

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

8 JUN 11 P3:22

SENATE

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S. B. No. 2399

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INTRODUCED BY HONORABLE MAR ROXAS

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EXPLANATORY NOTE

Computer technology has enhanced our lives in many ways, as demonstrated by its prevalent use in businesses, homes, schools, libraries and even in commercial establishments. For children especially, the Internet provides unique educational opportunities and even serves as their primary source for research. However, the onset of this technology has also brought about a different venue for child predators and perpetrators of crime.

To date, there is no study on the incidence of internet-related crimes where the victims are children here in the Philippines. A survey conducted by the New Hampshire based Crimes Against Children Research Center on Internet victimization of children showed disturbing results. According to the survey, 1 out of 5 children who regularly use the Internet received sexual solicitations, 1 in 4 children has an unwanted exposure to pictures of naked people and 1 in 33 children received aggressive sexual solicitation through personal correspondence.

Thus, this bill seeks to ensure that safety measures aimed at protecting children from harmful materials in the Internet are available by requiring commercial establishments, schools and other public institutions from which the Internet can be accessed to use a filtering device. This bill further proposes the identification of a website that may contain materials harmful to children by mandating that a "tag" created by the National Telecommunication Commission be displayed initially when such websites are accessed. As a means to strengthen the provisions of this proposed Act, penal sanctions will be meted out for violations of this measure.

Our children are the most vulnerable against exploitative acts and other Internet-based crimes. The shroud of anonymity that the Internet gives the perpetrators makes the danger to our children greater. These cybercrimes transcend jurisdictional boundaries, hence it is even more imperative for us to establish safeguards for our youth when they use the Internet.


In view of the foregoing, early passage of this bill is earnestly requested.

  
M A R ROXAS  
Senator

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AN ACT  
REQUIRING COMMERCIAL ESTABLISHMENTS AND PUBLIC INSTITUTIONS TO USE  
APPROPRIATE FILTERING DEVICES AND FIREWALLS THAT WILL RESTRICT  
CHILDREN'S ACCESS TO HARMFUL MATERIALS, DEFINING FOR THAT PURPOSE  
OFFENSES RELATED THERETO, PRESCRIBING PENALTIES THEREFOR 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 "Online Child Safety Act of  
2 2008."

3 SECTION 2. *Declaration of Policy.* Respecting the constitutionally enshrined right of  
4 every person to freedom of speech and expression, the State adopts a policy of maintaining a  
5 balance between non-interference with the use and access to the Internet and protecting the  
6 well-being of our children. Pursuant to this, the State shall ensure that the necessary  
7 safeguards against materials in the Internet that may be harmful to children are established.  
8 Further, the State shall establish and implement measures that will limit and restrict the  
9 access of children to sexually explicit materials, graphic violence, information on drugs,  
10 alcohol and other injurious substances and all other materials harmful to children, at the  
11 same time ensuring their continued access to the Internet for research and other purposes.

1           The State further declares its policy to promote and protect the physical, moral,  
2 spiritual, intellectual and social well-being of children. In furtherance thereto, the State shall  
3 adopt a mechanism that will identify restricted websites, as well as require the use of  
4 effective filtering devices. In addition, the State shall give highest priority to the employment  
5 of strategies that promotes safe online activity for children, helps parents shield their  
6 children from inappropriate materials and seeks not only to prevent Internet-based child  
7 exploitation, but also to investigate and prosecute persons who provide access of exploitative  
8 materials to children.

9           SECTION 3. *Definition of Terms.*

10           a. *Child or Children* means any person below 18 years of age, or those over 18 but  
11 unable to take care of themselves or protect themselves from abuse, neglect, exploitation or  
12 discrimination because of a physical or mental disability.

13           b. *Internet* means the collective myriad of computer and telecommunications  
14 facilities, including equipment and operating software, which comprise the interconnected  
15 world-wide network of networks that employ the Transmission Control Protocol/Internet  
16 Protocol, or any predecessor successor protocols to such protocol, to communicate  
17 information of all kinds by wire or radio.

18           c. *Material that is Harmful to Children* means any communication, picture, image,  
19 graphic image file, article, recording, writing, or other matter of any kind that is obscene, or  
20 that a reasonable person would find--

21                   (A) taking the material as a whole and with respect to children, is designed to  
22 appeal to, or is designed to pander to, the prurient interest;

23                   (B) depicts, describes, or represents, in a manner patently offensive with  
24 respect to children--

25                   (i) an actual or simulated sexual act or sexual contact;

1 (ii) an actual or simulated normal or perverted sexual act; or

2 (iii) a lewd exhibition of the genitals or post-pubescent female breast; and

3 (C) taking the material as a whole, lacks serious literary, artistic, political, or  
4 scientific value for children;

5 (D) taking the material as a whole and with respect to children, is designed to  
6 entice children to the use of alcohol, drugs and other dangerous substances.

7 d. *Internet Service Provider* means any company that provides Internet access for  
8 individuals, organizations and companies.

9 e. *Commercial Establishment* means any business offering Internet access or services  
10 for a fee or profit.

11 f. *Website* means any collection of material placed in a computer server-based file  
12 archive so that it is publicly accessible over the Internet using hypertext transfer protocol, or  
13 any successor protocol.

14 g. *Filtering device* means any software installed in the computer or any program  
15 activated from the service provider or any other such device that can effectively block  
16 unwanted websites particularly those containing sexually explicit and/or violent materials.

17 SECTION 4. *Coverage.* - The provisions of this Act shall be applicable to all  
18 commercial establishments granting access to Internet, with or without a fee, and to all other  
19 public institutions from which children can access the Internet.

20 SECTION 5. *Restricted Access to Harmful Materials.* - All commercial establishments  
21 shall restrict access to materials harmful to children by offering filtered Internet service  
22 using end-user or PC-based filtering software or any such other filtering device to all  
23 Internet users defined as children under this Act.

24 All other offices, companies, establishments or public institutions offering Internet  
25 services or access, such as but not limited to private or public schools, libraries, restaurants

1 and internet cafes, shall likewise use such filtering device that it deems appropriate for the  
2 purpose of blocking webpages that contain materials harmful to children.

3 SECTION 6. *Prohibited Acts.* The following acts are hereby declared prohibited and  
4 unlawful:

5 (a) Operating a website primarily for commercial purposes knowingly, and with  
6 knowledge that it contains material that is harmful to children, except when:

7 (1) the home page, or any other page or screen that is initially viewable by a  
8 visitor to such website, does not include any material that is harmful to children;

9 (2) access to any such material is restricted to a specific set of individuals  
10 through an age verification requirement; and

11 (3) the source code of such website contains the content description tag  
12 assigned to such website by the National Telecommunications and Information  
13 Administration.

14 (b) Operating a website containing any material harmful to children without  
15 displaying prominently the NTC tag on the home page or screen initially viewable by a  
16 visitor.

17 SECTION 7. *Duty to Report.* – It is hereby mandatory for all Internet Service  
18 Providers, credit-card companies and banks, teachers, and duly-licensed commercial  
19 establishment owners to report suspected and actual operation of website containing  
20 materials harmful to children over the Internet, including but not limited to child  
21 pornography, sexually explicit and violent materials, without displaying the NTC tag as  
22 required under Section 6 of this Act to the Online Child Safety Council established under  
23 this Act, or to the nearest law enforcement office in the locality.

24 Any person, having actual knowledge that a commercial establishment or a public  
25 institution from which children can access the internet does not make use of the required

1 filtering device, have the duty to immediately report the same to the Online Child Safety  
2 Council or to the nearest law enforcement office in the locality.

3 SECTION 8. *Penalties.*

4 (a) Any person, natural or juridical, found in violation of Section 5 hereof shall be  
5 punished with imprisonment of prisión mayor and/ or a fine of not less than One Hundred  
6 Thousand Pesos (Php100,000.00) at the discretion of the court of proper jurisdiction.

7 (b) Any person, natural or juridical, found in violation of Section 6 hereof shall be  
8 punished with imprisonment of prisión correccional and/or a fine of not less than Seventy  
9 Thousand Pesos (Php70,000.00), at the discretion of the court of proper jurisdiction.

10 (c) In addition to the above penalties, all permits and licenses given to the website  
11 operator, or to the commercial establishment shall be revoked. All properties and  
12 instrumentalities used in committing the acts in Sections 5 and 6 hereof, as well as all the  
13 proceeds therefrom, shall likewise be forfeited in favor of the government.

14 (d) In case the offender is a juridical person, the president, vice-president, and  
15 chairman of the board shall be liable for the penalty of imprisonment.

16 (e) All persons found to be non-compliant with the mandatory reportorial  
17 requirements set forth in Section 7 hereof shall be fined the amount of not less than Thirty  
18 Thousand Pesos.

19 SECTION 9. *Online Child Safety Council* – There is hereby established an Online  
20 Child Safety Council under the Department of Social Welfare and Development as the  
21 primary agency responsible for the implementation of this Act. It shall be chaired by an  
22 Undersecretary of the DSWD and composed of duly designated representatives from the  
23 following departments:

24 (a) Department of Education;

25 (b) Department of Interior and Local Government

1 (c) Council for the Welfare of Children;

2 (d) Commission on Information and Communications Technology; and

3 (e) National Telecommunications Commission.

4 Within ninety (90) days after the date of enactment of this Act, the Council shall  
5 establish a Working Group, which will design and develop a common content description tag  
6 not later than one hundred twenty (120) days from the enactment of this Act, that:

7 (1) will provide consumers with advance warning and information about the  
8 content of any website that contains material that is harmful to children;

9 (2) will allow consumers, based on such tag, to block or filter access to, and  
10 display of, any website that contains material that is harmful to children; and

11 (3) is technologically capable of being embedded into the source code a  
12 website.

13 SECTION 10. *Functions of the Council;*

14 1. Review and evaluate the status and effectivity of the implementation of this Act;

15 2. Determine and approve the appropriate Internet filtering and blocking software  
16 that will effectively restrict children's access to prohibited websites;

17 3. Recommend measures that will further ensure safety of children in cyberspace  
18 which includes but not limited to educational campaigns, development of  
19 blocking and filtering software, labeling, or other technologies;

20 4. Develop, as part of its Internet safety policy, a program for educating children  
21 about appropriate online behavior, including interacting with other individuals on  
22 social networking websites and in chat rooms;

23 5. Conduct regular on-site inspections of commercial establishments and other  
24 institutions to monitor compliance with the provisions of this Act; and

1           6. Perform such other functions as may be necessary for the implementation of the  
2           provisions of this Act.

3           SECTION 11. *Appropriations.* – The amount necessary for the initial implementation  
4 of this Act shall be taken from the appropriation of the Department of Social Welfare and  
5 Development under the General Appropriations Act. Thereafter, such amount as may be  
6 necessary to carry out the provisions of this Act shall be included in the appropriations of the  
7 year following its enactment into law.

8           SECTION 12. *Separability Clause.* - If for any reason, any portion or provision of this  
9 Act is declared unconstitutional or invalid, such parts not affected thereby shall remain in  
10 full force and effect.

11          SECTION 13. *Repealing Clause.* - All laws, presidential decrees, executive orders,  
12 issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act  
13 are hereby repealed or modified accordingly.

14          SECTION 14. *Effectivity* - This Act shall take effect fifteen (15) days after its  
15 publication in at least two (2) newspapers of general circulation whichever comes earlier.  
16

17 Approved,