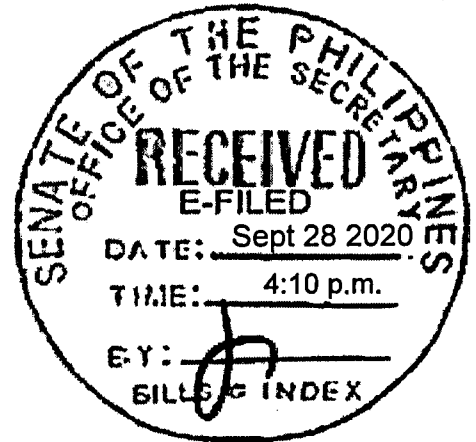


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

SENATE
S.B. No. 1854



Introduced by **SENATOR IMEE R. MARCOS**

**AN ACT AMENDING REPUBLIC ACT NO. 9775 OTHERWISE KNOWN AS THE
"ANTI-CHILD PORNOGRAPHY ACT OF 2009," AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Article XV, Sec. 3 (2) of the 1987 Philippine Constitution provides that, "*The State shall defend: xxx (2) 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.*"

Despite the Constitutional mandate above, the Philippines has consistently been found to be the world's largest known source of online child sexual exploitation. According to the International Justice Mission aid group's seven-year study, the combination of English fluency and high internet connectivity has made the Philippines a "global hotspot" for child pornography. Further, the proportion of Philippine internet addresses used to host child pornography had tripled in the three years to 2017, said the study, which based its findings on data collected by law enforcement data.

Locally, the Philippine Department of Justice – Office of Cybercrime (DOJ-OOC) has reported that there has been a 264.6% rise in reports of Filipino children being sexually abused over the internet by pedophiles in the period of 01 March 2020 to 24 May 2020, compared to the same period in 2019. The perpetrators of the online child sexual exploitation were invariably pimps, child traffickers and even parents of the child victims themselves.

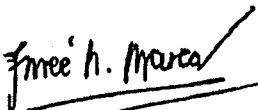
In line with the surge of cases, UNICEF Philippines Representative Oyunsai Khan Dendevnorov said that as children stay at home due to quarantine restrictions, they are at further risk to online sex trafficking and exploitation. Studies show that 90% of Filipino children are able to access the internet and that 59% can connect to the internet without parental or adult supervision. Needless to state, the

ease of internet access and connectivity is made possible and enabled by telecommunication groups and particularly Internet Service Providers.

In light of the above, there has been a growing demand to hold Internet Service Providers (ISPs) more accountable for indirectly facilitating the commission of online child sexual exploitation crimes on a daily basis. The expansion of sales of low-cost smartphones with video capability and Whatsapp technologies using the internet via the ISPs has increased revenues for such ISPs, while simultaneously facilitating the continued proliferation of the Philippine market for online child sexual exploitation.

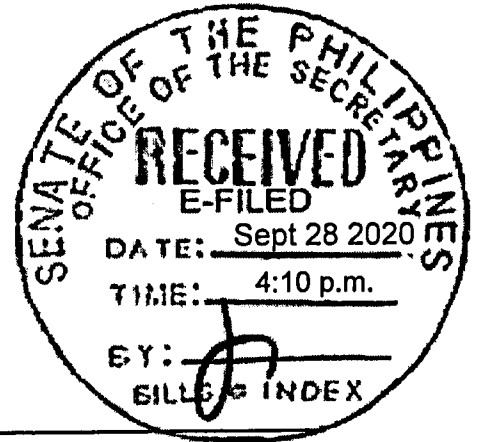
Recognizing the threats to the safety of children in the cyberworld, the Department of Education (DepEd) welcomed a Public Advisory of the DOJ on the Conduct of Online Classes Using Video Conferencing Services. The Public Advisory aims to promote learning in a safe environment, while at the same time recognizing the threats for children in the cyber space.

Therefore, this bill seeks to amend Republic Act No. 9775 otherwise known as the "*Anti-Child Pornography Act of 2009*," to provide more protection to our children and further increase its penalties over ISPs to further deter the commission of online child sexual exploitation crimes.


IMEE R. MARCOS

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**AN ACT AMENDING REPUBLIC ACT NO. 9775 OTHERWISE KNOWN AS THE
"ANTI-CHILD PORNOGRAPHY ACT OF 2009," AND FOR OTHER PURPOSES**

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

1 SECTION 1. Section 9 of Republic Act No. 9775 otherwise known as the "*Anti-*
2 *Child Pornography Act of 2009*" is hereby amended to read, as follows:

3

4 "Section 9. Duties of an Internet Service Provider (ISP). – All internet
5 service providers (ISPs) shall notify the Philippine National Police (PNP) or the
6 National Bureau of Investigation (NBI) within seven (7) days from obtaining
7 facts and circumstances that any form of child pornography is being committed
8 using its server or facility. Nothing in this section may be construed to require
9 an ISP to engage in the monitoring of any user, subscriber or customer, or the
10 content of any communication of any such person: Provided, That no ISP shall
11 be held civilly liable for damages on account of any notice given in good faith
12 in compliance with this section.

13 x x x x

14 x x x x

15 All ISPs shall install **EVERY LATEST** (available) technology, program or
16 software to ensure that access to or transmittal of any form of child
17 pornography will be blocked or filtered. **ALL ISPs SHALL SUBMIT AN**

1 **ANNUAL REPORT TO THE NATIONAL TELECOMMUNICATIONS**
2 **COMMISSION (NTC) ON THE STATUS OF THE TECHNOLOGY, PROGRAM**
3 **OR SOFTWARE THAT THEY INSTALLED OR UTILIZED PURSUANT TO**
4 **THIS PROVISIO.**

5 x x x x

6
7 SECTION 2. Section 15 of Republic Act No. 9775 is hereby amended to read, as
8 follows:

9
10 "Section 15. Penalties and Sanctions. - The following penalties and sanctions
11 are hereby established for offenses enumerated in this Act:

12 (a) Any person found guilty of syndicated child pornography as defined
13 in Section 5 of this Act shall suffer the penalty of reclusion perpetua and
14 a fine of not less than Two million pesos (Php2,000,000.00) but not more
15 than Five million pesos (Php5,000,000.00);

16 x x x

17 (k) Any ISP found guilty of willfully and knowingly failing to comply with
18 the notice and installation requirements under Section 9 of this Act shall
19 suffer the penalty of a fine of not less than [Five hundred thousand pesos
20 (Php500,000.00)] **FIVE MILLION PESOS (PHP 5,000,000.00)** but
21 not more than [One million pesos (Php1,000,000.00)] **TEN MILLION**
22 **PESOS (PHP 10,000,000.00)** for the first offense. In case of
23 subsequent offense, the penalty shall be a fine of not less than [One
24 million pesos (Php1,000,000.00)] **ELEVEN MILLION PESOS (PHP**
25 **11,000,000.00)** but not more than [Two million pesos
26 (Php2,000,000.00)] **FIFTEEN MILLION PESOS (PHP**
27 **15,000,000.00)** and revocation of its license to operate. **PROVIDED**
28 **THAT, WHEN AN OFFICER OR DIRECTOR OF ANY ISP IS FOUND**
29 **LIABLE FOR ANY UNLAWFUL ACT OR NEGLIGENCE RESULTING**

1 **TO THE COMMISSION OF THE OFFENSE, SUCH OFFICER OR**
2 **DIRECTOR SHALL BE JOINTLY AND SOLIDARILY LIABLE WITH**
3 **THE ISP AND SHALL SUFFER THE PENALTY OF PRISION**
4 **CORRECCIONAL IN ADDITION TO THE ABOVEMENTIONED**
5 **FINES;**

6 x x x "

7 *Sec. 2. Repealing Clause.* – All laws, decrees, orders, rules and regulations or
8 other issuances or parts thereof inconsistent with the provisions of this Act are hereby
9 repealed or modified accordingly.

10 *Sec. 3. Separability Clause.* – If any portion or provision of this Act is declared
11 unconstitutional, the remainder of this Act or any provision not affected thereby shall
12 remain in force and effect.

13 *Sec. 4. Effectivity.* – This Act shall take effect after fifteen (15) days following
14 the completion of its publication either in the Official Gazette or in a newspaper of
15 general circulation in the Philippines.

Approved,