

Congress of the Philippines)
Second Regular Session)

SENATE OF THE PHILIPPINES
OFFICE OF THE SECRETARY
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SENATE

S. B. No. 1209

(Substitute Bill on S. B. Nos. 487 and 727)

Prepared by the Committee on Women and Family Relations
with Senators Lina, Jr., Mercado and Rasul as authors thereof

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION
AGAINST CHILD ABUSE AND EXPLOITATION, PROVIDING LEGAL PRESUMPTIONS
AND PENALTIES FOR ITS VIOLATION

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

Section 1. This Act shall be known as the "Special Protection of
Children against Child Abuse and Exploitation Act"

Section 2. Declaration of 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 and exploitation, provide
sanctions for their commission and carry out a program for prevention
and deterrence of and crisis intervention in situations of child abuse
and exploitation. Further, the State shall intervene on behalf of the
child when the parents, guardian or person having care or custody of
the child fail, or are unable to provide the child protection against
abuse and exploitation or when the acts of abuse and exploitation
against the child are committed by the said parents, guardian, or
person having care and custody of the same.

Section 3. Definitions of Terms:

1. Children who have the right to special protection under this
Act shall mean persons below eighteen years of age including those
who are eighteen years of age or over but are unable to fully take
care of themselves or protect themselves from neglect, abuse,
cruelty or exploitation because of a physical or mental disability
or condition.

2. Child Abuse is the maltreatment of the child which includes physical abuse and cruelty, physical neglect, sexual abuse and emotional maltreatment. It includes any act which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.

a) physical abuse - any act which results in a non-accidental physical injury.

b) cruelty - unreasonable infliction of physical injury or inhuman treatment on the physical being of the child.

c) physical neglect - negligent treatment of a child by parent, guardian or caretaker under circumstances indicating harm or threatened harm to the child's health and welfare.

Neglect in general means to disregard, leave undone or unattended, or give insufficient attention to the basic and development needs of a child so as to prevent or retard his normal physical, mental, emotional or moral development.

d) sexual abuse - acts of sexual assault or sexual exploitation of minors.

i) sexual assault includes rape, incest, sodomy, sexual sadism or masochism, bestiality, lewd or lascivious acts or any other form of masturbation or sexual perversion.

ii) sexual exploitation is the unjust or improper use of a child in sexual activities for profit or advantage.

e) emotional maltreatment - infliction of mental pain or injury through excessive verbal assaults or non-verbal harassing acts.

Section 4. Child Prostitution. Minors, whether male or female, who for money or profit, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution.

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

1. Those who promote or facilitate prostitution;
2. Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution;
3. 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 5. Legal Presumptions. The following persons are presumed to be engaged in the prostitution or sexual exploitation of minors:

1. Any person who, not being a relative of a minor is found alone under suspicious circumstances with the said minor inside the room or cubicle of an inn, hotel, motel, pension house, apartelle or other similar establishments.
2. Any person receiving services from a minor in a a sauna parlor or bath, massage clinic, health club and other similar establishments.

Section 6. Sanctions for Establishments or Enterprises which Promote, Facilitate, or Conduct Activities Constituting Child Abuse and Exploitation. All establishments and enterprises which promote or facilitate child abuse or exploitation shall be immediately closed and their authority or license to operate shall be cancelled, without prejudice to the owner or manager thereof being prosecuted under this Act and/or the Revised Penal Code, as amended, or special laws.

An establishment shall be deemed to promote or facilitate child abuse or exploitation if the acts constituting child abuse or exploitation occur in the premises of said establishment under this Act or in violation of the Revised Penal Code, as amended. An enterprise such as a sauna, travel agency, or recruitment agency which promotes child abuse and exploitation as part of a tour for foreign

tourists; exhibits children in a lewd or indecent show; provides child masseurs for adults of the opposite sex and said services includes any lascivious conduct with the customer; or solicitation of children for activities constituting abuse and exploitation shall be deemed to promote or facilitate child abuse and exploitation.

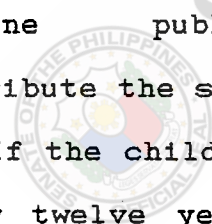
Section 7. Child Trafficking. The Penalty of reclusion temporal to reclusion perpetua shall be imposed upon any person who shall engage in trading and dealing with a child, including, but not limited to, the act or business of buying and selling of a child for money, or for any other consideration, or barter.

Section 8. Presumption of Violation. There is a disputable presumption of violation of Section 7 of this Act when a child travels alone to a foreign country, or even when accompanied by his parents, guardian or any other person, without valid, necessary or reasonable reasons allowed by law and without clearance issued by the Department of Social Welfare and Development in consonance with the rules and regulations to be promulgated by it.

Section 9. Obscene Publication and Indecent Shows. The penalty of prision mayor in its medium period shall be imposed upon any person who shall hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, pose or model in obscene publications or pornographic materials or to sell or distribute the said materials.

If the child used as a performer, subject or seller/distributor is below twelve years of age, or when a parent or guardian permits a child under his or her authority to engage in such activity, the penalty shall be imposed in its maximum period.

Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. Any person who shall commit any other act of neglect, cruelty or exploitation or shall be responsible for conditions prejudicial to the development of a child, not expressly falling under any article of



the Revised Penal Code, as amended, the provisions of the Child and Youth Welfare Code, as amended, or the provisions of this Act, shall be punished by prison mayor in its minimum period.

Section 11. Additional Penalties. If the offender is a foreigner, the latter shall be deported after service of the sentence and forever banned from entry to the country. If the offender is a government official or employee, the additional penalty of disqualification to hold public office shall likewise be imposed. A fine to be determined by the Courts shall be imposed to be applied towards the rehabilitation of each child victim under the supervision of the Department of Social Services and Development. Offenders of this Act shall not be entitled to the benefit of the Probation Law. The laws on youthful offenders shall apply to child-offenders of this Act.

Section 12. Victims. Filing of Complaints for Child Abuse and Exploitation Cases. A child offended party shall be immediately placed under the protective custody of the Department of Social Welfare and Development pursuant to Executive Order No. 56. The child offender shall be proceeded against in accordance with existing law for youth offenders and in appropriate case receive care and assistance.

Complaints on cases for prosecution of child abuse and exploitation may be filed by the :

1. Offended party, when said offended party is over fifteen (15) years of age and below the age of majority;
2. Parents or guardian, unless said parents or guardian are themselves the perpetrators of the child abuse or exploitation;
3. Ascendent or collateral relative within the third degree of consanguinity, unless said ascendent or collateral relative is the perpetrator of the child abuse or exploitation.

- 4. Officer, social worker, or representative of a licensed child-caring institution;
- 5. Official or social worker of the Department of Social Welfare and Development; or
- 6. Barangay chairman or a concerned, responsible citizen of the barangay where the child resides in or where the act of abuse or exploitation occurred.

The cases may be filed by the persons herein enumerated regardless of whether the acts complained of are based on violation of the RPC, as amended, the Child and Youth Welfare Codes, as amended, or the provisions of this Act.

Section 13. National. Advisory Board: Non-governmental Agencies.

The Government shall support and provide assistance to programs of non-governmental agencies to prevent, deter, or provide crisis intervention and other services related to child abuse and exploitation.

There is hereby created a National Advisory Board on Child Abuse and Exploitation to advise the Department of Social Welfare and Development in the implementation of this Act. The members of the Nat'l. Advisory Board are:

- 1. A representative of the Secretary of the Department of Justice.
- 2. President of the Council of Welfare Agencies of the Philippines
- 3. President of the Child Welfare League of the Philippines.
- 4. A representative of the Secretary of the Department of Social Welfare and Development; and
- 5. Two (2) representatives of the private sector to represent parents and citizens concerned about child abuse and exploitation appointed by the Secretary of the Department of Social Welfare and Development. The representative of the private sector shall serve for two (2) years.

The Advisory Board shall annually elect a Chairman from among their members and shall be entitled to such per diem and allowances as the Secretary of Social Welfare and Development may determine. The Board shall meet twice a month or as often as the Secretary may direct.

The Secretary of Social Welfare and Development shall designate the Council for the Welfare of Children as Secretariat to assist in the implementation of this Act and the operations of the Board.

Section 14. Rules and Regulations. The Secretariat shall promulgate rules and regulations to implement this Act, with the advice and recommendations of the National Advisory Board.

Section 15. Appropriations. In order to implement this Act, there is hereby authorized to be appropriated the amount of One hundred Thousand Pesos for the initial year of operations. Thereafter, such amounts as may be required to implement this Act and for the operations of the Board are hereby authorized to be included in the general appropriations of the Department of Social Welfare and Development.

Section 16. Separability Clause. If any provision of this Act is held invalid, other provisions not affected thereby shall continue in full force and effect.

Section 17. Repealing Clause. Any law, decree or rule inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 18. Effectivity Clause. This Act shall take effect immediately after its complete publication in the Official Gazette.

(3) 16

SENATE OF THE PHILIPPINES
OFFICE OF THE SECRETARY
RECEIVED
DATE: MAY 19 1988
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S E N A T E

S. NO. 487

Introduced by Senator Lina, Jr.

EXPLANATORY NOTE

This proposed measure is in response to the Constitutional provision in Article XV, Section 3 (2) which states that, "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" shall be defended by the State.

Our fundamental law is reflective of the nation's concern for the 55 per cent of the population below 20 years of age and the some 62 percent who are between the ages of less than one year to 24 years of age.

Compared to other crimes, child prostitution and minor sexual conduct constitute a very small percentage of total crimes committed. For every 100,000 crimes, only 20 are prostitution cases, 510 cases are those of vagrancy and 2,902 are crimes against chastity. The Unicef study on the situation of children and women of the Philippines for 1987 reports that at least 20,000 children nationwide are engaged in some form of child prostitution, both young girls and boys. The children who are victimized come from the rural areas, the fringes of urban centers like Metro Manila, and are recruited on the promise of jobs in factories or as domestic help.

A study of the Philippine Mental Health Association in 1985 of vagrants in charitable institutions showed that 69 percent of these children belong to large families whose family heads are either jobless or seasonally employed. The majority of the vagrants were born in Metro Manila, in their teens and made their living in street jobs or are out-of-school.

Because of the extraordinary harm and trauma faced by the abused and exploited child, national attention has been drawn to babies used by mendicants to ply their begging activities, child prostitutes, victims of pornography or exploitation, and those abused in jobs outside the country.

This bill takes a holistic view of the problem of child abuse and exploitation and covers all acts of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development. It not only provides sanctions against the abuser; but more significantly comes up with a program of government and the private sector for prevention and deterrence of and crisis intervention in situations of abuse and exploitation. For the sake of the thousands of children already abused and exploited and the hundreds more in danger of such abuse, approval of this measure is urgently requested.

[Signature]
JOSE D. LINA, JR.

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1 exploitation or when the acts of abuse and exploitation
2 against the child are committed by the parents, guardian, or
3 person having care and custody of said child.

4 SEC. 3. Definition of Terms. -

5 1. Child abuse is the maltreatment of the child so as
6 to cause him physical or mental pain or injury, or endanger
7 his life. Child abuse includes the neglect of and cruelty to
8 children.

9 Child abuse also includes any act which debases,
10 degrades, or demeans the intrinsic worth and dignity of a
12 child as a human being.

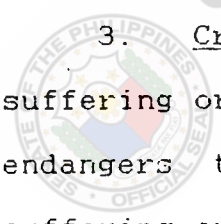
13 2. Children who have the right to special protection
14 under this Act shall include the unborn child, persons below
15 the age of majority and those who have attained the age of
16 majority but are unable to fully take care of themselves or
17 protect themselves from neglect, abuse, cruelty or
18 exploitation because of a physical or mental disability or
19 condition.

20 Children may be the offended party or the victim, as
21 herein defined, of child abuse and exploitation.

22 3. Cruelty to a child is any act which inflicts pain,
23 suffering or grief; subjects the child to inhuman treatment;
24 endangers the child's life or health; or causes him mental
25 suffering or fear, or subjects him to humiliation.

26 4. Exploitation of a child is the unjust or improper
27 use of a child for profit or advantage.

28 Exploitation also includes any act of neglect, abuse or
29 cruelty committed against a child, as herein provided, for
30 profit or advantage.



1 5. Lascivious conduct is the use of a child for any
2 lewd, obscene, or lustful act, other than rape or sodomy as
3 herein defined, with the same or opposite sex.

4 6. Neglect of a child means to disregard, leave undone
5 or unattended, or give insufficient attention to the basic
6 and developmental needs of a child so as to prevent or retard
7 his normal physical, mental, emotional or moral development.

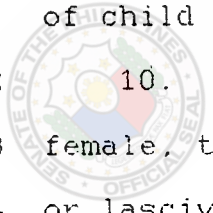
8 7. Other acts or conditions prejudicial to the
9 development of a child are those which: (a) are inimical to
10 or detract from his dignity and worth; (b) deprive him of
11 his basic needs of food, clothing, shelter, proper medical
12 care and education; or of a wholesome family life and of the
13 love and care he needs; or (c) are obstacles to or endanger
14 his normal physical, mental, social, or moral development.

15 8. A pedophile is any person who has been convicted of
16 a crime constituting sexual child abuse and exploitation.

17 9. Pornographic materials are any pictures, written
18 materials, video-tapes, or motion pictures using children as
19 subjects and are intended to cause sexual excitement.
20 Pornography shall be deemed an act of child abuse and an act
21 of child exploitation if done for profit or advantage.

22 10. Prostitution is to use a child, whether male or
23 female, to habitually indulge in sexual intercourse, sodomy,
24 or lascivious conduct for money or profit.

25 11. Rape is to have carnal knowledge of a female child
26 under any of the following circumstances: (a) by using force
27 or intimidation; (b) when the female child is deprived of
28 reason or otherwise unconscious; or (c) when the female child



1 is under twelve years, even though neither of the
2 circumstances mentioned in (a) or (b) shall be present.

3 12. Sodomy is to use a child, whether male or female, to
4 indulge in copulation with a member of the same sex or with
5 an animal; or to have anal, oral, or non-coital copulation
6 with a member of the same or opposite sex.

7 13. The victim of child abuse is the child offended party
8 or the child used by the adult offender to commit an offense
9 but is given special protection by the law due to his age and
10 vulnerability to abuse; including: child prostitutes,
11 sellers or distributors of pornographic materials, and other
12 child perpetrators of felonies under the Revised Penal Code,
13 as amended, who acted without discernment.

14 SEC. 4. Acts of Child Neglect, Abuse, Cruelty or
15 Exploitation Which Constitute Felonies Under the Revised
16 Penal Code, as Amended. - Acts constituting child neglect,
17 abuse, cruelty or exploitation which are punishable under the
18 Revised Penal Code shall be penalized under said Code;
19 subject to the following rules with respect to penalties:

20 1. The penalty next higher in degree than that
21 prescribed by law for the offense which the accused committed
22 shall be imposed, when the offended party is a child below
23 twelve years of age at the time of the commission of the
24 offense; or when the accused is a parent, ascendant,
25 collateral relative within the second degree of
26 consanguinity, guardian, or person entrusted with the care
27 and custody of the child;

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1 2. The penalty next higher in degree than that
 2 prescribed by law for the offense which the accused committed
 3 shall be imposed in its maximum period, when the offended
 4 party is a child below twelve years of age at the time of
 5 the commission of the offense and if the accused is a parent,
 6 ascendant, collateral relative within the second degree of
 7 consanguinity, guardian, or person entrusted with the care and
 8 custody of the child;

9 3. The penalty prescribed by law for the offense which
 10 the accused committed shall be imposed in its maximum period,
 11 when the offended party is over twelve years and below the
 12 age of majority; or when the accused falls within any of the
 13 following categories :

14 (a) A teacher or head of a school where the child is
 15 enrolled; or a tutor of the child;

16 (b) The head, one of the personnel or volunteer workers
 17 of a child-caring institution where the child is presently
 18 being cared for;

19 (c) A collateral relative within the second degree of
 20 affinity; or a collateral relative within the third degree
 21 of consanguinity;

22 (d) The head, official, leader, or volunteer worker of
 23 a child and/or youth organization of which the child is a
 24 member or a recipient of social services;

25 (e) A government official, law enforcement officer, or
 26 other government employee with respect to a child under their
 27 care or custody or an applicant/recipient of social
 28 services; or

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1 (f) The head of an office or the immediate supervisor
2 of a child employed or working as an apprentice in said
3 office.

4 4. Obscene Publications and Exhibitions and Indecent
5 Shows. The penalty next higher in degree than that
6 prescribed under Article 201 of the Revised Penal Code, as
7 amended, shall be imposed when a child is used as a :

- 8 (a) performer in obscene exhibitions and indecent shows;
- 9 (b) subject of obscene publications or pornographic
10 materials; or
- 11 (c) seller or distributor of obscene publications or
12 pornographic materials.

13 If the child used as a performer, subject or
14 seller/distributor is below twelve years of age, the penalty
15 shall be imposed in its maximum period.

16 5. Grave Scandal. The penalty next higher in degree
17 than that prescribed under Article 200 of the Revised Penal
18 Code, as amended, shall be imposed in the following
19 circumstances:

- 20 (a) Any adult person or persons found in a state of
21 partial or complete undress with a child or children in a
22 state of partial or complete undress in a room or enclosed
23 space of a hotel, motel, resort, or similar establishment, or
24 in a private home, the person or persons not being the
25 parent, guardian, or person having the care or custody of the
26 child;
- 27 (b) Any adult person or persons found exhibiting or
28 viewing pornographic materials with a child or children in

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1 the same place, said person or persons not being the parent,
2 guardian, or person having the care and custody of the child;

3 (c) Any adult person or persons who shall receive
4 services from a child in a sauna bath or parlor, massage
5 clinic or similar establishment;

6 (d) Any adult person or persons who shall patronize
7 establishments or shall be found therein for money or
8 consideration, where such establishments shall have obscene
9 exhibitions or indecent shows; or

10 (e) Any adult person or persons who shall be found with
11 a child or children in any place under circumstances which
12 are lewd, obscene, lustful, indecent, or otherwise inimical
13 to the moral development of the child.

14 6. If the child is below twelve years of age, knowledge
15 of the age is not necessary to prove the guilt of the
16 offender.

17 If the child is over twelve but below the age of
18 majority, the offender must have had knowledge of the age of
19 the child prior to or during the commission of the offense.

20 SEC. 5. Other Acts of Neglect, Abuse, Cruelty or
21 Exploitation and Conditions Prejudicial to the Child's
22 Development. -

23 1. Sodomy. Sodomy shall be punishable with the penalty
24 prescribed for rape under Article 335 of the Revised Penal
25 Code, as amended.

26 The offender in sodomy are those who:

27 (a) Sodomizes the child;

28 (b) Coerces or forces a child to sodomize another child
29 or to commit acts of sodomy with another person or animal;

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1 (c) Pays a child to engage in acts of sodomy with
2 another adult, another child, or with an animal;

3 (d) Being a parent, guardian, or person having care and
4 custody of the the child, accepts any profit or advantage as
5 consideration for the child being sodomized;

6 (e) Takes pictures or makes a video-tape or motion
7 picture of a child engaged in acts of sodomy; or

8 (f) Exhibits, sells, or distributes pornographic
9 materials showing a child engaged in acts of sodomy with
10 such exhibitor seller, or distributor.

11 2. Recruitment for Abuse and Exploitation. Any person
12 who shall recruit a child ostensibly for lawful employment
13 but shall instead turn over such child to another or others
14 for prostitution or other acts of abuse or exploitation shall
15 be punishable with the penalty prescribed by law for the
16 offense committed against the child by the perpetrator.

17 If the person who recruits the child is also the
18 perpetrator of the offense committed against the child, he
19 shall be prosecuted both for the recruitment and for the
20 offense committed against the child.

21 3. Child Prostitution. Child Prostitution shall be
22 punishable with the penalty prescribed under Article 340 of
23 the Revised Penal Code, as amended.

24 The offenders of child prostitution, in addition to
25 those who promote or facilitate prostitution, are those who:

26 (a) For money or other consideration, commits the act
27 of sexual intercourse, or lascivious conduct with a child
28 prostitute below twelve years of age; even without knowledge
29 of the age of the child prior to or during the commission of
30 the unlawful act;

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1 (b) For money or other consideration, commits the act of
2 sexual intercourse or lascivious conduct with a child
3 prostitute over twelve but below the age of majority with
4 knowledge of the age of the child prior to or during the
5 commission of the offense; or

6 (c) Uses a child for prostitution and derives profit
7 or advantage therefrom, whether as manager or owner of the
8 establishment where the prostitution takes place or of the
9 sauna, disco, bar, resort, place of entertainment or
10 establishment serving as a cover for or which engages in
11 prostitution in addition to the activity for which the
12 license has been issued to said establishment.

13 4. Any person who shall commit any other act of abuse
14 and exploitation or shall be responsible for the acts or
15 conditions prejudicial to the development of a child pursuant
16 to Section 3, paragraph 7 of this Act, not expressly falling
17 within any Article of the Revised Penal Code, as amended,
18 the provisions of the Child and Youth Welfare Code, as
19 amended, or the other provisions of this Act, shall be
20 punishable with the penalty prescribed by Article 200 of the
21 Revised Penal Code, as amended.

22 SEC. 6. Sanctions for Establishments or Enterprises
23 which Promote, Facilitate, or Conduct Activities Constituting
24 Child Abuse and Exploitation. - All establishments and
25 enterprises which promote or facilitate child abuse or
26 exploitation shall be immediately closed and their authority
27 or license to operate shall be cancelled, without prejudice
28 to the owner or manager thereof being prosecuted under this
29 Act and/or the Revised Penal Code, as amended, or special
30 laws.

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1 An establishment shall be deemed to promote or facilitate
 2 child abuse or exploitation if the acts constituting
 3 child abuse or exploitation occur in the premises of said
 4 establishment under this Act or in violation of the Revised
 5 Penal Code, as amended. An enterprise such as a sauna,
 6 travel agency, or recruitment agency which promotes child
 7 abuse and exploitation as part of a tour for foreign
 8 tourists; exhibits children in a lewd or indecent show;
 9 provides child masseurs for adults of the opposite sex and said
 10 services includes any lascivious conduct with the
 11 customer; or solicitation of children for activities
 12 constituting abuse and exploitation shall be deemed to
 13 promote or facilitate child abuse and exploitation.

14 SEC. 7. Pedophiles. Pedophiles from other countries
 15 found guilty of any of the acts constituting sexual child
 16 abuse and exploitation shall, after conviction thereof and
 17 service of the sentence for the offense committed, be
 18 deported and forever banned from entry to the country.

19 Pedophiles, whether a Filipino or a foreigner, if
 20 convicted of an offense constituting acts of sexual child
 21 abuse and exploitation shall not be entitled to the benefit of
 22 the probation law.

23 SEC. 8. Article 59, Child and Youth Welfare Code, P.D.
 24 603. - The perpetrator of the Acts enumerated in Article 59
 25 P. D. No. 603, as amended, otherwise known as the Child
 26 and Youth Welfare Code, shall be prosecuted under said
 27 Code; unless a higher penalty is provided for said
 28 acts under the Revised Penal Code, as amended, in which case
 29 those acts enumerated in the Child and Youth Welfare Code, as
 30 amended, shall be prosecuted under the Revised Penal Code, as
 31 amended; subject to the provisions of Section 4 of this Act.

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1 SEC. 9. Victims; Filing of Complaints for Child Abuse
 2 and Exploitation Cases.- A child offended party shall be provided
 3 care and crisis intervention pursuant to this Act. The child offender
 4 shall be proceeded against in accordance with existing law for
 5 youth offenders and in appropriate case receive care and assistance.

6 Complaints on cases for prosecution of child abuse and
 7 exploitation may be filed by the:

8 1. Offended party, when said offended party is over
 9 fifteen (15) years of age and below the age of majority;

10 2. Parents or guardian, unless said parents or guardian
 11 are themselves the perpetrators of the child abuse or
 12 exploitation;

13 3. Ascendant or collateral relative within the third
 14 degree of consanguinity, unless said ascendant or collateral
 15 relative is the perpetrator of the child abuse or
 16 exploitation;

17 4. Officer, social worker, or representative of a
 18 licensed child-caring institution;

19 5. Official or social worker of the Department of
 20 Social Welfare and Development; or

21 6. Barangay Chairman or a concerned, responsible
 22 citizen of the barangay where the child resides in or where
 23 the act of abuse or exploitation occurred.

24 The cases may be filed by the persons herein enumerated
 25 regardless of whether the acts complained of are based on
 26 violations of the Revised Penal Code, as amended, the Child
 27 and Youth Welfare Code, as amended, or the provisions of
 28 this Act.

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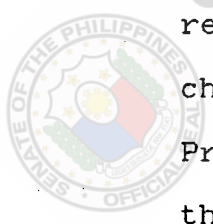
1 Pending the resolution of a case on child abuse and
2 exploitation, the court shall determine who shall have the
3 care and custody of the victim or the offended party, taking
4 into consideration the interest and welfare of the child.

5 SEC. 10. National Advisory Board; Non-Governmental
6 Agencies. - The Government shall support and provide
7 assistance to programs of non-governmental agencies to
8 prevent, deter, or provide crisis intervention and other
9 services related to child abuse and exploitation.

10 There is hereby created a National Advisory Board on
11 Child Abuse and Exploitation to advise the Department of
12 Justice in the implementation of this Act. The members of
13 the National Advisory Board are:

- 14 1. President of the Council of Welfare Agencies of the
15 Philippines;
- 16 2. President of the Child Welfare League of the
17 Philippines;
- 18 3. A Representative of the Secretary of the Department
19 of Social Welfare and Development; and
- 20 4. Two (2) Representatives of the private sector to
21 represent parents, and citizens concerned about
22 child abuse and exploitation appointed by the
23 President of the Philippines upon recommendation of
24 the Secretary of Justice. The representatives of
25 the private sector shall serve for two (2) years.

26 The Advisory Board shall annually elect a Chairman
27 from among their members and shall be entitled to such per



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1 diems and allowances as the Secretary of Justice may
2 determine. The Board shall meet twice a month or as often as
3 the Secretary may direct.

4 The Secretary of Justice shall designate an Executive
5 Secretary and a Secretariat from the Department of Justice to
6 assist in the implementation of this Act and the operations
7 of the Board, with such allowances as the Secretary may
8 approve, subject to existing laws and regulations on auditing
9 and accounting.

10 SEC. 11. Rules and Regulations. - The Secretary shall
11 promulgate rules and regulations to implement this Act, with
12 the advice and recommendations of the National Advisory
13 Board.

14 SEC. 12. Funds. - In order to implement this Act,
15 there is hereby authorized to be appropriated the amount of
16 One Hundred Thousand Pesos (P100,000.00) for the
17 implementation of this Act for the initial year of operation.
18 Thereafter, such amounts as may be required to implement this
19 Act and for the operations of the Board are hereby authorized
20 to be included in the General Appropriations of the
21 Department of Justice.

22 SEC. 13. Separability Clause. - If any provision of
23 this Act is held invalid, other provisions not affected
24 thereby shall continue in full force and effect.

25 SEC. 14. Repealing Clause. - Any law, decree or rule
26 inconsistent with the provisions of this Act are hereby
27 repealed or modified accordingly.

S. NO. _____

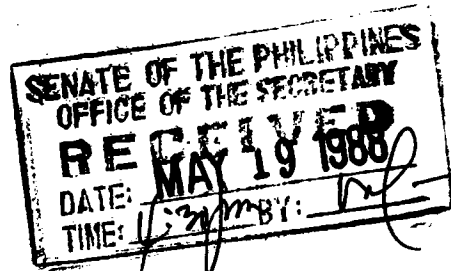
1 SEC. 15. Effectivity. - This Act shall take effect
2 upon its approval and completion of its publication in at
3 least two (2) national newspapers of general circulation.

Approved,

Senate Archives (LRAS)



Congress of the Philippines)
First Regular Session)



S E N A T E
S. NO. 487

Introduced by Senator Lina, Jr.

AN ACT
TO IMPLEMENT THE CONSTITUTIONAL PROVISION ON THE RIGHT OF CHILDREN TO SPECIAL PROTECTION FROM ALL FORMS OF NEGLECT, ABUSE, CRUELTY, EXPLOITATION, AND OTHER CONDITIONS PREJUDICIAL TO THEIR DEVELOPMENT, INCLUDING PROTECTION FROM PROSTITUTION, RAPE, SODOMY AND OTHER FORMS OF CHILD ABUSE, AND FOR OTHER PURPOSES.

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

1 SECTION 1. Title. - This Act shall be known as the
2 "Special Protection of Children from Neglect, Abuse, Cruelty,
3 and Exploitation Act."

4 SEC. 2. Declaration of Policy and Principles. - It is
5 hereby declared to be the policy of the State to provide
6 special protection for children from all forms of neglect,
7 abuse, cruelty, exploitation and other conditions prejudicial
8 to their development. The State shall also protect children
9 from all forms of child abuse and exploitation, particularly
10 prostitution, rape and sodomy; provide sanctions for the
11 commission of child abuse and exploitation; and carry out a
12 program for prevention and deterrence of and crisis
13 intervention in situations of child abuse and exploitation.

14 It is further declared to be the policy of the State to
15 protect children, particularly when the parents, guardian, or
16 person having care or custody of the child fail or are unable
17 to provide the child special protection against abuse and

REPUBLIC OF THE PHILIPPINES
S E N A T E
MANILA

S. No. 727

SENATE OF THE PHILIPPINES
OFFICE OF THE SECRETARY
RECEIVED
DATE: AUG 16 1988
TIME: 11:10 AM BY: val

Introduced by Senator Orlando S. Mercado

EXPLANATORY NOTE

There were reports in the recent past of "child trafficking". As herein defined, "child trafficking" shall refer to trading and dealing with a child, which includes, but not limited to, the act or business of buying and selling of a child for money, or for any other consideration, or barter. "Child" shall refer to persons below twenty-one years of age, except those emancipated in accordance with law, as defined in Sec. 2, PD 603, as amended, otherwise known as the Child and Youth Welfare Code. Newspaper reports also indicate that foreign nationals are involved in child trafficking.

The Child and Youth Welfare Code (FD 603, as amended) has no specific provision against "child trafficking". However, there is a provision in this Code which punishes any parent who "sells or abandons the child to another person for valuable consideration" [Art. 59(3)], but imposes a very light penalty of "imprisonment from two to six months or fine of not exceeding five hundred pesos, or both, at the discretion of the Court (Art.60). The sad part is that there is no penalty for one who buys a child, or obtains such child through some other means like "barter".

Likewise, there appears no provision in the Revised Penal Code which expressly punishes "child-trafficking". The crimes against personal liberty and security in the penal law refer to kidnapping and illegal detention [Arts. 267 and 268], unlawful arrest [Art. 269], kidnapping and failure to return a minor [Art. 270], inducing a minor to abandon his home [Art. 271], slavery [Art. 272], exploitation of child labor [Art. 273], abandonment of minors [Arts. 275, 276, 277] and exploitation of minors [Art. 278]. The prohibitions against simulation of birth and usurpation of civil status embodied in Arts. 347 and 348 of the Revised Penal Code do not specifically cover "child trafficking", as envisioned in this bill.

This bill aims to specifically prohibit and punish "child-trafficking".

For the reasons mentioned above, it is urged that this bill be passed.

Orlando S. Mercado
MAY 30 1988
ORLANDO S. MERCADO
Senator

RECEIVED
OFFICE OF THE SECRETARY
SENATE OF THE PHILIPPINES

REPUBLIC OF THE PHILIPPINES
S E N A T E
M A N I L A

S. No. 727

SENATE OF THE PHILIPPINES
OFFICE OF THE SECRETARY
RECEIVED
DATE: AUG 10 1980
TIME: 11:10 BY: val

Introduced by Senator Orlando S. Mercado

AN ACT
PROHIBITING CHILD TRAFFICKING, IMPOSING
PENALTIES THEREFORE AND FOR OTHER PURPOSES

SECTION 1. Short Title. This Act shall be known as the
ANTI-CHILD TRAFFICKING LAW.

SEC. 2. Statement of Policy. As mandated in Sec. 1,
Article XV of the Constitution, the State recognizes the Filipino
family as the foundation of the nation, and accordingly, the
State shall strengthen its solidarity and actively promote its
total development.

SEC. 3. Definition of Terms. As used in this Act, "child
trafficking" shall refer to trading and dealing with a child,
which includes, but not limited to, the act or business of buying
and selling of a child for money or for any other consideration,
or barter. As defined in PD 603, as amended, otherwise known as
the Child and Youth Welfare Code, a "child" shall refer to
persons below twenty-one years of age, except those emancipated
in accordance with law, while "parents" shall include not only
the natural or adopted parents but also the guardian, or head of
the institutions or foster home which has custody of the child.

SEC. 4. Prohibited Act. It shall be unlawful for any
person to engage in child trafficking, as herein defined.

SEC. 5. Presumption of Violation. There is a disputable presumption of violation of this Act when one makes arrangements for a foreign travel of a child without first securing the written authority under oath of the child's parents and without obtaining the necessary clearance issued by the Department of Social Works and Services in consonance with the rules and regulations to be promulgated by the Department.

SEC. 6. Implementing Regulation. The Department of Social Welfare and Services shall, within thirty (30) days from the approval of this Act, issue the appropriate rules and regulation in implementation of this Act.

SEC. 7. Penalty. Any person who violates any provision of this Act shall be punished with a fine of not less than Twenty Thousand Pesos (P20,000.00) nor more than Thirty Thousand Pesos (P30,000.00), or imprisonment of not less than twelve (12) years nor more than twenty (20) years, both such fine and imprisonment at the discretion of the Court. If the offender is a foreigner, the latter shall be deported after service of the sentence. If the offender is a government official or employee, the additional penalty of disqualification to hold public office shall likewise be imposed.

SEC. 8. Repealing Clause. Any law, presidential decree or issuance, rule and regulation inconsistent with this Act is hereby repealed or modified accordingly.

SEC. 9. Effectivity. This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,