

SENATE

S.B. No. 12

Introduced by Senator Ramon Bong Revilla, Jr.

EXPLANATORY NOTE

In the Philippine setting, pornography is a continuing concern facing the government. While laws have been passed to address the seemingly unabated proliferation of pornographic materials, recent development in technology have made it even more difficult to curb pornography.

The government thus has a compelling interest in ensuring that criminal laws against pornography remain effective and enforceable to keep abreast with modern technology.

The government should exert positive efforts to stamp out pornography in all mediums to uphold and promote good morals, proper values, and decency of every human being.

This proposed measure neither intends to amend nor repeal the provisions of Republic Act No. 9208 otherwise known as "Anti-Trafficking in Persons Act of 2003." It in fact, supplements it. This bill aims to criminalize the publication, broadcast, exhibition of pornographic materials including images that appear in traditional media such as, but not limited to, paper, celluloid, film, magnetic tapes, or through airwaves, or through the use of computers, the internet, cyberspace, Internet Chat, Chat rooms, web Sites, Electronic Mails optical media, and other technological advancements thereof to protect the morals of the public.

At present, proliferations of pornographic materials through these mediums are not clearly punishable. And even if they are punishable, the penalties are inconsequential that perpetrators are not deterred fro continuing to engage in such immoral and indecent activities.

It is the State's duty to safeguard its interest against the menace of publication, broadcast and exhibition of pornographic materials through electronics and other high technology equipments that tend to disrupt peace and order in the country. Thus, there is a need for a new law that would combat pornography in this age of modern technology. As such the immediate passage of this bill is earnestly prayed for.


RAMON BONG REVILLA JR.
Senator

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AN ACT

PUNISHING THE PUBLICATION, BROADCASTING, AND EXHIBITION OF PORNOGRAPHIC MATERIALS THAT APPEAR IN TRADITIONAL MEDIA SUCH AS, BUT NOT LIMITED TO, PAPER, CELLULOID, FILM, MAGNETIC TAPES, OR THROUGH AIRWAVES, OR THROUGH THE USE OF COMPUTERS, THE INTERNET, CYBERSPACE, INTERNET CHAT, WEB SITES, ELECTRONIC MAILS, OPTICAL MEDIA, OR OTHER ELECTRONIC MEDIA, AND OTHER TECHNOLOGICAL ADVANCEMENTS THEREOF, PROVIDING PENALTIES AND FOR OTHER PURPOSES

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

SECTION 1. Title – This Act shall be known and cited as the “Anti-Pornography Act of 2007”

SEC. 2. Declaration of Policy- it is hereby declared the policy of the state to protect all individuals from proliferation of pornographic materials and to curb nefarious activities involving pornography. In particular, the state recognizes its duty to safeguard its interest against the menace of publication, broadcast and exhibition of pornographic materials through electronics and other high technology equipments that are contrary to public morals and decency in the country. The state shall also give priority to take measures and development program to protect the people from exploitation.

SEC. 3. Scope and Nature of Pornography - pornography can take various forms including print media, videotapes, film, compact disc, read-only memory (CD-ROM) or digital video technology (DVD) and can be transmitted through computers bulletin-board system (BBS), Internet relay chat, internet clubs and an array of constantly changing world-wide-web sites. New computer technology allows for manipulation of real photographs as well as creation of “virtual child pornography” through digital images.

SEC. 4. Definition of Terms –

1) **Pornography** – refers to any representation, through publication, exhibition, cinematography, indecent shows, information technology by whatever means, of a person (whether minor or adult) engaged in real or simulated explicit sexual activities or any other representation of the sexual parts of a person for primarily sexual purpose that is intended to stimulate erotic rather than aesthetic or emotional feeling.

2) **Pornographic Materials** – Any image or images, article or articles, writing or writings, speech or speeches, depicting pornography;

3) **Explicit Sexual Activities** – Real or simulated

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

- (b) Bestiality or sexual intercourse including genital-genital, oral-genital, anal-genital, or oral-anal, between humans and animals;
- (c) Masturbation with or without the use of foreign objects;
- (d) Sadistic or masochistic abuse in a sexual context
- (e) Lascivious exhibition of the genitals, breast, or public area of any persons;

4) Publication –

- (a) The act or process of publishing;
- (b) To make generally known;
- (c) To disseminate to the public;
- (d) To produce or release for distribution; or
- (e) A published work
- (f) Any writing of which copies are published

whether in traditional media such as, but not limited to, paper, celluloid, film, magnetic tapes, or through airwaves, or through the use of computers, the internet, cyberspace, Internet chat, chat rooms, web Sites, Electronic mails, optical media, or other electronic media, and other technological advancements thereof.

5) Broadcast –

- (a) the act or process of broadcasting or transmitting;
- (b) to make generally known by means of transmitting;
- (c) to disseminate to the public by means of transmitting;
- (d) to produce or release for distribution; or
- (e) a broadcasted work

whether in traditional media such as, but not limited to, celluloid, film, magnetic tapes, or through airwaves, or through the use of computers, the internet, cyberspace, Internet Chat, Chat Rooms, Web Sites, Electronic Mails, optical media, or other electronic media, and other technological advancements thereof.

6) Exhibition –

- (a) the act or process of exhibiting;
- (b) to make generally known;
- (c) to disseminate to the public;
- (d) to produce or release for exhibition; or

whether live or in traditional media such as, but not limited to, celluloid, film, magnetic tapes, or through airwaves, or through the use of computers, the internet, cyberspace, Internet Chat, Chat Rooms. Web Sites, Electronic mails, optical media, or other electronic media, and other technological advancements thereof.

7) Computer – Any device or a group of inter-connect devices, which, pursuant to an operating system or program, performs automatic processing of data or any other function assigned to it.

8) Internet – An electronic communications network that connects computers, computer networks, organizational computer facilities and other computer-based communication devices around the world.

9) World Wide Web/Cyberspace – The totality of the electronic medium of computer networks, in which online communication takes place. Is a global information space, which people can read and write via computers connected to the Internet.

10) Optical media – a storage medium or device in which information, including sounds, and/or images. On the other hand, software code has been stored, either by mastering and/or by replication, which may be accessed and read using a lens scanning

mechanism employing a high intensity light source such as a laser or any other means as maybe developed in the future.

11) **Internet chat** – An Internet service that allows users to participating in a real-time, synchronous exchange of images and remarks with one or more people over a computer network.

12) **Chat room** – a web site that provides real-time online interactive broadcast of images, remarks and discussions. Is an online forum where people can chat online (talk by broadcasting messages to people on the same forum in real time). Sometimes this venue is moderated either by limiting who is allowed to speak (not common), or by having moderation volunteers patrol the venue watching for disruptive or otherwise undesirable behavior.

13) **Web site** – a group of World Web pages usually containing hyperlinks to each other and made available online by an individual, company, educational institution, government, or organization.

14) **Electronic Mail (E-Mail)** –

- (a) A means or system for transmitting messages, text, images electronically as between computers on a network;
- (b) Messages, text, images sent and received electronically through an e-mail system;

15) **Censorship** – is the control of speech and other forms of human expression, often by (but not limited to) government intervention.

16) **Magazines** – is a periodical publication containing a variety of articles, generally financed by advertising and/or purchase by readers

SEC. 5 Prohibited Acts – It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

- (1) Publication, broadcast, or exhibition, of Pornographic Materials
- (2) Soliciting, selling or giving away any pornographic material.
- (3) Destroying or concealing the effects or instruments of the body of the crimes, in order to prevent its discovery.
- (4) Possessions of any pornographic materials as defined in this act, with intent to publish, broadcast or exhibit.
- (5) Any visual or audio that advocates or encourages unlawful sexual activity.
- (6) Produce any effects and issues of pornography.
- (7) Assist anyone in promoting pornography
- (8) Knowingly sell, lend, distribute or otherwise provide access to any person
- (9) Representation of information, data or image of such pornographic materials
- (10) Possession of lewd photographs, sex stories, and other similar articles in all forms of media regardless of purpose or intent
- (11) Procuring or offering of a child for prostitution, for the production of Pornography or pornographic performances
- (12) Holding any public lectures or organization of public performance with pornographic content
- (13) Enticement of any person under the age of 18 to allow him or herself To be depicted as part of a commercial production of moving or still pictures with a sexual content of any person under 18 or production itself of such material.

SEC. 6 Penal Provisions –

- (a) Any person who shall cause the publication, broadcast, or exhibition, of Pornographic materials shall be punished with imprisonment for not less than twelve (12) years but not more than twenty (20) years and pay a fine of not less than two hundred fifty thousand pesos (P250, 000.00)
- (b) Any person who causes the publication, broadcast, or exhibition, of Pornographic materials depicting minors, or cause the publication, broadcasting or exhibition of such pornographic materials to be viewed by minors, shall suffer the penalty of twenty (20) years imprisonment and a fine of not less than two hundred fifty thousand pesos (P250, 000.00)
- (c) Any person who shall seek, solicit, acquire, sell or give away any pornographic material shall be punished with imprisonment for not less than twelve (12) years but not more than twenty (20) years and pay a fine of not less than two hundred fifty thousand pesos (P250, 000.00).
- (d) Any person who aids in the commission of the acts in Section 5 (a) (b) shall be punished with twelve (12) years imprisonment and pay a fine of not less than one hundred thousand pesos (P100, 000.00).
- (e) Any persons who shall conceal or cause the destruction of the effects or instruments of the body of the crime, in order to prevent the discovery of the crimes in Section 5 (a) (b) shall be punished with the twelve (12) years imprisonment and pay a fine of not less than one hundred thousand pesos (P100, 000.00).
- (f) Any person who shall possess any pornographic materials defined in this act with intent to publish, broadcast or exhibit shall be punished with twelve (12) years imprisonment and pay a fine of not less than one hundred thousand pesos (P100, 000.00).
- (g) Officers and/or Directors of juridical persons shall be held liable for the criminal offense established in accordance with this law, committed for his benefit by his employee, acting either individually or as part of an organ of any legal person based on his power of representation, decision making processes, exercise of control and any other similar power of discretions. Provisions of corporation code as to the original liability of its Offices and Directors shall apply.
- (h) Officers and/or Directors shall be held liable for where lack of supervision or control of an employee has made possible the commission of the criminal offense established in accordance with this law, for the benefit of the juridical person by a natural person under its authority. Liability of a legal person herein shall not exclude the criminal proceeding against the employees who are perpetrators, or abettors of criminal offenses herein enumerated.
- (i) Public officers and Persons in Authority who shall commit any of the prohibited acts shall be punished with imprisonment of not less than twelve (12) years but not more than twenty (20) years, pay a fine of not less than two hundred fifty thousand pesos (P250, 000.00), and shall suffer perpetual disqualification from holding any public office.

SEC. 7. Disposition of Materials- Any prohibited material including tools, instruments, facilities, and equipment used in the production of obscene and pornographic materials shall, after lawful seizure and final conviction of the offender, be forfeited in favor of government and destroyed in the presence of the representatives of the Department of Justice (DOJ), Philippine National Police (PNP), and any one from the religious, civic or youth organizations of such place in the manner as court may order: Provided, however, That when the accused is acquitted, the materials seized shall nevertheless be forfeited in favor of the government and destroyed: Provided, further, That if the acquittal results from a finding that the materials seized are not obscene or pornographic under this Act, the materials shall be returned to the accused.

SEC. 8. Civil Liability – the prosecution of offenders’ bases on this Act shall in no way prejudice the right of a party to file appropriate civil action.

SEC. 9. Extradition/Sanctions – Any violations related herein shall be subjected to extradition by any requesting state.

SEC. 10. Jurisdiction and Venue – The criminal and civil action for damages as provided in this Act, shall be filed simultaneously or separately with the Regional Trial Court of the province or city where the pornographic material was first published or broadcasted or exhibited or where any of the offended parties actually resides at the time of the commission of the offense: Provided However, that the civil action shall be filed in the same court where the criminal action is filed and vice versa: Provided, further, that the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts.

Preliminary investigation of criminal action as provided for in this act shall be conducted by the provincial or city prosecutor of the province or city, or by the municipal court of the city of the province where such action may be instituted in accordance with the provisions of this article.

SEC. 11. Implementing Rules and Regulations- Within ninety (90) days after the effectivity of this Act, the NBI, PNP, DOJ, MTRCB, VRB, after consultations with the concerned non-government organization, shall promulgate the necessary rules and regulations for the implementation of this Act.

SEC. 12. Separability Clause – If for any provision of this Act is held invalid, the other provisions of this act shall not affected shall remain in full force and effect.

SEC. 13. Repealing Clause – All laws, decrees, orders, rules and regulations, or portion thereof inconsistent with this act are hereby repealed or modified accordingly.

SEC. 14. Effectivity – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,