

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session
HOUSE BILL NO. 4028

Introduced by REPRESENTATIVE DOY C. LEACHON

EXPLANATORY NOTE

This bill seeks to rationalize the penalties for lascivious conduct as defined and punished under Republic Act No. 7610, as amended, otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act". As the law currently stands, the penalty for lascivious conduct when the victim is under twelve (12) years of age is reclusion temporal in its medium period, while the penalty for lascivious conduct when the victim is at least twelve (12) years of age but under eighteen (18) years of age is reclusion temporal in its medium period to reclusion perpetua. This creates an unintended disparity in the penalties depending on the age of the victim despite the clear intent of the law to create a stronger deterrence against child abuse and to provide for special protection to children from such abuse.

In its recent decision in the case of *People vs. Salvador Tulagan* (G.R. No. 227363, March 12, 2019), the Supreme Court – through the *ponencia* of Justice Diosdado Peralta – noted:

"Over and above the foregoing, We observe that despite the clear intent of R.A. No. 7610 to provide for stronger deterrence and special protection against child abuse, the penalty for violation of Section 5(b) of R.A. No. 7610 [*reclusion temporal medium*] when the victim is under 12 years old is lower compared to the penalty [*reclusion temporal medium to reclusion perpetua*] when the victim is 12 years old and below 18. xxx xxx xxx. Thus, a corrective legislation is the proper remedy to address the noted incongruent penalties for acts of lasciviousness committed against a child."

Given the lower penalty to offenders when the victim is under twelve (12) years of age, such recommendation to amend R.A. 7610 to effectively carry out the intent of the law to provide for stronger deterrence and special protection against child abuse is well taken.

For these reasons, the urgent passage of this bill is earnestly sought.

DOY C. LEACHON

Representative

1st District – Oriental Mindoro



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AN ACT
INCREASING THE PENALTY FOR LASCIVIOUS CONDUCT WHEN THE VICTIM IS UNDER TWELVE (12) YEARS OF AGE, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7610, AS AMENDED, OTHERWISE KNOWN AS THE "SPECIAL PROTECTION OF CHILDREN AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION ACT"

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

1 **SECTION 1.** Section 5(b) of Republic Act No. 7610, as amended, is hereby
2 amended to read as follows:
3

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

10 The penalty of *reclusion temporal* in its medium period to
11 *reclusion perpetua* shall be imposed upon the following:
12

13 (a) xxx xxx xxx
14

15 (b) Those who commit the act of sexual intercourse or
16 lascivious conduct with a child exploited in prostitution or
17 subjected to other sexual abuse: Provided, That when the
18 victim is under twelve (12) years of age, the perpetrators shall
19 be prosecuted under Article [335, paragraph 3] **266-A (1)(D)**,
20 [for rape] and Article 336 of Act No. 3815, as amended,
21 **OTHERWISE KNOWN AS** the Revised Penal Code, for rape or
22 lascivious conduct,[,] as the case may be: *Provided*, That the
23 penalty for lascivious conduct when the victim is under twelve
24 (12) years of age shall be *reclusion temporal* in its medium
25 period **TO RECLUSION PERPETUA**; and
26

27 (c) xxx xxx xxx"
28

1
2 **SEC. 2.** All other laws, decrees, orders, rules and regulations or parts
3 thereof inconsistent with this Act are hereby repealed, amended or modified
4 accordingly.
5

6 **SEC. 3.** This Act shall take effect fifteen (15) days after its publication in
7 the Official Gazette or in a newspaper of general circulation.
8

9 Approved,