


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

6 JUL 26 1973

SENATE
S.B. No. 2197

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Child pornography exploits children and robs them of their innocence. Studies have shown that pornography is very influential in the actions of sexual offenders. Statistics show that 90% of the predators who molest children have had some type of involvement with pornography. Predators often use child pornography to aid in their molestation.

This bill seeks to prevent sexual offenses against children by penalizing the possession, sale and distribution of child pornography, or any act of making it available or accessible to any person.


MIRIAM DEFENSOR SANTIAGO

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AN ACT
PENALIZING THE POSSESSION, SALE AND DISTRIBUTION
OF CHILD PORNOGRAPHY

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

SECTION 1. *Short Title.* – This Act shall be known as "Anti-Child Pornography Act of 2006."

SECTION 2. *Declaration of Policy.* – It is a policy of the State to protect the physical, moral and social well-being of children. Towards this end, the State shall exert efforts to prevent sexual offenses committed against children in keeping with the fundamental freedoms guaranteed under the Constitution, the Child and Youth Welfare Code, the Provisions of the Convention on the Rights of the Child and other international human rights instruments to which the Philippines is a party.

SECTION 3. *Definition of Terms.* – For the purposes of this Act, the term

- (A) "Child pornography" refers to any representation of a child engaged in real or simulated explicit sexual conduct, or any other representation of the sexual parts of a child primarily for a sexual purpose.
- (B) "Child" refers to those below eighteen (18) years of age, or those eighteen (18) years old or older but are incapable of taking care of themselves, as defined under Republic Act No. 7610.

SECTION 4. *Prohibited Acts.* – It shall be unlawful for any person to knowingly possess or control any child pornography in the form of any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves participation of a child, knowing that the matter depicts a child personally engaging in or simulating sexual conduct.

It shall likewise be unlawful for any person to knowingly sell, lend, rent out, distribute, make available, or otherwise provide access to any person, whether or not for money, profit, or material, economic or other consideration, any such child pornography in the form of any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the participation of a child, knowing that the matter depicts a child personally engaging in or simulating sexual conduct.

It shall not be necessary to prove that the matter is obscene in order to establish a violation of this Section.

In a prosecution for a violation of this Act, neither the prosecution nor the defense shall be required to introduce expert witness testimony to establish that the person depicted in an item above is a real or actual person. The proof that a person was not completely generated by the use of technology may be established by direct or circumstantial evidence, or both.

SECTION 5. *Penalties.* –Performance of any of the prohibited acts in the manner described in the preceding section shall be punishable by a penalty of imprisonment of *arresto mayor*, or a fine of not more than One Hundred Thousand Pesos (P100,000.00), or both, at the discretion of the court, taking into consideration all attending circumstances.

The owner, proprietor, or operator of any store, establishment or any other location who performs any of the prohibited acts in the preceding section shall be punished by a penalty of imprisonment of *prision correccional*, or a fine of not more than Three Hundred Thousand Pesos (P300,000.00), or both, at the discretion of the court, taking into consideration all attending circumstances, and the cancellation of the license to operate such an establishment. If the owner, proprietor or operator of the establishment above is a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed on the entity's responsible officers, including, but not limited to, the president, vice-president, chief executive officer, general manager, managing director or partner directly responsible therefore.

The maximum penalty above shall be imposed on any person in possession of more than one hundred (100) items in violation of the preceding Section. The maximum penalty shall also be imposed if a person has been previously convicted of any violation of this Act.

SECTION 6. *Exceptions.* – The provisions of this Act shall not apply to drawings, figurines, statues, or to any film or television program rated fit for public viewing or distribution by the Movie and Television Review and Classification Board (MTRCB).

Section 7. *Separability Clause.* – If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

Section 8. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 9. *Effectivity*. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation

Approved,

/rgs