nutrition to children of indigenous cultural
 12 communities shall be given priority by all government agencies.
 13 Hospitals and any other health institutions shall ensure that children
 14 of indigenous cultural communities be given equal attention. In the
 15 provision of health and nutrition services to children of indigenous
 16 cultural communities, indigenous health practices shall be respected
 17 and recognized.

18 **SEC. 23. *Discrimination.*** - Discrimination, as used in this
 19 section, shall mean the deprivation and curtailment of the enjoy-
 20 ment of rights due an individual because of the nature of his person
 21 and the nature of his/her right.

1 Children of indigenous cultural communities shall not be
2 subjected to any and all forms of discrimination.

3 Any person who discriminates against children of indigenous
4 cultural communities shall suffer a penalty of *arresto mayor* in its
5 maximum period and a fine of not less than Five thousand pesos
6 (P 5,000) nor more than Ten thousand pesos (P 10,000).

7 SEC. 24. *Participation.* - Indigenous cultural communities
8 shall be involved in planning, decision-making, implementation, and
9 evaluation of all government programs affecting children of indige-
10 nous cultural communities. Indigenous institutions shall also be
11 recognized.

12 CHAPTER VI

13 CHILDREN IN SITUATIONS OF ARMED CONFLICT

14 SEC. 25. *Children as Zones of Peace.* - Children are hereby
15 declared as zones of peace. It shall be the responsibility of the State
16 and all other sectors to resolve armed conflicts in order to promote
17 the goal of children as zones of peace. The State shall actively
18 promote its realization in all its policies and programs related to
19 children in situations of armed conflict. For this purpose, the fol-
20 lowing steps shall be taken to ensure special protection for children
21 during armed conflict:

1 (a) Delivery of basic social services such as education,
2 primary health and emergency relief services shall be kept unham-
3 pered;

4 (b) The safety and protection of those who provide services
5 including those involved in fact-finding missions from both govern-
6 ment and nongovernment institutions shall be ensured. They shall
7 not be subjected to undue harassment in the performance of their
8 work; and

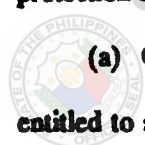
9 (c) Public infrastructure such as schools, hospitals and rural
10 health units shall not be utilized for military purposes such as
11 command posts, barracks, detachments, and supply depots.

12 **SEC. 26. Special Protection for Children.** - The following
13 policies shall be executed to ensure the right of children to special
14 protection during armed conflict:

15 (a) Children shall not be the object of attack and shall be
16 entitled to special respect. They shall be protected from any form
17 of threat, assault, torture or other cruel, inhumane or degrading
18 treatment;

19 (b) Proper care and immediate aid shall be provided to
20 children;

21 (c) Children shall not be recruited to become members of



1 the Armed Forces of the Philippines, civilian voluntary groups, or
 2 other armed groups nor be allowed to take part in the fighting, or
 3 used as guides, couriers, or spies;

4 (d) Before, during and after armed conflict, hospital and
 5 safety zones shall be established for the protection of the wounded,
 6 sick and aged persons, children, expectant mothers and mothers of
 7 children under the age of seven (7); and

8 (e) All appropriate steps shall be taken to facilitate the
 9 reunion of families temporarily separated.

10 *SEC. 27. Evacuation of Children.* - Children shall be given
 11 priority during evacuation. Utmost care and respect shall be af-
 12 farded them to minimize trauma. Adequate social services while in
 13 evacuation or relocation sites shall be afforded them. If existing,
 14 community organizations shall be tapped to look after the safety
 15 and well-being of the children during evacuation operations, and
 16 assistance shall be coursed through them:

17 (a) Measures shall be taken, if necessary, and whenever
 18 possible with the consent of their parents or guardians, to remove
 19 children temporarily from the area in which hostilities are taking
 20 place to a safer area and ensure that they are accompanied by
 21 persons responsible for their safety and well-being preferably their
 22 mothers whenever possible; and

1 (b) Whenever an evacuation occurs pursuant to the preced-
 2 ing paragraph, each child's education, including his/her religious
 3 and moral education as his/her parents desire, shall be provided
 4 with the greatest possible continuity. His/her education shall, as far
 5 as possible, be entrusted to persons of a similar cultural tradition.

6 SEC. 28. *Family Life and Temporary Shelter.* - (a) When-
 7 ever possible, interned members of the same family shall be housed
 8 in the same premises and given separate accommodation from
 9 other internees, together with facilities for leading a proper family
 10 life.

11 (b) In places of temporary shelter, expectant and nursing
 12 mothers and children in situations of armed conflict shall be given
 13 additional food, in proportion to their physiological needs.

14 (c) Children in situations of armed conflict shall be given
 15 opportunities for physical exercise, sports and outdoor games. For
 16 this purpose, sufficient open spaces shall be set aside in all places of
 17 internment. Special playgrounds shall be reserved for children in
 18 situations of armed conflict.

19 SEC. 29. *Detainment and Imposition of Penalties.* - No
 20 child shall be deprived of his or her liberty arbitrarily. The arrest,
 21 detention or imprisonment of a child shall be in conformity with

1 the law and shall be used only as a measure of last resort and for
2 the shortest appropriate period of time. The following conditions
3 shall apply:

4 (a) Any child who has been arrested for reasons related to
5 armed conflict shall be held in quarters separate from the quarters
6 of adults, except where families are accommodated as family units,
7 and shall be treated with special respect while in detention. He/she
8 shall be immediately given free legal assistance and shall be trans-
9 ferred to the custody of the Department of Social Welfare and
10 Development within twenty-four (24) hours from the time of arrest;

11 (b) The parent(s) or guardian(s) of the child shall immedi-
12 ately be notified of the apprehension;

13 (c) During pendency of the child's case, a judge shall, with-
14 out delay, order the release of the child on recognizance to the
15 custody of the Department of Social Welfare and Development or
16 any member of the child protection team; and

17 (d) If, after hearing, the court finds that the child has
18 committed the acts charged against him/her, it shall determine the
19 imposable penalty including any civil liability chargeable against
20 him/her. However, the pronouncement of the judgment of convic-
21 tion shall automatically be suspended.

1 of any violation of this Act shall report the same to the proper
2 authorities and such person shall be given witness protection. Such
3 report shall be treated with utmost confidentiality and shall be filed
4 with the DSWD or the Office of the Fiscal.

5 The penalty of imprisonment of not more than one (1) year
6 shall be imposed on any person who has knowledge of any violation
7 of the provisions of this Act but fails, refuses or neglects to report
8 or inform the proper authorities of said violation.

9 **SEC. 33. Who May File a Complaint.** - Complaints on cases
10 of unlawful acts committed against children as enumerated herein
11 may be filed by the following:

- 12 (a) Offended party;
- 13 (b) Parents or guardians;
- 14 (c) Ascendant or collateral relative within the third degree
15 of consanguinity;
- 16 (d) Officer, social worker or representative of a licensed
17 child-caring institution;
- 18 (e) Official or social worker of the Department of Social
19 Welfare and Development;
- 20 (f) Barangay chairman; or
- 21 (g) At least three (3) concerned responsible citizens of the

1 barangay where the child resides in or where the violation occurred.

2 SEC. 34. *Child Protection Team.* - The Department of
3 Social Welfare and Development shall create a child protection
4 team composed of a social worker of the department, a law enforce-
5 er, barangay official(s), a child psychologist or psychiatrist, a physi-
6 cian of the Department of Health, and a member of the Philippine
7 Bar who will be trained accordingly. The child protection team
8 shall have the following powers and duties:

9 (a) Immediately conduct or cause the conduct of an investi-
10 gation within twenty-four (24) hours from the time of the receipt of
11 report;

12 (b) Request any department, bureau, office or agency of
13 government for assistance;

14 (c) Issue *subpoena, ad testificandum* and *subpoena duces*
15 *tecum*;

16 (d) Issue such orders as may be proper and necessary at any
17 stage of the investigation;

18 (e) Arrange for counseling and medical services for the
19 offended party;

20 (f) Gather evidentiary material for the arrest and prosecu-
21 tion of the offender;



1 (g) Make a report of the investigation and, on the basis of
2 the offended party's testimony and any additional evidence, file the
3 necessary complaint against the offender; and

4 (h) Recommend the prosecution of the offender of any
5 violation of this Act.

6 The penalty of one (1) year imprisonment and suspension
7 shall be imposed upon any member of the team, who, in dereliction
8 of his/her duties as enumerated in the preceding paragraph, shall
9 refrain from performing his/her duties or shall tolerate the com-
10 mission of the offense.

11 **SEC. 35. Protective Custody of the Child.** - In cases of
12 emergency where the life of a child is at stake, any member of the
13 child protection team shall take immediate custody of the child to
14 be confirmed by a court order within seventy-two (72) hours. Any
15 member of the team who carried out this function to protect the
16 welfare of the child shall be free from any civil, criminal or adminis-
17 trative liabilities.

18 Custody proceedings shall be in accordance with the provi-
19 sions of Presidential Decree No. 603.

20 **SEC. 36. Confidentiality.** - At the instance of the offended
21 party, his/her name may be withheld from public records until the
22 court acquires jurisdiction over the case.

1 It shall be unlawful for any editor, publisher, and reporter or
2 columnist in case of printed materials, announcer or producer in
3 case of television and radio broadcasting, producer and director of
4 the film in case of the movie industry, to cause undue and sensa-
5 tionalized publicity of any case of violation of this Act which results
6 in the moral degradation and suffering of the offended party.

7 SEC. 37. *Special Court Proceedings.* - Cases involving viola-
8 tions of this Act shall be heard in the chambers of the judge duly
9 designated as Juvenile and Domestic Relations Court.

10 Any provision of existing laws to the contrary notwithstanding
11 and with the exception of *habeas corpus*, election cases, and cases
12 involving detention prisoners and persons covered by Republic Act
13 No. 4908, all courts shall give preference to the hearing or disposi-
14 tion of cases involving violations of this Act.

15 CHAPTER VIII

16 PROGRAMS FOR CHILDREN IN ESPECIALLY

17 DIFFICULT CIRCUMSTANCES

18 SEC. 38. *Programs.* - A comprehensive program which
19 shall include community and center-based services shall be de-
20 veloped by the Department of Social Welfare and Development for
21 children in especially difficult circumstances. It shall include the
22 following:

1 **(a) Preventive Program** - This shall include any service,
 2 project or measure to prevent or deter the occurrence of unlawful
 3 acts enumerated herein.

4 A broad scale public awareness program shall be instituted in
 5 the national and local levels. This shall be implemented in coordi-
 6 nation with the Department of Health, Department of Education,
 7 Culture and Sports, government radio and television stations and
 8 other government and nongovernment agencies;

9 **(b) Protective Program** - This shall include any service,
 10 project or measure for the prompt protection of all children in
 11 especially difficult circumstances. These are programs which shall
 12 stop the unlawful acts stated herein or take the child away from the
 13 conditions or circumstances which are prejudicial to his/her well-
 14 being and development;

15 **(c) Rehabilitative Program** - This shall include programs
 16 providing the following:

17 (1) Reunification and specialized placement program for
 18 unaccompanied children displaced by situations of armed conflict;

19 (2) Differentiated physical and psychological recovery, and
 20 social integration program for each category of children in especial-
 21 ly difficult circumstances;

1 (3) Specialized program for children of indigenous cultural
2 communities to ensure nondiscrimination of any kind;

3 (4) Working children program to develop work ethics,
4 appropriate vocational skills and counseling services;

5 (5) Family counseling and rehabilitation program for par-
6 ents of children in especially difficult circumstances; and

7 (6) Program for children in situations of armed conflict
8 including release on recognizance and diversion program.

9 SEC. 39. *Line Agencies' Mandate.* - In consonance with this
10 Act, all government agencies shall extend their full assistance to the
11 programs provided in the preceding section.

12 SEC. 40. *Creation of Child Protection Centers.* - Pursuant to
13 the abovestated policy, a community-based diagnostic and therapeutic
14 center called the Child Protection Center and hereinafter re-
15 ferred to as the Center, shall be established in every region, selected
16 cities and provinces for children in especially difficult circumstances.

17 The Center shall serve as a refuge and shall extend services to all
18 victims, potential victims and their families, and offenders who are
19 members of the family. The Center shall be under the direct super-
20 vision of the Department of Social Welfare and Development.

21 Psychiatric and psychological services in the Center shall be

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1 provided by the Department of Health. The Center shall have the
2 following functions:

3 (a) Provide sanctuary to victims, potential victims and their
4 families;

5 (b) Provide immediate protective custody in cases wherein
6 preliminary reports have pointed to the home environment as the
7 source of abuse or exploitation. The State, in the exercise of its role
8 as *parens patriae*, shall undertake the care of such child if the par-
9 ents or guardians are deemed unfit to provide parental care; and

10 (c) Provide social, medical, psychological and other services
11 necessary for the rehabilitation of the child, in collaboration with
12 concerned government and nongovernmental organizations. Each
13 individual shall be assigned a social worker who shall be responsible
14 for the monitoring of the progress of the former's treatment and
15 reintegration into society.

16 An appropriate referral system shall be arranged with con-
17 cerned agencies in the provision of services.

18 **SEC. 41. Organization of Barangay Councils for the Protection**
19 **of Children.** - Every barangay chairman shall organize a barangay
20 council for the protection of children as a support system for the
21 effective implementation of the programs provided in this Act.



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CHAPTER IX

FINAL PROVISIONS

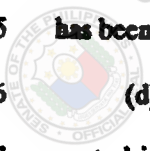
SEC. 42. *Common Penalty Provisions.* - (a) The penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act;

(b) When the offender is a corporation, partnership or association, the officer or employee thereof who is responsible for the violation of this Act shall suffer the penalty imposed in its maximum period;

(c) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent, or collateral relative within the second degree of consanguinity or affinity, or a manager or owner of an establishment which has no license to operate or its license has expired or has been revoked;

(d) When the offender is a foreigner, he/she shall be deported immediately after service of sentence and forever barred from entering the country;

(e) The penalty provided for in this Act shall be imposed in its maximum period if the offender is a public officer or employee: *Provided, however,* That if the penalty imposed is *reclusion perpetua*



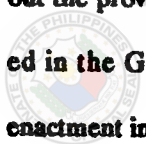
1 or *reclusion temporal*, then the penalty of perpetual or temporary
 2 absolute disqualification shall also be imposed: *Provided, finally,*
 3 That if the penalty imposed is *prision correccional* or *arresto mayor*,
 4 the penalty of suspension shall also be imposed; and

5 (f), A fine to be determined by the court shall be imposed
 6 and administered as a cash fund by the Department of Social
 7 Welfare and Development and disbursed for the rehabilitation of
 8 each child victim and immediate members of his/her family, if the
 9 latter is the perpetrator of the offense.

10 SEC. 43. *Rules and Regulations.* - The Council for the
 11 Welfare of Children shall issue the necessary rules and regulations
 12 for the effective implementation of the provisions of this Act.

13 SEC. 44. *Appropriations.* - The amount necessary to carry
 14 out the provisions of this Act is hereby authorized to be appropriat-
 15 ed in the General Appropriations Act of the year following its
 16 enactment into law and thereafter.

17 SEC. 45. *Separability Clause.* - Should any provision of this
 18 Act be declared unconstitutional, such provision shall be severed
 19 from the remainder of the Act, and such action shall not affect the
 20 enforceability of the remaining provisions of this Act.



1 **SEC. 46. Repealability Clause.** - All laws, presidential
2 decrees, executive orders and rules and regulations inconsistent with
3 the provisions of this Act are hereby repealed or modified accord-
4 ingly.

5 **SEC. 47. Effectivity Clause.** - This Act shall take effect
6 upon its publication in any two (2) newspapers of general circula-
7 tion.

Approved,



Senate Archives (LRAS)