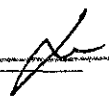


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

7 FEB -7 AM '07

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 259

Submitted by the Committee on Youth, Women and Family Relations on
FEB 07 2007.

Re: Senate Bill No. 2588

Recommending that the attached bill, Senate Bill No. 2855 be approved without amendment.

Sponsor: Senator M.A. Madrigal

MR. PRESIDENT:

The Committee on Youth, Women, and Family Relations to which was referred Proposed Senate Resolution No. 92, introduced by Senator M.A. Madrigal, entitled:

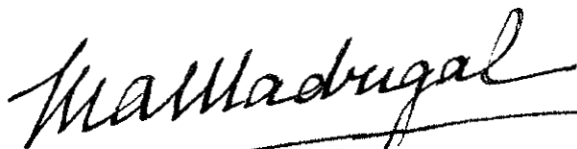
**“RESOLUTION
DIRECTING THE COMMITTEE ON YOUTH, WOMEN,
AND FAMILY RELATIONS TO CONDUCT AN
INQUIRY, IN AID OF LEGISLATION, ON THE
RAMPANT PROLIFERATION OF CHILD
PORNOGRAPHY, PEDOPHILE MATERIALS, AND
SEXUAL EXPLOITATION OF MINORS, THEREBY
INCREASING THE INCIDENCE OF CHILD ABUSE
THROUGH THE PRODUCTION,
COMMERCIALIZATION AND ILLEGAL TRADE
THEREOF, WITH THE END IN VIEW OF COMING UP
WITH REMEDIAL AND LEGISLATIVE MEASURES TO
ADDRESS THE SAME”**


has considered the same and has the honor to report it back to the Senate with
the recommendation that the attached bill, Senate Bill No. 2588, entitled,

**“AN ACT
PROHIBITING CHILD PORNOGRAPHY, IMPOSING
PENALTIES FOR THE COMMISSION THEREOF AND
FOR OTHER PURPOSES”**

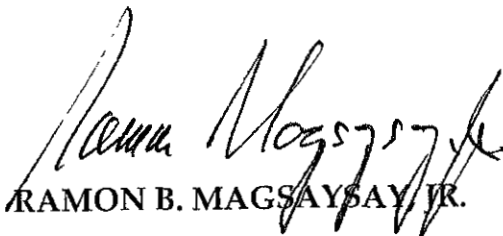
be approved without amendment.

Respectfully Submitted:


M. A. MADRIGAL
Chairperson



LUISA "LOI" P. EJERCITO ESTRADA
Vice-Chairperson

Members:

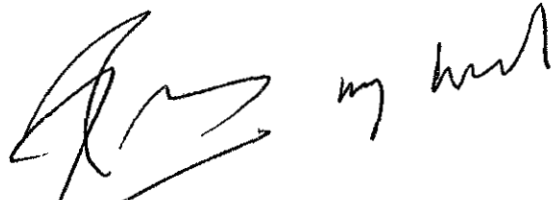

RAMON B. MAGSAYSAY, JR.


MAR ROXAS

COMPAÑERA PIA S. CAYETANO

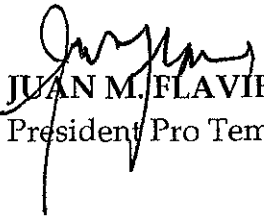

ALFREDO S. LIM


RAMON "BONG" REVILLA, JR.


RICHARD J. GORDON

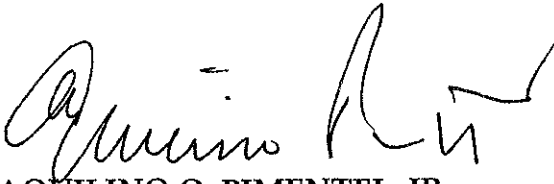

SERGIO OSMEÑA III

Ex-Officio Members:



JUAN M. FLAVIER
President Pro Tempore

FRANCIS N. PANGILINAN
Majority Floor Leader



AQUILINO Q. PIMENTEL, JR.
Minority Floor Leader

HON. MANNY VILLAR
Senate President

The Committee on Youth, Women and Family Relations had conducted an inquiry, in aid of legislation, into P. S. Resolution 92 authored by Senator M.A. Madrigal. There were three (3) public hearings and two (2) technical working group meetings on this subject.¹ Advocates from various children's rights organizations, as well as representatives from different government agencies concerned in the implementation of the proposed bill, were invited and shared their expertise on the subject.

PREFATORY STATEMENT

The foregoing hearings were conducted to investigate the rampant proliferation of child pornography and sexual exploitation of minors with the end in view of coming up with remedial and legislative measures to address these issues. Likewise, the hearings were conducted to ascertain the prevalence of commercial sexual exploitation of children amidst the complexities of globalization and advancement in technology. The Committee aimed to come up with measures that would effectively address the syndicated, organized and transnational nature of these appalling crimes.

ANTECEDENTAL FACTS

"Cybersex is a multi-billion dollar industry. It preys on the young and the economically vulnerable in society. It enriches the recruiters and operators of the industry while it robs the child victims of their innocence and youth. The existence of the internet pornographic site in La Union is only an example of what kind of exploitative business is spreading all over the country. The operators of these sites are not only criminals; they are predators."

This was the statement of Senator M.A. Madrigal after attending the arraignment of an American national and his Filipino wife, who were arrested for operating a cybersex den in La Union province. One of the four (4) minors rescued from the operation revealed that they were paid the measly sum of fifty (50) pesos for working eight hours a day. Some admitted that they had been made to pose nude and did sexual acts in front of the computer for their foreign customers.

¹ The public hearings were conducted on the following dates: 22 September 2004, 19 January 2005 and 27 April 2005. Meanwhile, the technical working group meetings were held on 16 August 2005 and 6 October 2005.

"I am here to help the victims. This is my own crusade against child pornography and cybersex. It is one of the worst forms of child labor. It harms the child both physically and psychologically. It is widespread, organized, systematic, syndicated and transnational in nature. It does not only require domestic measures but international arrangements to combat its spread," the Senator added.

At present, law enforcement officers and prosecutors alike are in a quandary as to how to successfully prosecute cases against suspected offenders in the light of relevant Philippine laws and international agreements concerning children.

FINDINGS AND CONCLUSIONS

Based on the testimonies and documents submitted during the hearings, the Committee arrived at the following findings and conclusions:

1. THERE ARE GAPS IN EXISTING LAWS RELATING TO CHILD INTERNET PORNOGRAPHY

In the course of the public hearings, various resource persons emphasized the need to review and reassess current Philippine laws dealing with child pornography. They posited that the present laws, particularly *Republic Act 7610 "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, And for Other Purpose"* and *Republic Act 9208 "An Act to Institute Policies to Eliminate Trafficking in Persons Especially Women and Children, Establishing the Necessary Institutional Mechanisms for the Protection and Support of Trafficked Persons, Providing Penalties for its Violations, And For Other Purposes"*, fail to address the appalling activities of pedophiles, the prosecution of persons possessing child pornographic materials as well as the importation and exportation of pornographic paraphernalia. Moreover, the absence of a specific law criminalizing possession of child pornographic materials and its trade via the internet and other media has caused a lot of cases on child pornography to be dismissed. Citing Vietnam and China as countries imposing capital punishment to perpetrators, there is an imperative need for specific, responsive and preventive legislation on child pornography that addresses and

curbs the problem but at the same time ensures that it does not infringe on the rights to privacy of individuals.

The Philippines ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on 8 May 2002. As a consequence of treaty incorporation and by virtue of *pacta sunt servanda*, the Philippines is obligated to enact an enabling legislation. The Optional Protocol recognizes that there is a growing availability of child pornography on the Internet and other evolving technologies. As stressed in the Vienna International Conference on Combating Child Pornography on the Internet (1999), there is a need for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography. Furthermore, the importance of closer cooperation and partnership between governments and the Internet industry to combat the phenomenon cannot be discounted.

The same Protocol also states that the elimination of child pornography will be facilitated by adopting a holistic approach and addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctional families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behavior, harmful traditional practices, armed conflicts and trafficking in children. Thus, such factors should be factored in introducing the proposed legislation.

Another stumbling block in the prosecution of child pornography is the failure to penalize the customer. Resource persons pointed out that the customer is almost always *beyond the reach* of the law since he or she is outside Philippine jurisdiction, i.e., most of the customers are from other countries. Furthermore, as discussed during the public hearings, the crime of internet pornography, being transnational in nature and a form of trafficking in persons, should be subject to universal jurisdiction.

Moreover, since the customers are outside Philippine jurisdiction, and to ensure effective prosecution, the Philippines should utilize existing extradition treaties to hold these perpetrators accountable. Should the State Party to the Protocol have no existing extradition treaty with another State which ratified the same, the Protocol can, by express provision thereof, serve as a legal basis for extradition.

The Committee also endeavored to come up with sanctions against internet service providers. With the advent of globalization and the computer age, it is said that child abuse does not end at the time that a photograph or the video is taken. Every time that a video or photograph is viewed by people, the exploitation is magnified several times over. In this regard, the Committee was presented with the *Law on Child Pornography of Ireland*, which contained an expanded definition of child pornography.

The *Law on Child Pornography of Ireland* defines child pornography as:

“Any visual representation that

(1) shows a person who is or is depicted as being a child and who is engaged in or is depicted as being engaged in the explicit sexual activity;
or

(2) those or whose dominant characteristics is depiction for sexual purpose of the genital or anal region of the child; and

(3) any audio representation of a person who is a child or is represented as being a child who is engaged in or is represented as being engaged in the sexual explicit sexual activity or any visual or audio representation that advocates, encourages, or counsels on the lawful sexual activity with children irrespective of how or through what medium the representation has been produced. And without prejudice to the foregoing, includes a representation produced by or from computer graphics or by any other electronic or mechanical means.”

The provision gives emphasis to virtual representation and expands the definition by including computer-related child pornography. Moreover, it

explicitly defines the parameters of what could be considered as child pornographic materials.

2. LAPSES IN LAW ENFORCEMENT

There is growing international acceptance of the need for more effective action and strengthened law enforcement in this jurisdiction. As testified to in the public hearings, this would require the ability or the capability to monitor the situations closely as possible. The difficulty surrounding the circumstances of the child victim poses the inability to report the cases personally endured by him or her given the cultural boundaries that our country represents. This, therefore, keeps child pornography out of sight as intimated by the resource panel.

Article 34 of the Convention of the Rights of the Child (CRC) mandates that the child should be protected from all forms of sexual exploitation and abuse. The Philippines, as a state party to the CRC, is mandated to take appropriate measures to prevent the inducement and coercion of a child to engage in any unlawful sexual activity and the exploitation of its children in pornographic performances. The Philippines, by virtue of the CRC, must ensure that its State obligation to respect, protect, promote and fulfill the rights of the child is complied with. No less than the 2nd Optional Protocol to the CRC requires this.

Parenthetically, the Criminal Investigation and Division Group of the Philippine National Police (CIDG-PNP) has pushed for the implementation of a final draft of the national investigation plan involving child pornography in every region of the country.

3. WEAKNESSES OF THE PHILIPPINE JUDICIAL SYSTEM

In the case of the Philippines, there is lack of an integrated and well-informed set of laws on child internet pornography amidst the fast-paced advancement in technology. It is difficult to pursue cases in Philippine courts,

particularly those pertaining to cyber sex crimes, such as on-line pornography in the absence of any law defining it. The protracted process of prosecution given the absence of available laws and the difficulty in gathering evidence that may be considered admissible in court, are underlying challenges brought about by the complexities of the times.

4. STATISTICS ON CHILD PORNOGRAPHY APPEAR DECEPTIVE

In the course of the public hearings, the Department of Social Welfare and Development (DSWD) described the statistical data gathered by their office as extremely low despite the numerous raids conducted by law enforcement authorities. It is widely believed that these figures do not accurately reflect the real number of children victimized by internet pornography. Unfortunately, our culture does not associate pre-pubescent children as those that can be had as sexual objects. It is only when their parents see them being subjected to actual sexual abuse by the so-called pedophiles that they consider the acts as pornographic.

5. EFFECTS OF PORNOGRAPHY TO THE CHILD

The psychological effect that promotes the sense of brokenness among children demeans their self worth. Child pornographic materials promote the "*commodification*" of children in that they are treated as commodities and marketed like sexual objects. This particular practice permits the cycle of abuse to go on among victims and perpetrators of child pornography. In this way, the distorted notion of what is acceptable in society in terms of sexual acts, behavior, values and partnerships are likewise affected.

6. INTERNET SERVICE PROVIDERS' (ISPs) REFUSAL TO COOPERATE

Rather expectedly, resource persons representing the ISPs never attended the committee and technical work group meetings. Numerous invitations were issued to them given the magnitude of concerns and the undeniable role that

ISPs play in curbing child internet pornography. This lack of support may pose as obstacles in the fight against pornography by reason of the privacy protection policies invoked and enforced by these companies.

7. CHILD PORNOGRAPHY INTERLINKED WITH OTHER FORMS OF SEXUAL EXPLOITATION

During the technical working group meetings, there emerged a consensus that the subject of child pornography should not be separated from other forms of commercial and sexual exploitation of children. It is interrelated with child prostitution and trafficking. It is therefore important to discuss pornography in the context of other forms of sexual exploitation and abuse to help people understand that pornography, albeit an issue worthy of separate attention is still anchored upon other forms of sexual abuse and exploitation. Also, any legislative efforts to change, reform and enact a law on child pornography must be consistent with existing laws in order to avoid adverse implications on policies affecting child trafficking and child prostitution. There must be a holistic, comprehensive and harmonious approach in the review of all the laws involving children.

RECOMMENDATIONS

WHEREFORE, the Senate Committee on Youth, Women and Family Relations recommends the following:

1. For Congress to:
 - 1.1 Enact into law the omnibus bill known as the "Anti-Child Pornography Act of 2006" providing and penalizing mere possession of child pornographic materials; and
 - 1.2 Introduce legislation to legitimize the seizure of computer hard disks reported as containing child pornographic materials, as well

as penalize the production, distribution, possession of hard disks, compact discs or any other electronic device wherein pornographic materials can be stored.

2. To strongly urge law enforcement and other agencies involved in the justice system to:
 - 2.1 Become more vigilant in their enforcement of the laws taking into consideration the laws relevant to children in general as well as those of child pornography;
 - 2.2 Create a comprehensive database to better provide information on matters relating to child pornography, both domestically and internationally; and
 - 2.3 Maintain a central database of convicted sex offenders in other countries to be distributed to all law enforcement agencies to restrict their access to the Philippines, thereby increasing protection of the Filipino children.
3. To strongly urge internet service providers to introduce and utilize "blocking" software that will make it very difficult, if not impossible, to access child pornography.
4. To strongly urge internet cafes, schools and colleges to ban access to child pornographic materials by securing blocking software in their computer systems.
5. To provide for a reintegration recovery process for child victims to help them and their families cope up with the trauma and psychological deficiencies, as well as provide medical, social and psychological interventions as well as educational and means of support.

6. To provide for the parents and their families the necessary information and education on the matter of child pornography, taking into account that the family, as the basic social institution of our society, plays a most significant role in combating the same.
7. To properly define and clarify the roles of different law enforcement agencies in combating child pornography in order to ensure that each one shall perform their respective roles therein, such that the various local government units, barangay councils, police and military personnel, and members of the National Bureau of Investigation and the judiciary know the specific roles that each one will play to better provide for proper accountability.
8. To call for interest groups and the public to heighten awareness on issues relating to child pornography, taking into account the imperative need to mobilize a crusade on the importance of public action to monitor and detect the practice of child pornography in the Philippines.
9. To seek and call for the international community's commitment in the fight against child pornography in view of our country's technological deficiencies in curbing out internet offenses, with particular attention to the commercial exploitation of children, as well as to strengthen and enforce extradition and other necessary measures to prosecute offenders
10. The Senate Secretariat is hereby directed to furnish the following agencies and organizations individual copies of this Report:

10.1 Office of the President;

10.2 Department of Social Welfare and Development;

10.3 Department of the Interior and Local Government;

- 10.4 Department of Justice;
- 10.5 Department of Foreign Affairs;
- 10.6 Department of Labor and Employment;
- 10.7 Department of Education;
- 10.8 League of Provinces of the Philippines;
- 10.9 League of Cities of the Philippines;
- 10.10 League of Municipalities of the Philippines;
- 10.11 National Bureau of Investigation;
- 10.12 Commission on Human Rights;
- 10.13 National Council for the Welfare of Children;
- 10.14 Child Protection Section, UNICEF;
- 10.15 Department of Homeland Security, United States Embassy, Manila;
- 10.16 Child Integrative Development Studies, University of the Philippines;
- 10.17 People's Recovery, Empowerment and Development Assistance Centre;
- 10.18 End Child Prostitution and Trafficking in the Philippines;
- 10.19 Child Rights Center;

10.20 Philippine Alliance Against Child Pornography;

10.21 Child Welfare Council;

10.22 Stop Trafficking of Filipinos (Philippines);

10.23 Philippine Center for Missing and Exploited Children; and

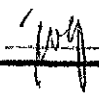
10.24 Coalition Against Trafficking in Women.

THIRTEENTH CONGRESS }
OF THE REPUBLIC OF THE PHILIPPINES }
Third Regular Session }

7 JAN 31 1959

SENATE

2588

RECEIVED BY: 

Introduced by Senator M.A. Madrigal

EXPLANATORY NOTE

It is the policy of the State to promote and protect the physical, moral, spiritual, intellectual and social well-being of our children. However, despite this policy, the laws in place are insufficient to provide the proper framework upon which the rights of our children may be protected against sexual exploitation, especially against child pornography.

Child pornography is a blatant disregard of the fundamental rights of the child and is considered among the worst forms of child exploitation. There are factors that make child pornography widespread and rampant in the country, primarily because of the absence of a specific law to prohibit the production of child pornographic materials. Due to poverty, even parents sell their children to pedophiles.

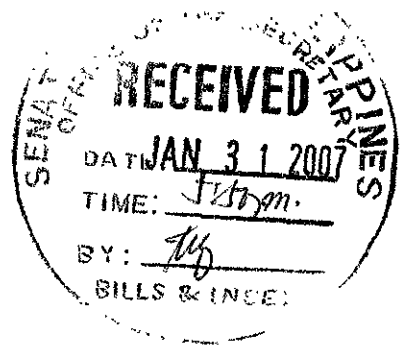
As a signatory to the Convention on the Rights of the Child and the Optional Protocol on the sale of children, child prostitution and child pornography, the Philippines is bound by its international commitment to criminalize acts which are detrimental to the achievement of the best potential of the children.

The Bill seeks to comply with this obligation by punishing individuals and corporations as well as its officers who engage in child pornography. Under this measure, even the parents who induce or coerce their child to participate in pornography will be penalized.

Moreover, the mere possession of a child pornographic material, as well as divulging or publishing information concerning a child who is a victim of pornography, is made punishable. This act is already punishable in most European countries and even our neighboring country Singapore. The United States and other countries have legislated similar bills making mere possession of child pornographic materials a criminal offense. The Philippines, which is now regarded as the second largest producer of child pornographic materials in the world, must take a giant leap in order to curtail, if not totally eliminate, this multi-billion dollar industry.

For these reasons, the passage of this bill is earnestly sought.


M. A. MADRIGAL



SENATE

S.B. No. 2588

Introduced by Sen. M.A. Madrigal

**AN ACT PROHIBITING CHILD PORNOGRAPHY,
IMPOSING PENALTIES FOR THE COMMISSION THEREOF
AND FOR OTHER PURPOSES**

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

1 **Section 1. Short Title.** This Act shall be known as the "Anti-Child Pornography Act of 2007".

2 **Section 2. Declaration of State Policy.** It is the State's policy to:

3 a. Guarantee the rights of every child from all forms of neglect, cruelty, and other
4 conditions prejudicial to their development;

5 b. Protect the child from all forms of exploitation and abuse, such as:

6 (i) the exploitative use of a child or children in pornographic performances and
7 materials; and

8 (ii) the inducement or coercion of a child to engage in or perform any sexual
9 activity or practices, through whatever means; and

10 c. Comply with the country's two international treaties concerning the rights of children
11 namely, the Convention on the Rights of the Child and the 2nd Optional Protocol to the
12 Convention on the Rights of the Child.

13 **Section 3. Definition of Terms.** For purposes of this Act, the following terms shall be
14 defined as follows:

15 a. Child – refers to a person below fifteen (15) years of age or those over but is unable to
16 fully take care of oneself from abuse, neglect, cruelty, exploitation, or discrimination,
17 because of a physical or mental disability or condition.

18 b. Sexual Exploitation – refers to the participation of a child in the production of
19 pornographic materials.

1 c. Child Pornography – refers to any visual or audio representation of a child or a person
2 depicted as one, engaging in real or simulated explicit sexual activities. It may include the
3 depiction of a child in whatever means that would result in the manifestation of any form of
4 prurient interest. The representation shall be in whatever form of computer graphics or by any
5 electronic or mechanical means, including the use of information technology and the Internet.

6 d. Internet Service Provider- refers to a company which provides Internet access for
7 individuals, organizations, and companies. An Internet Service Provider usually has multiple
8 access methods, including dial-up, Wireless Local Area Networks (Wi-Fi) , Digital Subscriber
9 Line (DSL), and cable modem.

10 e. Person – refers to any natural or juridical entity.

11 f. The Department – refers to the Department of Social Welfare and Development.

12 g. Commercial Use – shall mean pornographic materials of such quantity intended for
13 sale and with the end view of making a profit. Three or more pornographic materials
14 of each kind or issue shall be *prima facie* evidence that the same is for Commercial
15 Use.

16 h. Personal Use – shall refer to pornographic materials for private use and purpose and
17 not intended for sale.

18 **Section 4. Unlawful or Prohibited Acts.** It shall be unlawful for any person to commit any
19 of the following acts:

20 a. To induce or recruit a Child to participate in the production of pornographic materials;

21 b. To produce, through any means, including the use of computer graphics electronic or
22 mechanical means any child pornographic material as defined in section 3 (c) hereof;

23 c. To publish, sell, distribute, broadcast, export and import for Commercial Use through
24 any means, such as but not limited to, writings and pictures, books, magazines,
25 billboards, tabloids, comics, posters, cards, calendars, decals, stickers, paintings,
26 photographs, television shows, motion pictures, computer graphics or by any electronic
27 or other means including the use of information technology such as mobile phones and
28 the Internet, child pornographic materials as defined in section 3 (c) hereof;

- 1 d. To possess any child pornographic material as defined in this Act, with or without the
2 intent to publish, sell, distribute and broadcast;
- 3 e. To export or import such material for Personal Use;
- 4 f. To disclose to the media and the public the name, address, telephone number, school, or
5 other identifying information of a child who is or is alleged to be a victim of Sexual
6 Exploitation, or an immediate family of the child.
- 7 g. To publish or cause to be published in any format the name, address, telephone number,
8 school, or other identifying information of a child who is or is alleged to be a victim of
9 Sexual Exploitation, or an immediate family of the child.

10 **Section 5. Prosecution of Cases.** Any person who has personal knowledge of the
11 commission of any of the offenses under this Act, including but not limited to the child, parents,
12 siblings, legal guardian, the Department, or police officers may file a complaint against the
13 persons committing such offense.

14 **Section 6. Responsibility of Internet Service Providers.** All Internet Service Providers (ISPs)
15 shall notify the proper law enforcement agency after learning that a website containing child
16 pornography exists on its server. If an ISP willfully fails to report the said websites and
17 violators or cooperate in the investigation of said violators, then they will be penalized in
18 accordance to Section 7 thereof.

19 **Section 7. Penalties and Sanctions.** The following penalties and sanctions are hereby
20 established for offenses enumerated in this Act:

- 21 a. Any person found guilty of committing any of the acts enumerated in section 4 (a) and
22 (b) shall suffer the penalty of life imprisonment and a fine of not less than Two Million
23 Pesos (PhP 2,000,000.00) but not more than Five Million Pesos (PhP 5,000,000.00).
- 24 b. Any person found guilty of committing any of the acts enumerated in section 4 (c) shall
25 suffer the penalty of Twelve (12) Years and One day to Twenty (20) years and a fine of
26 not less than One Million Pesos (PhP 1,000,000.00) but not more than Two Million (PhP
27 2,000,000.00) Pesos.

- 1 c. Any person found guilty of committing the act defined in section 4 (d) and (e) shall
2 suffer the penalty of Six (6) Years and one day to Twelve (12) years and a fine of not less
3 than Five Hundred Thousand Pesos (PhP 500,000.00) but not more than One Million
4 Pesos (PhP 1,000,000.00).
- 5 d. Any officers of the law, prosecutor office or the Court found guilty of committing the act
6 defined in section 4 (f) shall suffer the penalty of Six (6) months and one day to One (1)
7 year and a fine of not less than One Hundred Thousand Pesos (PhP 100,000.00) but not
8 more than Three Hundred Thousand Pesos (PhP 300,000.00) with the accessory penalty
9 of perpetual disqualification from holding any public office.
- 10 e. Any person found guilty of committing the act defined in section 4 (g) shall suffer the
11 penalty of One (1) month and One (1) day to Six (6) Months and a fine of not less than
12 One Hundred Thousand Pesos (PhP 100,000.00) but not more than Three Hundred
13 Thousand Pesos (PhP 300,000.00).
- 14 f. If the offender is a juridical person, the penalty shall be imposed upon the owner,
15 manager, partner, member of the board of directors, and any responsible officer, who
16 participated in the commission of the crime or shall have knowingly permitted or failed
17 to prevent its commission.
- 18 g. If the offender is a foreigner, he shall be immediately deported after the complete service
19 of his sentence and shall forever be barred from entering the country.
- 20 h. Any Internet Service Providers found guilty of committing the act enumerated in section
21 6 shall suffer the penalty of forfeiture of license and a fine of not less than Two Million
22 Pesos (PhP 2,000,000.00) but not more than Five Million Pesos (PhP 5,000,000.00).

23 **Section 8. Confidentiality.** The right to privacy of the child shall be ensured at all times in
24 whatever stage of the investigation or judicial proceedings. The following rules shall be
25 observed in the investigation, prosecution and trial for violation of this Act, taking into
26 consideration the best interest of the child:

- 27 a. The Judge, Prosecutor, or any officer of the law shall conduct a closed-door
28 investigation, prosecution or trial.

1 b. Any record regarding a child shall be confidential and kept under seal. Except upon
2 written request and order of the court, a record shall be released only to the following:

- 3 i. Members of the court staff for administrative use;
- 4 ii. The prosecuting attorney;
- 5 iii. Defense counsel;
- 6 iv. The guardian *ad litem*;
- 7 v. Agents of investigating law enforcement agencies; and
- 8 vi. Other persons as determined by the court.

9 c. Any child pornographic materials that are part of the court record shall be under a
10 protective order that provides as follows:

- 11 i. Child pornographic materials may be viewed only by parties, their
12 counsel, their expert witness, and the guardian *ad litem*.
- 13 ii. No child pornographic material, or any portion thereof, shall be divulged
14 to any other person, except as necessary for the investigation, prosecution
15 or trial.
- 16 iii. No person shall be granted access to the child pornographic material or
17 any part thereof unless he signs a written affirmation that he has received
18 and read a copy of the protective order; that he submits to the jurisdiction
19 of the court with respect to the protective order; and that in case of
20 violation thereof, he will be subject to the contempt power of the court.
- 21 iv. No tape shall be given, loaned, sold, or shown to any person except as
22 ordered by the court.

23 ***Section 9. Protective Custody of the Child.*** The child shall be immediately placed under the
24 custody of the Department if the parents or legal guardian are the accused or they are unwilling
25 or unable to provide care and protection to the child. To ensure the recovery, rehabilitation,
26 and reintegration of the child into the mainstream of society, the Department shall make
27 available the following services to the child and his family or legal guardian:

- 28 a. Emergency shelter or appropriate housing;

- 1 b. Counseling;
- 2 c. Free legal services which shall include information about the victims' rights and the
- 3 procedure for filing complaints, and other legal remedies available to them:
- 4 d. Medical and Psychological services;
- 5 e. Educational Assistance; and
- 6 f. Livelihood Assistance.

7 **Section 10. Lead Agency.** The Department shall be the lead agency to monitor the
8 compliance of the provisions of this act. It shall formulate policies and programs that will
9 promote awareness and education against Child Pornography.

10 **Section 11. Funding.** The Philippine Charity Sweepstakes Office (PCSO) and the Philippine
11 Amusement and Gaming Corporation (PAGCOR) shall allocate from their respective earnings
12 the amount of Twenty Five Million Pesos (PhP 25, 000,000.00) each which shall accrue to a
13 special account in the Department for the proper implementation of this Act.

14 **Section 12. Confiscation and Forfeiture of the Proceeds derived from Child Pornography.** In
15 addition to the penalty imposed under this Act, the court shall order the confiscation and
16 forfeiture, in favor of the government, of all proceeds and properties derived from and used in
17 the commission of the offenses under Section 4 (b), (c), (d) and (e) of this Act.

18 When the proceeds, properties and instruments of the offense have been destroyed,
19 diminished in value or otherwise rendered worthless by any act or omission, directly or
20 indirectly by the offender or it has been concealed, removed, converted, or transferred to
21 prevent the same from being found or forfeited, the offender shall be ordered to pay the amount
22 equal to the value of the proceeds, property or instrument of the offense.

23 All proceeds derived from the offense of child pornography shall accrue to the special
24 account in the Department mentioned above.

25 **Section 13. Implementing Rules and Regulations.** Within thirty (30) days from the
26 effectivity of this Act, the Department, with the Department of Justice and other government

1 agencies and Non-Government Organizations, after due consultation, shall promulgate the
2 necessary rules and regulations for the implementation of this Act.

3 *Section 14. Separability Clause.* If any part of this Act is declared unconstitutional or
4 invalid, the other provisions not affected thereby shall continue to be in full force and effect.

5 *Section 15. Repealing Clause.* All laws, decrees, rules and regulations or parts thereof
6 inconsistent with this Act are hereby repealed, modified or amended accordingly.

7 *Section 16 . Effectivity.* This Act shall take effect fifteen (15) days after its complete
8 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

9 **Approved.**