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SENATE

Senate Bill No. 701

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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.


JINGGOY EJERCITO ESTRADA
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:*

SECTION 1. Short Title. This Act shall be known as the "**Online
Children Safety Act of 2010.**"

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

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

SEC. 3. Definition of Terms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All other offices, companies, establishments or public institutions offering Internet services or access, such as but not limited to private or public schools, libraries, restaurants and internet cafes, shall likewise use such filtering device that it deems appropriate for the purpose of blocking webpages that contain materials harmful to children.

SEC. 6. *Prohibited Acts.* The following acts are hereby declared prohibited and unlawful:

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

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

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

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

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

SEC. 7. *Duty to Report.* - It is hereby mandatory for all Internet Service Providers, credit-card companies and banks, teachers, and duly-licensed commercial establishment owners to report suspected and actual operation of website containing materials harmful to children over the Internet, including but not limited to child pornography, sexually explicit and violent materials, without displaying the NTC tag as required under Section 6 of this Act to the Online Child Safety Council established under this Act, or to the nearest law enforcement office in the locality. Any person, having actual knowledge that a commercial establishment or a public institution from which children can access the internet does not make use of the required filtering device, have the duty to immediately report the same to the Online Child Safety Council or to the nearest law enforcement office in the locality.

SEC. 8. *Penalties.*

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

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

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

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

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

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

- (a) Department of Education;
- (b) Department of Interior and Local Government
- (c) Council for the Welfare of Children;
- (d) Commission on Information and Communications Technology; and
- (e) National Telecommunications Commission.

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

- (1) will provide consumers with advance warning and information about the content of any website that contains material that is harmful to children;
- (2) will allow consumers, based on such tag, to block or filter access to, and display of, any website that contains material that is harmful to children; and is technologically capable of being embedded into the source code a website.

SEC. 10. Functions of the Council:

1. Review and evaluate the status and effectivity of the implementation of this Act;
2. Determine and approve the appropriate Internet filtering and blocking software that will effectively restrict children's access to prohibited websites;
3. Recommend measures that will further ensure safety of children in cyberspace which includes but not limited to educational campaigns, development of blocking and filtering software, labeling, or other technologies;
4. Develop, as part of its Internet safety policy, a program for educating children about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms;
5. Conduct regular on-site inspections of commercial establishments and other institutions to monitor compliance with the provisions of this Act; and provisions of this Act.
6. Perform such other functions as may be necessary for the implementation of the

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

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

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

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

Approved,