

[REPUBLIC ACT NO. 7610, June 17, 1992]

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES

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

ARTICLE I

TITLE, POLICY, PRINCIPLES AND DEFINITION OF TERMS

SECTION 1. *Title.* – This Act shall be known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act."

SEC. 2. *Declaration of State Policy and Principles.* – It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.

The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life.

SEC. 3. *Definition of Terms.* –

- a. "Children" refers to persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition;

b. "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

1. Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
2. Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
3. Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
4. Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

c. "Circumstances which gravely threaten or endanger the survival and normal development of children" include, but are not limited to, the following:

1. Being in a community where there is armed conflict or being affected by armed conflict-related activities;
2. Working under conditions hazardous to life, safety and morals which unduly interfere with their normal development;
3. Living in or fending for themselves in the streets of urban or rural areas without the care of parents or a guardian or any adult supervision needed for their welfare;
4. Being a member of an indigenous cultural community and/or living under conditions of extreme poverty or in an area which is underdeveloped and/or lacks or has inadequate access to basic services needed for a good quality of life;
5. Being a victim of a man-made or natural disaster or calamity; or
6. Circumstances analogous to those abovementioned which endanger the life, safety or normal development of children.

d. Comprehensive program against child abuse, exploitation and discrimination" refers to the coordinated program of services and facilities to protect children against:

1. Child prostitution and other sexual abuse;
2. Child trafficking;
3. Obscene publications and indecent shows,
4. Other acts of abuse; and
5. Circumstances which threaten or endanger the survival and normal development of children.

ARTICLE II

PROGRAM ON CHILD ABUSE, EXPLOITATION AND DISCRIMINATION

SEC. 4. *Formulation of the Program.* – There shall be a comprehensive program to be formulated by the Department of Justice and the Department of Social Welfare and Development in coordination with other government agencies and private sector concerned, within one (1) year from the effectivity of this Act, to protect children

against child prostitution and other sexual abuse; child trafficking; obscene publications and indecent shows; other acts of abuse; and circumstances which endanger child survival and normal development.

ARTICLE III

CHILD PROSTITUTION AND OTHER SEXUAL ABUSE

SEC. 5. *Child Prostitution and Other Sexual Abuse.* – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of reclusion temporal in its medium period to *reclusion perpetua* shall be imposed upon the following:

- a. Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:
 1. Acting as a procurer of a child prostitute;
 2. Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;
 3. Taking advantage of influence or relationship to procure a child is a prostitute;
 4. Threatening or using violence towards a child to engage him as a prostitute; or
 5. Giving monetary consideration, goods or other pecuniary benefit to a child with the intent to engage such child in prostitution.
- b. Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse: *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period; and
- c. Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution take place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment.

SEC. 6. *Attempt to Commit Child Prostitution.* - There is an attempt to commit child prostitution under Section 5, paragraph (a) hereof when any person who, not being a relative of a child, is found alone with the said child inside the room or cubicle of a house, an inn, hotel, motel, pension house, apartelle or other similar establishments, vessel, vehicle or any other hidden or secluded area under circumstances which would lead a reasonable person to believe that the child is about to be exploited in prostitution and other sexual abuse.

There is also an attempt to commit child prostitution, under paragraph (b) of Section 5 hereof when any person is receiving services from a child in a sauna parlor or bath, massage clinic, health club and other similar establishments. A penalty lower by two (2) degrees than that prescribed for the consummated felony under Section 5 hereof shall be imposed upon the principals of the attempt to commit the crime of child prostitution under this Act, or, in the proper case, under the Revised Penal Code.

ARTICLE IV

CHILD TRAFFICKING

SEC. 7. *Child Trafficking.* – Any person who shall engage trading and dealing with children including, but not limited to, the act of buying and selling of a child for money, or for any other consideration, or barter, shall suffer the penalty of *reclusion temporal* to *reclusion perpetua*. The penalty shall be imposed in its maximum period when the victim is under twelve (12) years of age.

SEC. 8. *Attempt to Commit Child Trafficking.* – There is an attempt to commit child trafficking under Section 7 of this Act:

- a. When a child travels alone to a foreign country without valid reason therefor and without clearance issued by the Department of Social Welfare and Development or written permit or justification from the child's parents or legal guardian;
- b. When a pregnant mother executes an affidavit of consent for adoption for a consideration;
- c. When a person, agency, establishment or child-caring institution recruits women or couples to bear children for the purpose of child trafficking;
- d. When a doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person simulates birth for the purpose of child trafficking; or
- e. When a person engages in the act of finding children among low-income families, hospitals, clinics, nurseries, day-care centers, or other child-caring institutions who can be offered for the purpose of child trafficking.

A penalty lower by two (2) degrees than that prescribed for the consummated felony under Section 7 hereof shall be imposed upon the principals of the attempt to commit child trafficking under this Act.

ARTICLE V

OBSCENE PUBLICATIONS AND INDECENT SHOWS

SEC. 9. *Obscene Publications and Indecent Shows.* – Any person who shall hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, whether live or in video, pose, or model in obscene publications or pornographic materials or to sell or distribute the said materials shall suffer the penalty of *prision mayor* in its medium period.

If the child used as a performer, subject or seller/distributor is below twelve (12) years of age, the penalty shall be imposed in its maximum period.

Any ascendant, guardian, or person entrusted in any capacity with the care of a child who shall cause and/or allow such child to be employed or to participate in an obscene play, scene, act, movie or show or in any other acts covered by this section shall suffer the penalty of *prision mayor* in its medium period.

ARTICLE VI

OTHER ACTS OF ABUSE

SEC. 10. *Other Acts of Neglect, Abuse, or Exploitation and Other Conditions Prejudicial to the Child Development.*

- a. Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.
- b. Any person who shall keep or have in his company a minor, twelve (12) years or under or who is ten (10) years or more his junior in any public or private place, hotel, motel, beer joint, discotheque, cabaret, pension house, sauna or massage parlor, beach and/or other tourist resort or similar places shall suffer the penalty of *prision mayor* in its maximum period and a fine of not less than Fifty thousand pesos (P50,000): *Provided*, That this provision shall not apply to any person who is related within the fourth degree of consanguinity or affinity or any bond recognized by law, local custom and tradition, or acts in the performance of a social, moral or legal duty.
- c. Any person who shall induce, deliver or offer a minor to any one prohibited by this Act to keep or have in his company a minor as provided in the preceding paragraph shall suffer the penalty of *prision mayor* in its medium period and a fine of not less than Forty thousand pesos (P40,000) : *Provided, however*, That should the perpetrator be an ascendant, stepparent or guardian of the minor, the penalty to be imposed shall be *prision mayor* in its maximum period, a fine of not less than Fifty thousand pesos (P 50,000), and the loss of parental authority over the minor.
- d. Any person, owner, manager or one entrusted with the operation of any public or private place of accommodation, whether for occupancy, food, drink or otherwise, including residential places, who allows any person to take along with him to such place or places any minor herein described shall be imposed a penalty of *prision mayor* in its medium period and a fine of not less than Fifty thousand pesos (P50,000), and the loss of the license to operate such a place or establishment.
- e. Any person who shall use, coerce, force or intimidate a streetchild or any other child to:
 1. Beg or use begging as a means of living;
 2. Act as conduit or middlemen in drug trafficking or pushing; or
 3. Conduct any illegal activities, shall suffer the penalty of *prision correccional* in its medium period to *reclusion perpetua*.

For purposes of this Act, the penalty for the commission of acts punishable under Articles 248, 249, 262, paragraph 2, and 263, paragraph 1 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of murder, homicide, other