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

Office of the Secretary

'19 JUL -1 P5 :57

SENATE
S.B. NO. 111

Introduced by Senator Maria Lourdes Nancy S. Binay

AN ACT
AMENDING REPUBLIC ACT NO. 9262, DEFINING ELECTRONIC VIOLENCE AGAINST WOMEN OR E-VAW, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Since the enactment of Republic Act No. 9262, or the Anti-Violence Against Women and Their Children Act of 2004 ("VAWC Law"), women and their children have been provided with additional legal alternatives and protection against abusive conduct and violence. However, the law has not taken into consideration the prevalent and widespread reach of the internet and communications technology.

With the ongoing development in information and communications technology, the general public has gained another medium of expression, both responsibly and irresponsibly. More than a form of communication, social media was used in several instances as a mode of disseminating scandals involving both television personalities and private individuals. While Republic Act No. 9995 or the Anti-Photo and Video Voyeurism Act of 2009, sought to prevent further acts of said nature from permeating the various medium of information and communications technology, the said law failed to address the form of violence brought on victims of such scandals, by reason of their special relationships with their assailants.

In this regard, the proposed amendment of the VAWC Law includes electronic violence against women and to offer protection to women in the form of E-VAW Protection Orders.

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

MARIA LOURDES NANCY S. BINAY
Senator

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

Senate
Office of the Secretary

'19 JUL -1 P5 :57

SENATE
S.B. NO. 111

Introduced by Senator Maria Lourdes Nancy S. Binay

AN ACT
AMENDING REPUBLIC ACT NO. 9262, DEFINING ELECTRONIC VIOLENCE AGAINST WOMEN OR E-VAW, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES

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

Section 1. *Short Title.* – This Act shall be known as "The E-VAW Law of 2019."

Sec. 2. Section 3(a) of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

"SECTION 3. *Definition of Terms.* – As used in this Act,

(a) *'Violence against women and their children'* refer to any act or series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or

suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:

x x x

E. *"ELECTRONIC VIOLENCE"* REFERS TO ANY ACT OR OMISSION INVOLVING THE USE OR EXPLOITATION OF EPHEMERAL DATA OR ANY FORM OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) WHICH CAUSES OR IS LIKELY TO CAUSE MENTAL, EMOTIONAL OR PSYCHOLOGICAL DISTRESS OR SUFFERING TO THE VICTIM, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

1. UNAUTHORIZED RECORDING, REPRODUCTION OR DISTRIBUTION OF VIDEOS SHOWING THE VICTIM'S PRIVATE AREA OR THE VICTIM'S NAKED OR UNDERGARMENT-CLAD GENITALS, PUBIC AREA, BUTTOCKS OR BREASTS;

2. UPLOADING OR SHARING WITHOUT THE CONSENT OF THE VICTIM, ANY FORM OF MEDIA THAT CONTAIN PICTURES, VOICE OR VIDEO OF THE VICTIM WITH LEWD, INDECENT, OBSCENE OR SEXUAL CONTENT;

3. HARASSING OR THREATENING THE VICTIM THROUGH TEXT MESSAGING OR OTHER CYBER, ELECTRONIC OR MULTIMEDIA MEANS;

4. CYBER-STALKING WHICH INCLUDES, BUT IS NOT LIMITED TO THE HACKING OF PERSONAL ACCOUNTS ON SOCIAL NETWORKING SITES AND THE USE OF LOCATION TRACKERS ON CELLULAR DEVICES; AND

5. UNAUTHORIZED USE OF THE VICTIM'S PICTURE, VIDEO, VOICE, NAME OR ANY OTHER ASPECT OF THE VICTIM'S IDENTITY AND DISTRIBUTING THE SAME IN ANY VIDEO GAME, PHONE APPLICATION, PROGRAM AND THE LIKE, WHICH PUTS OR TENDS TO PUT THE VICTIM IN A BAD LIGHT OR INJURE THE VICTIM'S REPUTATION."

Sec. 3. Section 5 of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

"SECTION 5. *Acts of Violence Against Women and Their Children.* – The crime of violence against women and their children is committed through any of the following acts:

x x x

(J) CAUSING ELECTRONIC VIOLENCE AGAINST A WOMAN OR HER CHILD; AND

(K) THREATENING TO CAUSE ELECTRONIC VIOLENCE AGAINST A WOMAN OR HER CHILD."

Sec. 4. Section 6 of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

"SECTION 6. *Penalties.* – The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

x x x

(G) ACTS FALLING UNDER SECTION 5(J) SHALL BE PUNISHED BY *PRISION CORRECCIONAL*; AND

(H) ACTS FALLING UNDER SECTION 5(K) SHALL BE PUNISHED BY *ARRESTO MAYOR*.

(I) ANY ACT OR OMISSION INVOLVING THE USE OR EXPLOITATION OF ANY FORM OF INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) WHICH CAUSES OR IS LIKELY TO CAUSE MENTAL, EMOTIONAL OR PSYCHOLOGICAL DISTRESS OR SUFFERING TO THE VICTIM, SHALL BE PUNISHED BY *PRISION CORRECCIONAL* OR A FINE IN THE AMOUNT OF NOT LESS THAN THREE HUNDRED THOUSAND PESOS (₱300,000.00) BUT NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (₱500,000.00)

If the acts are committed while the woman or child is pregnant or committed in the presence of her child, the penalty to be applied shall be the maximum period of penalty prescribed in the section.

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One Hundred Thousand Pesos (₱100,000.00) but not more than Three Hundred Thousand Pesos (P300,000.00), *PROVIDED, THAT*, IN E-VAW CASES, THE FINE THAT MAY BE IMPOSED SHALL NOT BE LESS THAN THREE HUNDRED THOUSAND PESOS (₱300,000.00) BUT NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court."

Sec. 5. Section 8 of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

"SECTION 8. *Protection Orders.* – A protection order is an order issued under this Act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act and grating other necessary relief. The relief granted under a protection order serves the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Act are the barangay protection order (BPO), temporary protection order (TPO), [and] permanent protection order (PPO) AND E-VAW PROTECTION ORDER (EPO) FOR CASES OF ELECTRONIC VIOLENCE. The protection orders that

may be issued under this Act shall include any, some or all of the following reliefs:

x x x

(l) For E-VAW cases, ordering the immediate blocking, blacklisting, removal or shut down of any upload, program or application that causes or tends to cause violence against the victim.

Any of the reliefs provided under this section shall be granted even in the absence of a decree of legal separation or annulment or declaration of absolute nullity of marriage.

The issuance of a BPO or the pendency of an application for BPO shall not prejudice a petitioner from applying for, or the court from granting a TPO, [or] PPO OR EPO."

Sec. 7. Section 11 of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

"SECTION 11. *How to Apply for a Protection Order.* – The application for a protection order must be in writing, signed and verified under oath by the applicant. It may be filed as an independent action or as an incidental relief in any civil or criminal case the subject matter or issues thereof partakes of a violence as described in this Act. A standard protection order application form, written in English with translation to the major local languages, shall be made available to facilitate

applications for protection order, and shall contain, among others, the following information:

(a) Names and addresses of petitioner and respondent;

(b) Description of relationships between petitioner and respondent;

(c) A statement of the circumstances of abuse;

(d) Description of the reliefs requested by petitioner as specified in Section 8 herein;

(e) Request for counsel and reasons for such;

(f) Request for waiver of applications fees until hearing; and

(g) An attestation that there is no pending application for a protection order in another court.

If the applicant is not the victim, the application must be accompanied by an affidavit of the applicant attesting to: (a) The circumstances of the abuse suffered by the victim; and (b) The circumstances of consent given by the victim for the filing of the application. When disclosure of the address of the victim will pose danger to her life, it shall be so stated in the application. In such a case, the applicant shall attest that the victim is residing in the municipality or city over which court has territorial jurisdiction, and shall provide a mailing address for purpose of service processing.

An application for protection order filed with a court shall be considered an application for both a TPO and PPO.

AN APPLICATION FOR BPO, TPO OR PPO SHALL AUTOMATICALLY INCLUDE AN APPLICATION FOR EPO. THE LATTER MAY BE ISSUED AS PART OF THE CONDITIONS FOR THE BPO, TPO OR PPO OR AS A SEPARATE PROTECTION ORDER.

Barangay officials and court personnel shall assist applicants in the preparation of the application. Law enforcement agents shall also extend assistance in the application for protection orders in cases brought to their attention."

Sec. 8. Section 16-A is hereby inserted to read as follows:

"SECTION 16-A. *E-VAW PROTECTION ORDER.* – IN CASES OF ELECTRONIC VIOLENCE, A E-VAW PROTECTION ORDER MAY ISSUED SIMULTANEOUSLY OR SUBSEQUENT TO THE ISSUANCE OF A BPO, TPO OR PPO.

E-VAW PROTECTION ORDERS SHALL BE ISSUED BY THE BARANGAY OR THE COURTS, AS THE CASE MAY BE, INDEPENDENTLY OF OR IN ADDITION TO NON-E-VAW PROTECTION ORDERS. HOWEVER, AN E-VAW PROTECTION ORDER, ONCE ISSUED, DOES NOT EXPIRE AND CONTINUES TO TAKE EFFECT WHILE THE CASE IS PENDING AND UNTIL THE SAME IS REVOKED BY THE ORDER OF THE COURT."

Sec. 9. Section 39 of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

"Section 39. *Inter-Agency Council on Violence Against Women and Their Children (IAC-VAWC).* In pursuance of the abovementioned policy, there is hereby established an Inter-Agency Council on Violence Against Women and Their Children, hereinafter known as the Council, which shall be composed of the following agencies:

(a) Department of Social Welfare and Development (DSWD);

x x x

(b) National Bureau of Investigation (NBI); AND

(M) DEPARTMENT OF SCIENCE AND TECHNOLOGY (DOST).

These agencies are tasked to formulate programs and projects to eliminate VAW based on their mandates as well as develop capability programs for their employees to become more sensitive to the needs of their clients. The Council will also serve as the monitoring body as regards to VAW initiatives.

The Council members may designate their duly authorized representative who shall have a rank not lower than an assistant secretary or its equivalent. These representatives shall attend Council meetings in their behalf, and shall receive emoluments as may be determined by the Council in

accordance with existing budget and accounting rules and regulations."

Sec. 10. *Separability Clause.* If any portion or provision of this Act is declared void and unconstitutional, the remaining portions or provisions hereof shall not be affected by such declaration.

Sec. 11. *Repealing Clause.* All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 12. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspapers of general circulation.

Approved,