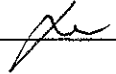


FOURTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

9 14 21

SENATE

SECRETARY 

COMMITTEE REPORT NO. 55

Submitted jointly by the Committees on Youth, Women and Family Relations and on Justice and Human Rights on MAY 21 2008.

Re: Senate Bill No. 2317

Recommending its approval in substitution of Senate Bill No. 26.

Sponsors: Senators Madrigal and Escudero.

MR. PRESIDENT:

The Committees on Youth, Women and Family Relations and on Justice and Human Rights to which was referred Senate Bill No. 26, authored by Senator Madrigal, entitled:

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

have considered the same and have the honor to report this bill back to the Senate with the recommendation that the attached bill, S. No. 2317, prepared by the Committees, entitled:

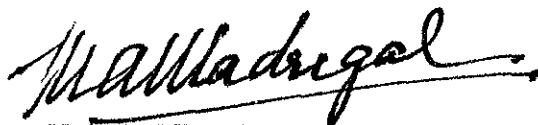
**“AN ACT  
PROHIBITING CHILD PORNOGRAPHY, IMPOSING  
PENALTIES FOR THE COMMISSION THEREOF AND  
FOR OTHER PURPOSES”**

be approved in substitution of S. No. 26 with Senators Madrigal and Escudero as authors.

Respectfully submitted.



**FRANCIS "CHIZ" G. ESCUDERO**  
*Chairman*  
*Committee on Justice and Human Rights*



**M.A. MADRIGAL**  
*Chairperson*  
*Committee on Youth, Women*  
*and Family Relations*

**Members:**

**ALAN PETER "COMPAÑERO" S. CAYETANO**

**RICHARD J. GORDON**

**JUAN PONCE ENRILE**



**RODOLFO G. BIAZON**

**"COMPAÑERA" PIA S. CAYETANO**



**GREGORIO B. HONASAN**



**RAMON "BONG" REVILLA, JR.**

**BENIGNO SIMEON AQUINO III**



**LOREN B. LEGARDA**


*Ex-Officio Members*

**JINGGOY EJERCITO ESTRADA**

*President Pro Tempore*

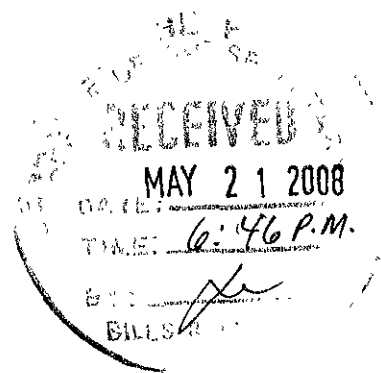


**FRANCIS M. PANGILINAN**  
*Majority Leader*



**AQUILINO Q. PIMENTEL, JR.**  
*Minority Leader*

**HON. MANNY VILLAR**  
*Senate President*  
*Senate of the Philippines*  
*Pasay City*



SENATE

S. B. No. 2317

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*Introduced by Senator M. A. Madrigal*

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**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  
2 Pornography Act of 2008.”

3 **Section 2. Declaration of State Policy.** – It is the policy of the State to:

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

6 b. Protect every Child from all forms of exploitation and abuse, including  
7 but not limited to: (1) the exploitative use of children in pornographic  
8 performances and materials; and, (2) the inducement or coercion of  
9 children to engage in pornography through whatever means; and

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

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

1 a. Child – refers to the following:

2 (1) A person as defined under the United Nations Convention On The  
3 Rights Of The Child;

4 (2) A person, regardless of age, who is unable to fully take care of  
5 oneself because of mental disability or condition;

6 (3) When applicable, a person, regardless of age, who is presented,  
7 depicted or believed to be a Child as defined herein; and

8 (4) When applicable, computer generated, digitally created or  
9 manually crafted images or graphics of a person who is represented  
10 or is made to appear to be a Child as defined herein.

11 b. Child Pornography – refers to any visual, written material or audio  
12 representation, whether or not it is made by electronic or mechanical  
13 means, or an actual presentation of a Child:

14 (1) Engaged in real or simulated explicit sexual activity; or

15 (2) Showing his or her sexual parts or anal region, the dominant  
16 characteristic of which depicts a sexual purpose.

17 Visual, written material or audio representation shall include, but not be  
18 limited to, writings and pictures, books, magazines, billboards, tabloids,  
19 comics, posters, cards, calendars, decals, stickers, paintings, photographs,  
20 television shows, motion pictures, computer graphics or any electronic or  
21 other means, including the use of information technology such as mobile  
22 phones and the internet.

23 Actual presentation shall include, among others, the live performance or  
24 showing of a Child engaged in real or simulated explicit sexual activity, or

1 the depiction, for a sexual purpose, of the sexual parts or anal region of  
2 the Child.

3 c. Internet Service Provider (ISP) – refers to a company which provides  
4 internet access and related services. An Internet Service Provider usually  
5 has multiple access methods that include, but are not limited to: (1) dial-  
6 up; (2) wireless and local area network (Wi-Fi/LAN); (3) Digital Subscriber  
7 Line (DSL); (4) broadband; and (5) cable modem.

8 d. Person – refers to any natural or juridical entity.

9 e. Department – refers to the Department of Social Welfare and  
10 Development (DSWD).

11 f. DOJ – refers to the Department of Justice.

12 g. PNP – refers to the Philippine National Police.

13 h. NBI – refers to the National Bureau of Investigation.

14 i. NGOs – refer to non-government organizations known to be actively  
15 working with and on behalf of children and youth, particularly for their  
16 protection against exploitation and abuse.

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

19 a. To induce, use, coerce or recruit a Child in the production of Child  
20 Pornography;

21 b. To produce, through any means, including the use of computer graphics,  
22 cellular phones or other electronic devices, or mechanical means any  
23 Child Pornography;

1 c. To publish, offer, transmit, sell, distribute, broadcast, export and import  
2 through any means, Child Pornography;

3 d. To possess or knowingly access any Child Pornography, with or without  
4 the intent to publish, sell, distribute and broadcast.

5 Provided that no person shall be convicted under paragraphs (b), (c) and (d) of  
6 this Section if the act allegedly constituting the offense shall be exclusively for a  
7 legitimate purpose related to the administration of justice, science, medicine or  
8 education.

9 **Section 5. *Prosecution of Cases.*** – Any person who has knowledge of the  
10 commission of any of the offenses under this Act, including but not limited to the  
11 Child, parents, siblings, legal guardian, the Department, or police officers may  
12 file a complaint for the prosecution of the case.

13 **Section 6. *Appointment of Special Prosecutors.*** – The DOJ shall appoint or  
14 designate Special Prosecutors to prosecute cases for violation of this Act.

15 **Section 7. *Jurisdiction.*** – Jurisdiction over cases for violation of this Act shall be  
16 vested in the Juvenile and Domestic Relations Court which has territorial  
17 jurisdiction over the place where the offense or any of its essential elements was  
18 committed.

19 Supreme Court Circular A.M. No. 004-07-SC dated 21 November 2000 or the  
20 Rule on Examination of a Child Witness, and its amendments or revisions  
21 thereto, shall be applied in the prosecution of cases for violation of this Act.

22 **Section 8. *Responsibility of Internet Service Providers.*** – All Internet Service  
23 Providers (ISPs) shall notify the PNP or the NBI within seven (7) days from  
24 obtaining facts and circumstances that Child Pornography is being committed

1 using its server or facility. Nothing in this Section may be construed to require an  
2 Internet Service Provider (ISP) to engage in the monitoring of any user,  
3 subscriber or customer, or the content of any communication of any such person;  
4 provided that no Internet Service Provider (ISP) shall be held civilly liable for  
5 damages on account of any notice given in good faith in compliance with this  
6 Section.

7 All Internet Service Providers (ISPs) shall install available technology, program  
8 or software to ensure that access to or transmittal of Child Pornography will be  
9 blocked or filtered.

10 The National Telecommunications Commission (NTC) shall promulgate within  
11 six (6) months from the effectivity of this law ~~Act~~ the necessary implementing  
12 rules and regulations which shall include, among others, the installation of  
13 filtering software that will block access to or transmission of Child Pornography.

14 **Section 9. Confidentiality.** – The right to privacy of the Child and his or her  
15 family shall be ensured at all times in whatever stage of the investigation or  
16 judicial proceedings. The name, address, telephone number, school, business  
17 address, employer, or other identifying information of a victim or an immediate  
18 family member, without the latter's consent, shall not be published or caused to  
19 be published in whatever form.

20 **Section 10. Care, Custody and Treatment of a Child Victim.** – The Department  
21 shall ensure that the Child who is a victim of Child Pornography is provided  
22 appropriate care, custody and support for their recovery and reintegration in  
23 accordance with existing laws.

1 **Section 11. Penalties and Sanctions.** – The following penalties and sanctions are  
2 hereby established for offenses enumerated in this Act:

3 a. Any person found guilty of committing any of the acts enumerated in  
4 Section 4 (a) shall suffer the penalty of imprisonment of not less than six  
5 (6) years and one (1) day but not more than twelve (12) years and a fine of  
6 not less than One Million Five Hundred Thousand Pesos (Php  
7 1,500,000.00) but not more than Two Million Pesos (Php 2,000,000.00).

8 b. Any person found guilty of committing any of the acts enumerated in  
9 Section 4 (b) and (c) shall suffer the penalty of imprisonment for a period  
10 of not less than three (3) years and one (1) day but not more than six (6)  
11 years and a fine of not less than Five Hundred Thousand Pesos (Php  
12 500,000.00) but not more than One Million Pesos (Php 1,000,000.00).

13 c. Any person found guilty of committing the act defined in Section 4 (d)  
14 shall suffer the penalty of imprisonment of not less than one (1) year but  
15 not more than three (3) years and a fine of not less than One Hundred  
16 Thousand Pesos (Php 100,000.00) but not more than Three Hundred  
17 Thousand Pesos (Php 300,000.00).

18 d. Any Internet Service Providers found guilty of willfully and knowingly  
19 failing to comply with the notice and installation requirements under  
20 Section 8 shall suffer the penalty of a fine of not less than Five Hundred  
21 Thousand Pesos (Php 500,000.00) but not more than One Million Pesos  
22 (Php 1,000,000.00) for the first offense. In case of a subsequent offense, the  
23 penalty shall be a fine of not less than One Million Pesos (Php



1 1,000,000.00) but not more than Two Million Pesos (Php 2,000,000.00) and  
2 forfeiture of its license to operate.

3 e. Any person found guilty of committing the act defined in Section 9 shall  
4 suffer the penalty of imprisonment of not less than one (1) month but not  
5 more than six (6) months and a fine of not less than Thirty Thousand  
6 Pesos (Php 30,000.00) but not more than Fifty Thousand Pesos (Php  
7 50,000.00).

8 f. If the offender is an ascendant, parent, guardian, stepparent or collateral  
9 relative within the second degree of consanguinity or affinity, the penalty  
10 provided herein shall be imposed in its maximum period.

11 g. If the offender is a juridical person, the penalty shall be imposed upon the  
12 owner, manager, partner, member of the board of directors, and/or any  
13 responsible officer, who participated in the commission of the crime or  
14 shall have knowingly permitted or failed to prevent its commission.

15 h. If the offender is a foreigner, he or she shall be immediately deported after  
16 the complete service of his or her sentence and shall forever be barred  
17 from entering the country.

18 **Section 12. Confiscation and Forfeiture of the Proceeds Derived from Child**  
19 ***Pornography.*** – In addition to the penalty imposed under this Act, the court shall  
20 order the confiscation and forfeiture, in favor of the government, of all proceeds  
21 and properties derived from and used in the commission of the offenses under  
22 Section 4 (a), (b), (c), (d) and (e) of this Act.

23 When the proceeds, properties and instruments of the offense have been  
24 destroyed, diminished in value or otherwise rendered worthless by any act or

1 omission, directly or indirectly by the offender or these have been concealed,  
2 removed, converted, or transferred to prevent the same from being found or  
3 forfeited, the offender shall be ordered to pay the amount equal to the value of  
4 the proceeds, property or instrument of the offense.

5 All proceeds derived from the offense of Child Pornography shall accrue to the  
6 special account of the Department which shall be used exclusively for the proper  
7 implementation of this Act.

8 **Section 13. *Lead Agencies.*** – The Department of Social Welfare and Development  
9 (DSWD) and the Department of Justice (DOJ) shall be the lead agencies to  
10 monitor the compliance of the provisions of this Act. The PNP Child and  
11 Women’s Desk shall be the lead law enforcement agency to enforce and  
12 implement the provisions of this Act.

13 **Section 14. *Funding.*** – The funding requirement for the proper implementation  
14 of this Act shall be included in the allocation of the Department under the  
15 General Appropriations Act.

16 **Section 15. *Implementing Rules and Regulations.*** – Within sixty (60) days from  
17 the effectivity of this Act, the Department, the DOJ and other relevant  
18 government agencies and NGOs, after due deliberation and consultations, shall  
19 promulgate the necessary rules and regulations for the implementation of this  
20 Act which shall include, among others, the education and awareness on the  
21 adverse effects of Child Pornography.

22 **Section 16. *Separability Clause.*** – If any part of this Act is declared  
23 unconstitutional or invalid, the other provisions not affected thereby shall  
24 continue to be in full force and effect.

1 **Section 17. *Repealing Clause.*** – All laws, decrees, rules and regulations or parts  
2 thereof inconsistent with this Act are hereby repealed, modified or amended  
3 accordingly.

4 **Section 18. *Effectivity.*** – This Act shall take effect fifteen (15) days after its  
5 complete publication in the *Official Gazette* or in at least two (2) newspapers of  
6 general circulation.

7 **Approved,**