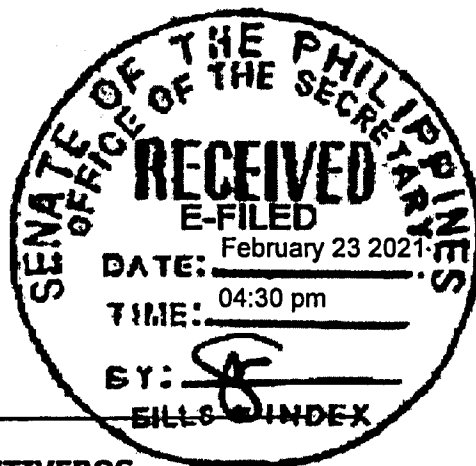


EIGHTEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES  
*Second Regular Session*

SENATE

S.B. No. 2068



INTRODUCED BY SENATOR RISA HONTIVEROS

**AN ACT**  
**STRENGTHENING THE PROTECTION OF CHILDREN AGAINST ONLINE SEXUAL**  
**ABUSE AND EXPLOITATION, AMENDING ANTI-CHILD PORNOGRAPHY ACT OF**  
**2009 and ANTI-PHOTO AND VIDEO VOYEURISM ACT OF 2009 AND FOR OTHER**  
**PURPOSES**

**EXPLANATORY NOTE**

Various researches and studies show that the Philippines is a global hotspot of Online Sexual Abuse and Exploitation (OSAEC). The Philippines has been considered as "one of the top sources of child abuse materials" in the world.<sup>1</sup> A recent report on online experiences of Filipino children revealed that more and more Filipino children are reporting that they have encountered risks online and actively engaged in these online risks.<sup>2</sup> According to the National Baseline Study on Violence Against Children in the Philippines conducted in 2016, about 43.7% of children aged thirteen (13) to below eighteen (18) years old have experienced violence online.<sup>3</sup> A fourth of these children have experienced sexual violence online.<sup>4</sup> Among these children, more males were reported to have shown their bodies or sexual acts in the Internet or cellphones.<sup>5</sup> These acts of online sexual violence involve verbal abuse, unsolicited sexual messages, and exhibition of sexualized photos and videos of children through the Internet or exchanges through electronic gadgets.<sup>6</sup> Therefore, children have become more vulnerable to risks and harms online especially because of the recent digital advancements and increased penetration of communications technology in the Philippines.

The Philippines, as signatory to the United Nations Convention on the Rights of the Child (UNCRC), is obligated to "protect the child from all forms of sexual exploitation and sexual abuse"<sup>7</sup> and to "prevent the abduction of, the sale of or traffic in children for any purpose or in any form."<sup>8</sup> Further, the Philippines have also ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) in

<sup>1</sup> International Justice Mission, *Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society*, 36 (2020).

<sup>2</sup> Philippine Kids Online, *The Online Experiences of Children in the Philippines: Opportunities, Risks and Barriers*, Technical Report 62 (2020)

<sup>3</sup> UNICEF, *National Baseline Study on Violence Against Children*, 8 (2016).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Convention on the Rights of the Child, *adopted* Nov 20 1989, 1577 U.N.T.S. 34. [hereinafter CRC].

<sup>8</sup> CRC, 35.

2002.<sup>9</sup> The OSPC requires State parties to ensure that, as a minimum, provisions that treats and punishes the aforementioned activities are provided under their domestic laws.<sup>10</sup> This includes punishing any attempt or complicity with the acts,<sup>11</sup> providing penalties,<sup>12</sup> and establishing civil, criminal, or administrative liability against offenders.<sup>13</sup> States parties must also ensure that they have jurisdiction over offences,<sup>14</sup> and allow for extradition<sup>15</sup> or International assistance.<sup>16</sup> Further, OSPC also provides that executive measures for the investigation and prosecution of offenses,<sup>17</sup> protection and treatment of children,<sup>18</sup> and raising awareness on the issue are established under domestic laws.<sup>19</sup> Hence, the Philippine government has the responsibility to provide holistic measures to address the problem of OSAEC as guided by the principles of child protection and best interest of the child.

Our existing laws that cover OSAEC do not capture the extraordinary features of online sexual violence against children as they are already outdated and are not responsive to the protection needed by children using the internet. Moreover, our current legal framework requires stronger measures for regulation of relevant entities and stakeholders, and better organizational structure and referral pathway for all related government agencies involved in handling OSAEC cases. Hence, this bill is being filed to strengthen protection of children from OSAEC by providing treatments and penalties for unlawful acts constituting OSAEC, strengthening institutions and government agencies, regulating key industry players that contribute to the proliferation of OSAEC crimes and providing structures and services that will aid in the process of aftercare and reintegration of children victims.

  
**RISA HONTIVEROS**  
Senator

<sup>9</sup> United Nations Human Rights Treaty Bodies, UN Treaty Body Database, available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=137&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=137&Lang=EN) (last accessed Nov 28, 2020)

<sup>10</sup> OPSC, 3(1)(a)(i)(a), (b), (c).

<sup>11</sup> OPSC, 3(2).

<sup>12</sup> OPSC, 3(3).

<sup>13</sup> OPSC, 3(4).

<sup>14</sup> OPSC, 4.

<sup>15</sup> OPSC, 5.

<sup>16</sup> OPSC, 6.

<sup>17</sup> OPSC, 7.

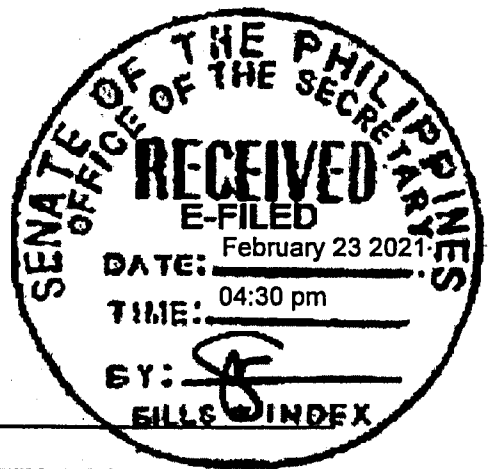
<sup>18</sup> OPSC, 8.

<sup>19</sup> OPSC, 9.

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**AN ACT**  
**STRENGTHENING THE PROTECTION OF CHILDREN AGAINST ONLINE SEXUAL**  
**ABUSE AND EXPLOITATION, AMENDING ANTI-CHILD PORNOGRAPHY ACT OF**  
**2009 and ANTI-PHOTO AND VIDEO VOYEURISM ACT OF 2009 AND FOR OTHER**  
**PURPOSES**

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

**ARTICLE I**  
**Title, Policy, Principles and Definition of Terms**

- 1       Section 1. *Short Title.* -- This Act shall be known as the "Special Protection against  
2 Online Sexual Abuse and Exploitation of Children (OSAEC) Law" or the Anti-OSAEC Law.
- 3       Sec. 2. *Declaration of State Policy and Principles.* It is the policy of the State to  
4 provide special protection to children from all forms of sexual violence, abuse and  
5 exploitation especially those committed with the use of Information and Communications  
6 Technology; provide sanctions for their commission and carry out programs for the  
7 prevention, deterrence and intervention in situations of all online sexual abuse and  
8 exploitation of children. The State shall intervene on behalf of the child when acts of  
9 online sexual abuse and exploitation is committed by the parent, caregiver, guardian,  
10 teacher or person having care or custody of the child. It is also the policy of the state to  
11 protect, rehabilitate and assist in the reintegration of children who have been victimized  
12 and gravely affected by the violations committed against them.
- 13 The State recognizes the vital role of Information and communications technology in the  
14 education, skills and growth and development of Filipino children. The State also  
15 recognizes the inherent right of children to freedom of expression which includes the  
16 freedom to seek, receive, and impart information and ideas of all kinds, regardless of  
17 frontiers in accordance with the rights of a child declared in the United Nations Convention  
18 on the Rights of the Child. Further, the State is obligated to adopt the protective measures  
19 provided in the signed Optional Protocol to the UNCRC on the Sale of Children, Child  
20 Prostitution, and Child Pornography. Finally, the best interest of children shall be the

1 paramount consideration in all actions concerning them whether undertaken by public or  
2 private social welfare institutions, courts of law, executive agencies, law enforcement  
3 agencies, local government units, legislative bodies and private business enterprises  
4 especially those related to the online safety and protection of children.

5 **Sec. 3. *Definition of Terms.* –**

6 a) "Child" refers to a person below eighteen (18) years of age or those  
7 over but are unable to fully take care of themselves or protect  
8 themselves from abuse, neglect, cruelty, exploitation or discrimination  
9 because of long term physical, mental, intellectual or sensory  
10 impairments or condition.

11 For the purposes of this act, and in relation to RA. No. 9775, a child  
12 shall also refer to:

- 13 1. A person regardless of age who is presented, depicted or  
14 portrayed as a child as defined herein; and
- 15 2. Computer-generated, digitally or manually crafted images, or  
16 graphics of a person who is represented or who is made to  
17 appear to be a child as defined herein.

18 b) "Sexual Violence" refers to any act which is sexual in nature which is  
19 committed against a child.

20 c) "Online Sexual Abuse and Exploitation of Children" refers to the use of  
21 the Internet as a means to abuse and exploit children sexually, which  
22 includes cases in which contact child abuse and/or exploitation offline  
23 is combined with an online component. This can also include but not  
24 limited to the production, dissemination and possession of child sexual  
25 abuse and exploitation materials; online grooming of children for sexual  
26 purposes; sexual extortion of children, revenge pornography;  
27 commercial sexual exploitation of children; exploitation of children  
28 through online prostitution; and live streaming of sexual abuse.

29 d) "Sexual Abuse of Children" refers to any form or format communication  
30 through any platform or any physical interaction between a child and  
31 any person when the child is being used for any act or activity inducing  
32 sexual stimulation. These can be carried out against the child using  
33 force, trickery, bribes, threats or pressure.

34 e) "Child Sexual Exploitation" refers to child sexual abuse and/or other  
35 sexualized acts using children that involves an exchange of some kind  
36 (e.g., money, affection, food, drugs, shelter, protection, favor or

1 influence. It occurs where an individual or group takes advantage of an  
2 imbalance of power to coerce, manipulate or deceive a child:(a) in  
3 exchange for something the victim needs or wants; and/or (b) for the  
4 financial advantage or increased status of the perpetrator or facilitator.  
5 The victim may have been sexually exploited even if the sexual activity  
6 appears consensual.

7 f) "Child Sexual Abuse and Exploitation Materials" refers to photos,  
8 images, videos, recordings, streams or any other form of media  
9 depicting acts of sexual abuse and exploitation of a child or  
10 representation of a child a sexual object whether generated digitally or  
11 not. This includes materials that focus on the genitalia or other sensitive  
12 body parts of a child.

13 According to the Luxembourg Guidelines, Pornography is a term  
14 primarily used for adults engaging in consensual sexual acts distributed  
15 to the general public for sexual pleasure. The continued use of this term  
16 normalizes and may contribute to diminishing the gravity of, trivializing,  
17 or even legitimizing what is actually sexual abuse and exploitation of  
18 children. Further, the term "child pornography" risks insinuating that  
19 the acts are carried out with the consent of the child and represent  
20 legitimate material. Therefore, for the pursuant to this Act, the term  
21 "Child Pornography" used in all existing laws is hereby replaced with  
22 the term "Child Sexual Abuse and Exploitation Material".

23 g) "Streaming" refers to the viewing of the broadcast of child sexual abuse  
24 and exploitation through the use of information and communications  
25 technologies. It is considered as live streaming of child sexual abuse  
26 and exploitation when the broadcast occurs in real time. Viewers may  
27 be passive or active, where the latter is directing the explicit sexual  
28 activity to be committed by or against the child victim. This includes  
29 those who have subscribed, joined, or supported a livestream broadcast  
30 of child sexual abuse and exploitation.

31 h) "Perpetrator" refers to any person whose acts make it possible for other  
32 perpetrators to reach and communicate with the child victim, and to  
33 provide end-users access and/or receive sexually abusive and  
34 exploitative materials of children, and to any person who acquires  
35 OSAEC materials and services regardless of the presence of an element  
36 of exchange for compensation. They are involved in the preparation,

1 production, distribution and consumption of child sexual abuse and  
2 exploitation materials and services.

3 i) "Information and Communications Technology" refers to information-  
4 handling tools - a varied set of goods, applications and services that  
5 are used to produce, store, process, distribute and exchange  
6 information. They include the "old" ICTs of radio, television and  
7 telephone, and the "new" ICTs of computers, satellite and wireless  
8 technology and the Internet. These different tools are now able to work  
9 together and combine to form our "networked world" - a massive  
10 infrastructure of interconnected telephone services, standardized  
11 computing hardware, the Internet, radio and television, which reaches  
12 into every corner of the globe.

13 j) "Internet Service Provider" refers to a person or entity that supplies or  
14 proposes to supply, an Internet carriage service to the public. This  
15 includes those providing fixed landline, broadband services, or cellular  
16 data services and those that provide free or public Wi-Fi.

17 k) "Internet Content Host" refers to a person or entity who hosts or allows  
18 to host website content in its computer server/s, connecting it to the  
19 internet and providing storage capacities.

20 l) "Social Media Companies" refers to entities that serve as an  
21 intermediary which provides a platform for users to post, upload,  
22 download and share their own contents. This includes entities that  
23 provide social network or messaging services, digital content,  
24 streaming or broadcast services, digital file storage services and cloud-  
25 based services.

26  
27 **ARTICLE II**  
28 **Punishable Acts related to OSAEC**  
29

30 Sec. 4. Section 4 of RA No.9775 or the Anti-Child Pornography Act of 2009 is  
31 hereby amended to read as follows:

32 "Section 4 Unlawful or Prohibited Acts. - It shall be unlawful for any person

33 (a) To hire, employ, use, persuade, induce or coerce a child to perform in the  
34 creation or production of any form of child abuse and exploitation material and any  
35 activity related to OSAEC;

36 xxx

1 (f) For film distributors, theaters and ICTs by themselves or in cooperation with  
2 other entities, to distribute any form of child abuse and exploitation material or to  
3 facilitate commission of OSAEC;

4 (g) For a parent, legal guardian or person having custody or control of a child to  
5 knowingly facilitate or permit the child to engage, participate or assist in any form  
6 of child abuse and exploitation or in the commission of OSAEC;

7 (h) To engage in the luring or grooming of a child, including any interaction and/or  
8 act to influence a child to engage in OSAEC through the use of, but not limited to,  
9 social media or other online platforms;

10 (k) To conspire to commit any of the prohibited acts stated in this section.  
11 Conspiracy to commit any form of child abuse and exploitation or OSAEC shall be  
12 committed when two (2) or more persons come to an agreement concerning the  
13 commission of any of the said prohibited acts and decide to commit it;

14 xxx

15 (m) To influence, recruit, transport, transfer, harbor, provide, or receive a child  
16 by any means for the purpose of committing OSAEC;

17 (n) To introduce or match for money, profit, or material, economic or other  
18 consideration a child to a foreign national or to any person for the purpose of  
19 committing OSAEC;

20 (o) To advertise, publish, print, broadcast or distribute, or cause the  
21 advertisement, publication, printing, broadcasting or distribution by any means,  
22 including the use of information technology and the Internet, of any brochure,  
23 flyer, or any propaganda material that promotes OSAEC;

24 (p) To willfully subscribe, join, donate or support in an internet address that  
25 hosts OSAEC or streaming and/or live streaming of child sexual abuse and  
26 exploitation;

27 (q) To hire, employ or pay a facilitator to stream or live stream child sexual  
28 abuse and exploitation;

29 (r) To produce, direct, manufacture, create or facilitate the streaming or live  
30 streaming of child sexual exploitation;

31 (s) To willfully stream and/or live stream child sexual abuse and exploitation;

32 (t) To knowingly benefit from, financial or otherwise, the commission of  
33 OSAEC;

34 (u) To attempt to commit any of the prohibited acts stated in this section.  
35 Attempt to commit OSAEC shall be committed when the offender commences the  
36 commission of OSAEC directly or over acts, and does not perform all the acts of

1 execution which should produce the felony by reason of some cause or accident  
2 other than his own spontaneous desistance."

3 Sec. 5. Section 4 of RA 9995 or the Anti-Photo and Video Voyeurism Act of 2009,  
4 Is hereby amended as follows:

5 "Section 4. Prohibited Acts. It is hereby prohibited and declared unlawful for any  
6 person:

7 xxx

8 The prohibition under paragraphs (b), (c) and (d) shall apply notwithstanding that  
9 consent to record or take photo or video coverage of the same was given by such  
10 person/s. Further, when the person/s involved in the prohibitions provided under  
11 this law is a child, consent of such child shall not be considered as exculpating  
12 defense of the perpetrator. Any person who violates this provision shall be liable  
13 for photo or video voyeurism as defined herein."

14 Sec. 6. *Offline crimes.* – Sexual Crimes against children in violation of the Revised  
15 Penal Code under Crimes against Persons and Crimes against Chastity, specifically Rape,  
16 Acts of Lasciviousness, Qualified Seduction, Simple Seduction, Acts of Lasciviousness with  
17 the Consent of the Offended party, Corruption of Minors, White slave trade, Forcible  
18 Abduction, Consented Abduction and other related sexual abuse and exploitation crimes  
19 provided under RA No. 9995 of the Anti-Photo and Video Voyeurism Act of 2009, RA No.  
20 9262 or the Anti- Violence Against Women and Children, RA No. 7610 or the Special  
21 Protection of Children Against Abuse, Exploitation and Discrimination and RA No. 10364  
22 or the Expanded Anti-Trafficking in Persons Act of 2012 which are committed through  
23 the use of Information and Communications Technology shall be considered as OSAEC  
24 crimes and shall be treated and punished in accordance with provisions of this Act:  
25 Provided, That the penalty to be imposed shall be (1) degree higher than that provided  
26 for under the law and in relation to Section 6 of RA No. 10175 or the Cybercrime  
27 Prevention Act of 2012.

28 Sec. 7. *Safe Harbor Exception.* – Access, possession and recording of any child  
29 sexual abuse and exploitation material of any person for the purpose of reporting to  
30 government authorities; legitimate investigation and administration of the criminal justice  
31 system; and legitimate scholarly and academic purposes with requisite ethical clearance,  
32 shall not be considered as a violation of this Act.

33  
34 **ARTICLE III**  
35 **Duties and Obligations of Private Sector**  
36

37 Sec. 8. Section 9 of Republic Act 9775 is hereby amended to read as follows:



1       \*Section 9. Duties of an Internet Service Provider (ISP) - All Internet service  
2 providers (ISPs) shall notify the Philippine National Police (PNP) or the National  
3 Bureau of Investigation (NBI) not more than two (2) days from obtaining facts and  
4 circumstances that any form of child sexual abuse and exploitation is being  
5 committed using its server or facility, including the streaming and/or live streaming  
6 of child sexual abuse and exploitation. In addition, ISPs shall block and remove  
7 websites that contain and broadcast any form of child abuse and exploitation  
8 materials within forty-eight (48) hours from discovery. Failure of the ISPs to block  
9 or remove any form of child abuse and exploitation materials or to block the  
10 streaming and/or live streaming of child sexual exploitation within forty-eight (48)  
11 hours from discovery shall be conclusive evidence of willful and intentional violation  
12 thereof.

13 Furthermore, an ISP shall preserve such evidence for the purpose of investigation  
14 and prosecution by law enforcement authorities, prosecutors and other  
15 investigative bodies for a period of one (1) year; Provided, That the period of  
16 preservation may be extended by virtue of a notification to the ISP with the  
17 corresponding report of the law enforcement, prosecutor and other investigative  
18 body to the NTC of such extension.

19 An ISP shall, pursuant to guidelines that will be formulated in the implementation  
20 of this law, and upon the request of law enforcement authorities, prosecutors and  
21 other investigative bodies, furnish the particulars of users who gained or attempted  
22 to gain access to an Internet address which contains any form of child sexual abuse  
23 and exploitation materials or facilitates the commission of OSAEC or the streaming  
24 or live streaming of child sexual exploitation.

25 All ISPs shall develop and adapt a set of systems and procedures for blocking of  
26 websites containing OSAEC violations using their bandwidth which are compatible  
27 with the services and products they offer and in accordance with the Voluntary  
28 Principles to Counter Online Child Sexual Exploitation and Abuse which may include  
29 the installation of available technology, program or software to ensure that access  
30 to or streaming of child sexual exploitation will be blocked. This shall also include  
31 the adoption of the child online safeguarding policy pursuant to RA No. 10929 or  
32 the Free Internet Access in Public Spaces Act and the adoption and integration of  
33 Child Rights and Business Principles in their corporate governance practice and  
34 processes including zero tolerance for violence against children. Bilateral and  
35 multilateral agreements between ISPs and law enforcement authorities on data

1 and Information sharing is encouraged to catalyze action to support the  
2 implementation of this law.

3 An ISP who shall knowingly, willfully and intentionally violate this provision shall  
4 be subject to the penalty provided under Section 15(k) of this Act.

5 Within 90 days from finalization of the Implementing Rules and Regulations of this  
6 Act, the Department of Information and Communications Technology (DICT),  
7 through National Telecommunications Commission (NTC), shall promulgate the  
8 necessary rules and regulations for the implementation of this provision which shall  
9 include, among others, the development and adaption of systems and procedure  
10 and installation of technology or filtering software that will block websites  
11 containing OSAEC and streaming and/or live streaming of child sexual abuse and  
12 exploitation."

13 Sec. 9. Section 11 of Republic Act 9775 is hereby amended to read as follows:

14 "Section 11. Duties of an Internet Content Host. - An internet content host shall:

- 15 a) Not host any form of child abuse and exploitation materials or streaming  
16 and/or live streaming of child sexual abuse and exploitation on its internet  
17 address;
- 18 b) Within two (2) days, report the presence of any form of child abuse and  
19 exploitation materials or any conduct of streaming and/or live streaming of  
20 child sexual abuse and exploitation, as well as the particulars of the person  
21 maintaining, hosting, distributing or in any manner contributing to such  
22 internet address, to the proper authorities;
- 23 c) Within forty-eight (48) hours from discovery, to block and remove contents  
24 and websites containing any form of child sexual abuse and exploitation  
25 material; Provided, That the failure of the internet content host to remove  
26 any form of child abuse and exploitation materials or to block the streaming  
27 and/or live streaming of child sexual exploitation within forty-eight (48)  
28 hours from receiving the notice that such content is in its server shall be  
29 conclusive evidence of willful and intentional violation thereof; and
- 30 d) Preserve such evidence for purposes of investigation and prosecution by  
31 relevant authorities for a period of one (1) year; Provided, That the period  
32 of preservation may be extended by virtue of a notification to the ISP with  
33 the corresponding report of the law enforcement, prosecutor and other  
34 investigative body to the NTC of such extension.

35 An internet content host shall, pursuant to guidelines that will be formulated  
36 in the implementation of this law, and upon the request of law enforcement

1 authorities, prosecutors and other investigative bodies, furnish the  
2 particulars of users who gained or attempted to gain access to an Internet  
3 address that contains any form of child abuse and exploitation materials or  
4 facilitates or promotes the commission of OSAEC or streaming and/or live  
5 streaming of child sexual abuse and exploitation.

6 An Internet content host who shall knowingly, willfully and intentionally  
7 violate this provision shall be subject to the penalty provided under Section  
8 15(j) of this Act:

9 Internet content hosts shall develop and adapt a set of systems and  
10 procedures for preventing, detecting and reporting of OSAEC violations  
11 committed within their platforms which are compatible with the services and  
12 products they offer and in accordance with the Voluntary Principles to  
13 Counter Online Child Sexual Exploitation and Abuse which may include the  
14 installation of available technology, program or software to ensure that  
15 access to or streaming of child sexual exploitation will be blocked or filtered.  
16 This shall also include the adoption of the child online safeguarding policy  
17 pursuant to RA No. 10929 or the Free Internet Access in Public Spaces Act  
18 and the adoption and integration of Child Rights and Business Principles in  
19 their corporate governance practice and processes including zero tolerance  
20 for violence against children. Bilateral and multilateral agreements between  
21 ISPs and law enforcement authorities on data and information sharing may  
22 be pursued to catalyze action to support the implementation of this law.

23 Within 90 days from finalization of the Implementing Rules and Regulations  
24 of this Act, the Department of Information and Communications  
25 Technology, through National Telecommunications Commission (NTC), shall  
26 promulgate the necessary rules and regulations for the implementation of  
27 this provision which shall include, among others, the development and  
28 adaption of systems and procedure and installation of technology or filtering  
29 software that will block streaming and/or live streaming of child sexual  
30 abuse and exploitation."

31 Sec. 10. Section 10 of Republic Act 9775 is hereby amended to read as follows:

32 "Section 10. Responsibility of Mall, Hotel or Motel Owners/Operators;  
33 owners/lessors/sub-lessees of transient and residential houses, condominiums,  
34 and apartments or any identifiable living spaces; Internet Cafes/Kiosks, Owners or  
35 Lessors of Other Business Establishments and Owners/Lessors of any place or  
36 facility used for OSAEC. - All residential houses, condominiums, and apartments or

1 any identifiable living spaces, mall, hotel or motel owners/sub-lessees/operators,  
2 Internet cafes/kiosks or lessors of business establishments and owners/lessors of  
3 any place or facility shall notify the PNP or the NBI immediately but not later than  
4 48 hours from obtaining facts and circumstances that online child abuse and  
5 exploitation is being committed within their premises. Provided, that actual  
6 knowledge by the owners/lessors/sub-lessees/operators and owners or lessors of  
7 other business establishments is required for there to be a violation under this Act.

8 xxx

9 Any willful and intentional violation of this provision shall be subject to the penalty  
10 provided under Section 15(l) of this Act and can be considered as aiding or abetting  
11 OSAEC."

12 Sec. 11. The following provisions are hereby added to RA No 9775:

13 "Section \_\_\_\_\_. Responsibility of Social Media Networks. – Social Media Networks  
14 and other similar entities shall remove any content in their platform of child sexual  
15 abuse and exploitation or any live stream/broadcast thereof. Further, they are  
16 required to promulgate guidelines that promote awareness of OSAEC and develop  
17 and adapt a set of systems and procedures for preventing, detecting and reporting  
18 of OSAEC violations committed within their platforms which are compatible with  
19 the services and products they offer and in accordance with the Voluntary  
20 Principles to Counter Online Child Sexual Exploitation. This shall include  
21 technological and other practical safeguards to prevent and detect recruitment and  
22 trafficking as well as training of employees in detecting patterns indicative of  
23 OSAEC-related recruitment and trafficking. This shall also include the adoption of  
24 the child online safeguarding policy pursuant to RA No. 10920 or the Free Internet  
25 Access in Public Spaces Act and the adoption and integration of Child Rights and  
26 Business Principles in their corporate governance practice and processes including  
27 zero tolerance for violence against children. Bilateral and multilateral agreements  
28 between ISPs and law enforcement authorities on data and information sharing  
29 may be pursued to catalyze action to support the implementation of this law.  
30 Further, Social Media Networks shall establish high privacy setting as default safety  
31 and privacy settings for minors up to 18 years of age that eliminate vulnerabilities  
32 and ensure the online safety of children.

33 Social Media Network who shall knowingly, willfully and intentionally violate this  
34 provision shall be subject to the penalty provided under Section 15(m) of this Act.  
35 Within 90 days from finalization of the Implementing Rules and Regulations of this  
36 Act, the Department of Information and Communications Technology, through

1 National Telecommunications Commission (NTC), shall promulgate the necessary  
2 rules and regulations for the implementation of this provision which shall include,  
3 among others, the development and adaption of systems and procedure and  
4 installation of technology or filtering software that will block streaming and/or live  
5 streaming of child sexual abuse and exploitation."

6 "Section \_\_\_\_ Responsibility of Banks, Money Service Businesses, Credit Card  
7 Companies, Electronic Money Issuers and other BSP-supervised Financial  
8 Institutions. Banks, money service businesses, credit card companies, electronic  
9 money issuers and other BSP-supervised Financial Institutions or any person who  
10 has direct knowledge of any OSAEC financial activity shall have the duty to report  
11 any suspected OSAEC-related activity or transaction to the proper authorities, such  
12 as the AMLC, within seven (7) days from discovery thereof.

13 The Anti-Money Laundering Council (AMLC) shall promulgate the necessary rules  
14 and regulations for the implementation of this provision which shall include, among  
15 others, the guidelines to determine suspicious activity and indicators that OSAEC-  
16 related activities are being conducted. AMLC shall provide the necessary guidelines  
17 with regard to this provision within three (3) months from the effectivity of this  
18 Act.

19 The commission of OSAEC shall be considered as an 'unlawful activity' under the  
20 Anti-Money Laundering Act.

21 Any willful and intentional violation of this provision shall be subject to the  
22 appropriate penalty under the law."

23 Sec. 12. Section 15 of RA No. 9775 is hereby amended as follows:

24 "Section 15. Penalties and Sanctions. The following penalties and sanctions are  
25 hereby established for offenses enumerated in this Act:

26 xxx

27 (k) Any ISP found guilty of failing to comply with its obligation to give notice and  
28 other requirements under Section 9 of this Act shall suffer the penalty of a fine of  
29 not less than two million pesos (P2,000,000.00) but not more than five million  
30 pesos (P 5,000,000.00) for the first offense. In case of subsequent offense, the  
31 penalty of fine of not less than two million pesos (P2,000,000.00) but not more  
32 than ten million pesos (P10,000,000.00) and revocation of its franchise and its  
33 license to operate.

34 (l) Any person found guilty of failing to comply with the notice requirements under  
35 Section 10 of this act shall suffer the penalty of fine of not less than two million  
36 pesos (P2,000,000.00) but not more than five million pesos (P 5,000,000.00) for

1 the first offense. In case of a subsequent offense, the penalty shall be a fine of  
2 not less than two million pesos (P2,000,000.00) but not more than ten million  
3 pesos (P10,000,000.00) and revocation of its license to operate and immediate  
4 closure of the establishment.

5 (m) Any Social Media Network or similar entity found guilty of failing to comply  
6 with the requirements provided under Section \_\_\_\_ shall suffer the penalty of fine  
7 of ten million pesos (P10,000,000.00).

8 (n) Any Banks, Money Service Businesses, Credit Card Companies, Electronic  
9 Money Issuers and other BSP-supervised Financial Institutions found guilty of  
10 failing to comply with their reportorial obligation provided under Section \_\_\_\_ shall  
11 suffer the penalty as provided under the law.

12 **Sec. 13. OSAEC Protection Trust Fund.** – All proceeds of fines collected from the  
13 imposition of penalties for violations of this Act shall form part of an OSAEC Protection  
14 Trust Fund which shall be allocated for programs on OSAEC and services provided to child  
15 victims and administered by DSWD. This fund may also constitute as part of the budget  
16 of the IACACP.

17 **Sec. 14. Non-applicability.** – The duty and obligation of related entities belonging  
18 to the ICT, Business and Financial Sectors as provided in this Act to notify law enforcers,  
19 to preserve evidence and to provide the necessary information requested by law  
20 enforcers, prosecutors and other investigative bodies through proper processes shall not  
21 be construed as a violation of the Data Privacy Act of 2012.

## 22 23 **ARTICLE IV** 24 **Remedial Procedures and Case Management** 25

26 **Sec. 15. Who may file a Complaint.** – Complaints on cases of unlawful acts related  
27 to and constituting Online Sexual Abuse and Exploitation of Children under the Anti-Child  
28 Pornography Law of 2009, Anti-Photo and Video Voyeurism Act of 2009, Cybercrime  
29 Prevention Act of 2012, Special Protection of Child Against Abuse, Exploitation and  
30 Discrimination Act, Expanded Trafficking in Persons Act Of 2012, Safe Spaces Act, Anti-  
31 Violence Against Women and their Children Law, and those related felonies of Crimes  
32 against Persons and Crimes against Chastity under the Revised Penal Code may be filed  
33 by the following:

- 34 a) Offended party;  
35 b) Parents or guardians;  
36 c) Ascendant or collateral relative within the third degree of  
37 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; or
- g) At least three (3) concerned responsible citizens where the violation occurred.

**Sec. 16. *Persons Mandated to Report OSAEC Cases.***

- a) It shall be the duty of the following persons wot report all incidents of OSAEC and related offline offenses to the DSWD, the DepEd, the DOJ, the PNP or the NBI, or any the concerned LGU within forty-eight (48) hours from knowledge thereof:

- 1. Any healthcare provider, including the attending physician, nurse, clinician, barangay health worker, or any person who has caused the examination or treatment of a child victim appearing to have suffered sexual abuse and exploitation;
- 2. Teacher, guidance counselor, principal, school head, or any person whose work involves the education, training, and care of children;
- 3. Any Social Worker who has reason to believe that OSAEC and other related offline offenses have been committed or has been duly informed thereof by the victim or two (2) concerned citizens living within the same community/LGU;
- 4. Any National or Local public officer; OR
- 5. Any person who has knowledge of the commission of OSAEC and related offline offenses:

- b) The persons mandated to report cases shall, as far as applicable, the following responsibilities:

- 1. Properly Document any of the Victim's Physical, Emotional, or Psychological Injuries;
- 2. Properly record observation on the Victim's condition and circumstances during the examination or visit;
- 3. Safeguard the records and make them Immediately available to the victim upon request; and
- 4. Immediately report any violation of this Act to the proper authorities.

1 c) Failure to report possible OSAEC and related offline offenses under this  
2 Act shall be punished by a fine of not more than fifty thousand pesos  
3 (P50,000.00) without prejudice to any administrative liability, if  
4 applicable.

5 d) No Criminal, Civil or Administrative action may be filed against any  
6 person who is performing the responsibilities mandated under this  
7 section.

8 **Sec. 17. *Protective Custody of the Child.*** – The child victim shall be immediately  
9 placed under the protective custody of the Department of Social Welfare and  
10 Development pursuant to RA No. 76 10 or the Special Protection of Children Against  
11 Abuse, Exploitation and Discrimination Act. In the regular performance of this function,  
12 the officer of the Department of Social Welfare and Development shall be free from any  
13 administrative, civil or criminal liability. Custody proceedings shall be in accordance with  
14 the provisions of Presidential Decree No. 603.

15 **Sec. 18. *Confidentiality.*** – All records and proceedings involving children under this  
16 law from the initial contact until the final disposition of the case shall be considered  
17 privileged and confidential. The public shall be excluded during the proceedings and the  
18 records shall not be disclosed directly or indirectly to anyone by any of the parties or the  
19 participants in the proceedings for any purpose whatsoever.

20 It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed  
21 materials, announcer or producer in case of television and radio broadcasting, digital  
22 media, producer and director of the film in case of the movie industry, to cause undue  
23 and sensationalized publicity of any case of violation of this Act which results in the moral  
24 degradation and suffering of the child.

25 The highest ethical and professional standards in reporting and covering cases of children  
26 must be observed such that in all publicity concerning children, the best interest of the  
27 child shall be the primary concern. Journalistic activity which touches on the lives and  
28 welfare of children must be carried out with sensitivity and appreciation of the vulnerable  
29 situation of children, so that children are not re-victimized or re-traumatized.

30 **Sec. 19. *Special Court Proceedings.*** – Cases involving violations of this Act and  
31 related laws shall be heard in the chamber of the Regional Trial Court duly designated as  
32 Family Courts.

33 To prevent re-traumatization of the victim, the victim shall not be presented in court  
34 directly facing the accused but instead may present his or her testimony via other means  
35 provided in the Rules on the Examination of the Child Witness.



1       **Sec. 20. Reasonable Accommodation for CWDs.** – The Supreme Court Committee  
2 on Family Courts and Juvenile Concerns, DOJ and the DSWD shall provide for guidelines,  
3 within 90 days from finalization of the Implementing Rules and Regulations of this Act  
4 and pursuant to the UN Convention on the Rights of Persons with Disabilities, for provision  
5 of necessary and appropriate modification and adjustments across all stages of case  
6 management of OSAEC cases, that will not impose a disproportionate or undue burden,  
7 to ensure children with disabilities will have access to justice.

8       **Sec. 21. Plea of Guilty to a lesser offense.** – The accused, who is a parent,  
9 guardian, relative or any person providing immediate care to a child victim in the absence  
10 of any other person, with the consent of the offended party and the prosecutor, may be  
11 allowed by the trial court to plead guilty to a lesser offense which is necessarily included  
12 in the offense charged or is one that has some of the essential elements of the original  
13 offense charged. The lesser offense shall also belong to the same classification or title  
14 under the Revised Penal Code or the relevant special penal law as the offense charged in  
15 the original information.

16       **Sec. 22. Applicability of the Juvenile Justice and Welfare Act of 2006.** – In cases  
17 when the offender is a child, the prosecution of the offense shall be in accordance with  
18 the Juvenile Justice and Welfare Act of 2006 and he or she shall be accorded the  
19 appropriate treatment and services under the said law.

20 Further, in cases of self-generated child sexual abuse and exploitation materials, the child  
21 producing the sexualized materials shall be considered a victim and not an offender. The  
22 child victim shall be accorded the necessary treatment and services under this Act.

23       **Sec. 23. Section 18 of Republic Act 9775 is hereby amended to read as follows:**

24       **"Section 18. Mandatory Services to Victims of OSAEC.** - To ensure recovery,  
25 rehabilitation and reintegration of the victim into society, government agencies  
26 and the LGUs shall make available the following services to victims of any form of  
27 child abuse and exploitation or OSAEC:

- 28       a) Foster care and Emergency shelter or appropriate housing;
- 29       b) Counseling;
- 30       c) Free legal services, which shall include information about the victim's  
31       rights and the procedure for filing of complaints, claims for compensation  
32       and such other legal remedies available to them in a language understood  
33       by the child;
- 34       d) Medical or psychological services;
- 35       e) Livelihood and skills training; and
- 36       f) Educational assistance.

1 Sustained supervision and follow through mechanism that will track the progress  
2 of recovery, rehabilitation and reintegration of the child victims shall adopted and  
3 carried out."

## 4 5 **ARTICLE V**

### 6 **Duties and Obligations of members of the Public Sector** 7

8 *Sec. 24. Inter-Agency Council Against Online Sexual Abuse and Exploitation of*  
9 *Children.* – The Inter-Agency Council Against Child Pornography (IACACP) is hereby  
10 renamed as the Inter-Agency Council Against Online Sexual Abuse and Exploitation of  
11 Children (IAC-OSAEC). The Inter-Agency Council shall retain its composition and functions  
12 as provided under RA No. 9775 with the addition of the Secretary of the Department of  
13 Education as a member of the council.

14 *Sec. 25. Section 19 of Republic Act 9775 is hereby amended to read as follows:*

15 "Section 19. Programs for Victims of OSAEC. The Inter-Agency Council Against  
16 Online Sexual Abuse and Exploitation of Children shall develop and implement the  
17 necessary programs that will prevent commission of child abuse and exploitation  
18 and OSAEC, as well as protect, heal and reintegrate the child into the mainstream  
19 of society. Such programs shall include, but not limited to, the following:

- 20 a) Provision of mandatory services including counseling, free legal services,  
21 medical or psychological services, livelihood and skills training and  
22 educational assistance to the child;
- 23 b) Sponsorship of a national research program on OSAEC and the  
24 establishment of a data collection system for monitoring and evaluation  
25 purposes;
- 26 c) Provision of necessary technical and material support services to  
27 appropriate government agencies and nongovernmental organizations;
- 28 d) Sponsorship of conferences and seminars to provide venue for consensus  
29 building amongst the public, the academe, government, nongovernmental  
30 and international organizations and
- 31 e) Promotion of information, awareness and education campaigns regarding  
32 safe and responsible use of the Internet in relation to OSAEC to educate  
33 the public, including children."

34 *Sec. 26. OSAEC Referral Pathway, Protocols and Database.* – There shall be an  
35 organized and unified referral pathway for reporting, detecting, investigating, prosecuting  
36 and providing of aftercare assistance and support in OSAEC cases. The Department of  
37 Social Welfare and Development, sitting as the chairman of the Inter-Agency Council

1 Against Online Sexual Abuse and Exploitation of Children (IAC-OSAEC), in coordination  
2 with the Department of Justice- Office of Cybercrimes (DOJ-OOC), Department of  
3 Information and Communications Technology (DICT), Commission on Human Rights  
4 (CHR), the Philippine National Police (PNP), National Bureau of Investigation (NBI), Anti-  
5 Money Laundering Council (AMLC) and in consultation with ICT companies and Civil  
6 Society Organizations (CSOs), shall develop a system and set of protocols for referring  
7 OSAEC cases and recording and maintaining a unified database for the purpose of  
8 tracking and updating the status and stages of investigation and prosecution of cases,  
9 consistent with existing laws on the protection of the welfare of children.

10 **Sec. 27. Secretariat to the Council.** – The DSWD shall establish the necessary  
11 Secretariat for the Council. "The secretariat shall provide support for the functions and  
12 projects of the Council. The secretariat shall be headed by an executive director, who  
13 shall be appointed by the Secretary of the DSWD upon the recommendation of the  
14 Council. The executive director must have adequate knowledge on, training and  
15 experience in the phenomenon of and issues involved in OSAEC and in the field of law,  
16 law enforcement, ICT, social work, criminology, or psychology. "The executive director  
17 shall be under the supervision of the IAC-OSAEC through its Chairperson and Co-  
18 Chairperson, and shall perform the following functions: "(a) Act as secretary of the  
19 Council and administrative officer of its secretariat; "(b) Advise and assist the Chairperson  
20 in formulating and implementing the objectives, policies, plans and programs of the  
21 Council, including those involving mobilization of government offices represented in the  
22 Council as well as other relevant government offices, task forces, and mechanisms; "(c)  
23 Serve as principal assistant to the Chairperson in the overall supervision of council  
24 administrative business; "(d) Oversee all council operational activities; "(e) Ensure an  
25 effective and efficient performance of council functions and prompt implementation of  
26 council objectives, policies, plans and programs; "(f) Propose effective allocations of  
27 resources for implementing council objectives, policies, plans and programs; "(g) Submit  
28 periodic reports to the Council on the progress of council objectives, policies, plans and  
29 programs; "(h) Prepare annual reports of all council activities; and "(i) Perform other  
30 duties as the Council may assign."

31  
32 **ARTICLE VI**  
33 **Final Provisions**  
34

35 **Sec. 27. Section 22 of Republic Act 9775 is hereby amended to read as follows to**  
36 **reflect cross-border characteristic of OSAEC:**

1       "Section 22. Child Abuse and Exploitation and OSAEC as a Transnational Crime. -  
2       Pursuant to the Convention on Transnational Organized Crime, the Department of  
3       Justice (DOJ) may execute the request of a foreign state for assistance in the  
4       Investigation or prosecution of OSAEC by: (1) conducting a preliminary  
5       Investigation against the offender and, if appropriate, to file the necessary charges  
6       In court; (2) giving information needed by the foreign state; and (3) to apply for  
7       an order of forfeiture of any proceeds or monetary instrument or properly located  
8       in the Philippines used in connection with OSAEC in the court; Provided, That if  
9       the DOJ refuses to act on the request of for delaying the execution thereof:  
10      Provided, further, That the principles of mutuality and reciprocity shall, for this  
11      purpose, be at all times recognized.

12      **Sec. 28. Rules and Regulations.** - The previous IACACP as created by RA 9775,  
13      and now the new Inter-Agency Council Against Online Sexual Abuse and Exploitation of  
14      children (IAC-OSAEC) shall constitute itself as the Implementing Rules and Regulations  
15      Committee with the Department of Social Welfare and Development as the lead agency,  
16      and with the possible inclusion of the Department of Education, Department of  
17      Information and Communications Technology, Department of the Interior and Local  
18      Government, Department of Tourism, and the Anti-Money Laundering Council, to  
19      promulgate rules and regulations of the effective implementation of this Act.  
20      The IRR committee shall promulgate the rules and regulations within six (6) months from  
21      the effectivity of this Act. Such rules and regulations shall take effect upon their  
22      publication in two (2) national newspapers of general circulation.

23      **Sec. 29. Appropriations.** - The amount necessary to carry out the provisions of this  
24      Act is hereby authorized to be appropriated in the General Appropriations Act of the year  
25      following its enactment into law and thereafter.

26      **Sec. 30. Separability Clause.** - If any provision of this Act is declared invalid or  
27      unconstitutional, the remaining provisions not affected thereby shall continue in full force  
28      and effect.

29      **Sec. 31. Repealing Clause.** - All laws, decrees, or rules inconsistent with the  
30      provisions of this Acts are hereby repealed or modified accordingly.

31      **Sec. 32. Effectivity Clause.** - This Act shall take effect upon completion of its  
32      publication in at least two (2) national newspapers of general circulation.

*Approved,*