EXPLANATORY NOTE

According to the World Health Organization (WHO),\(^1\) violence against children includes all forms of violence against people under 18 years old, whether perpetrated by parents or other caregivers, peers, romantic partners, or strangers. Globally, it is estimated that up to 1 billion children aged 2–17 years, have experienced physical, sexual, or emotional violence or neglect in the past year.\(^2\) Among these include “Sexual violence includes non-consensual completed or attempted sexual contact and acts of a sexual nature not involving contact (such as voyeurism or sexual harassment); acts of sexual trafficking committed against someone who is unable to consent or refuse; and online exploitation.”

The impacts on the children abused extend into lifelong trauma and can “result in negative coping and health risk behaviours. Children exposed to violence and other adversities are substantially more likely to smoke, misuse alcohol and drugs, and engage in high-risk sexual behaviour. They also have higher rates of anxiety, depression, other mental health problems and suicide.” These instances can also “lead to unintended pregnancies, induced abortions, gynaecological problems, and sexually transmitted infections, including HIV.”

According to the Executive Summary\(^3\) of the Council for the Welfare of Children, in partnership with UNICEF, eighty percent (80%) of the 3,866 respondents aged 13-24 years had experienced some form of violence in their lifetime, including sexual. Among children aged 13-<18 years, 13.7 percent experienced sexual abuse in the home. Of

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these, , 1.3 percent have had their sex videos or photos taken without their consent (males=1.5%, females=1.0%). The commonly cited perpetrators of overall sexual violence in the home were: brothers and cousins. Among boys, mentioned most frequently were cousins, father and brother, while among girls, the brother, stepbrother, sister/stepsister and stepmother were mostly reported to be the perpetrators of overall sexual violence.

The incidence of online sexual exploitation of children has been tremendously alarming. The Philippines has been cited by the United Nations Children’s Fund (Unicef) the “global epicenter of the live-stream sexual abuse trade.” One in 5 Filipino children are vulnerable to online sexual exploitation. In 2018, the Department of Justice has received at least 600,000 cybertips of sexual images of Filipino children – an increase of more than a 1,000% from the previous 45,645 in 2017.

As the next leaders of our country, our Filipino children need the most stringent measures for protection against abuse. It is then for this reason that this bill is sought.

ALFRED C. DELOS SANTOS
Representative, Ang Probinsyano Party-List
AN ACT
PROHIBITING ALL FORMS OF SEXUAL EXPLOITATION OF CHILDREN,
PROVIDING FOR STIFFER PENALTIES AND SANCTIONS, AND FOR OTHER
PURPOSES

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

SECTION 1. Title. – This Act shall be known as the “Online Sexual Exploitation of
Children Act of 2020”.

SECTION 2. Declaration of Policy. – It is hereby a declared policy of the State to
give value to the dignity of children and shall ensure full respect for their human rights.

The State is also cognizant to protect the family and its members particularly
children, from violence, exploitation, and threats to their personal safety and security.

The State shall employ all efforts to address Online Sexual Exploitation
committed against children in keeping with the fundamental freedoms guaranteed
under the Constitution and the Provisions of the Universal Declaration of Human
Rights, Convention on the Rights of the Child and other international human rights
instruments.

SECTION 3. Definition of Terms. – The following terms, as used in this Act, shall
mean:

a) “Act” refers to the “Online Sexual Exploitation of Children Act of 2020”;

b) “Child” refers to any person under the age of 18 years;

c) “Internet and Communication Technologies Providers,” abbreviated as
“ICT,” refers primarily to private entities such as internet service
providers, social media applications and their corresponding
development companies, and social media networks and their
corresponding development companies

d) “Online child sexual exploitation and abuse material” refers to
materials (inclusive but not limited to images, video files, audio files, or
other potential forms or recording) that sexualizes children and/or
depicts acts of sexual abuse and/or focusing on the genitalia of the
child. The material is exchanged, circulated, bought, and/or sold
online. This notion encompasses, but is not limited to:

(i) Audio files, images, video files containing the sexual exploitation
and/or abuse of a child/children;

(ii) Groups formed with the intent of disseminating, exchanging,
bartering, selling, and/or buying child sexual exploitation and
abuse, which are facilitated by social media applications and
networks;

(iii) Livestreaming, which refers to the online recording of sexual
exploitation and/or abuse towards children via audio and/or
video and broadcast in real time;

(iv) Solicitation of children for sexual purposes using an online
environment at some stage; and

(v) Social media posts referring to bartering, exchange, sale, and/or
intent to buy physical and/or online materials containing the
sexual exploitation and/or abuse towards children

e) "Online Sexual Exploitation of Children," abbreviated as "OSEC," refers
to all acts of a sexually exploitative and abusive nature against a child
that have, at some stage, a connection to the online environment such
as through the use of the Internet and social media applications. This
includes any use of ICT, resulting in sexual exploitation or causing a
child to be sexually exploited or results in or causes images or other
material documenting such sexual exploitation to be produced, bought,
sold, possessed, distributed, or transmitted. This notion encompasses,
but is not limited to:

(i) Sexual exploitation carried out while the victim is online (such as
enticing/manipulating/threatening a child into performing
sexual acts in front of a webcam);

(ii) Identification and/or solicitation of children for sexual purposes
(whether the intended sexual abuse acts to follow are carried out
online or offline)

(iii) Distribution, dissemination, importing, exporting, offering,
selling, bartering, possession of, online convening to access child
sexual exploitation and abuse material, or knowing obtaining
access to child sexual exploitation material online (even if the
sexual abuse that is depicted in the material was carried out
offline)

f) "Sexual extortion of children" refers to the act of extorting children for
sexual favors, money, or other coercive acts under threat of exposure
to others of the material that depicts them

g) "Solicitation of children for sexual purposes" refers to the act of building
a relationship with a child either in person or through the use of the
Internet or other digital technologies to persuade the child to have a
sexual relationship, either online or offline
SECTION 4. Inter-Agency Council on Online Sexual Exploitation Against Children (IAC-OSEC). – In pursuance of the abovementioned policy, there is hereby established an Inter-Agency Council on Online Sexual Exploitation Against Children. Hereinafter known as the Council, which shall be composed of the following agencies:

a) Department of Social Welfare and Development (DSWD);
b) Civil Service Commission (CSC);
c) Commission on Human Rights (CHR);
d) Council for the Welfare of Children (CWC);
e) Department of Justice (DOJ);
f) Department of Interior and Local Government (DILG);
g) Philippine National Police (PNP);
h) Department of Health (DOH);
i) Department of Education (DepEd); and
j) National Bureau of Investigation (NBI).

These agencies are tasked to formulate programs and projects to eliminate Online Sexual Exploitation of Children based on their mandates as well as develop capability programs for their employees to become more sensitive to the needs of their clients. These programs and projects will cater to the needs of combating OSEC at the barangay, LGU, regional, and national level.

The Council will also serve as the monitoring body as regards to OSEC initiatives.

The Council members may designate their duly authorized representative who shall have a rank not lower than an assistant secretary or its equivalent. These representatives shall attend Council meetings on their behalf, and shall receive compensation as may be determined by the Council in accordance with existing budget and accounting rules and regulations.

SECTION 5. Mandatory Programs and Services for the Victims of Online Sexual Exploitation of Children. – The DSWD and Local Government Units shall provide the victims of online sexual exploitation of children temporary shelters, provide counseling, psycho-social services and recovery, rehabilitation programs, and financial assistance.

The DOH shall provide medical assistance to the victims of online sexual exploitation of children. Current social and welfare programs for victims of online sexual exploitation of children will be strengthened through the assistance of the IAC-OSEC, for the purpose of a unified inter-agency response in protecting the victims.

SECTION 6. Educational and Awareness-Building Programs on Combating the Online Sexual Exploitation of Children. – The IAC-OSEC is tasked to coordinate with barangay, LGU, regional, and the national government for awareness-building programs against the online sexual exploitation of children at the family level and the community level. These programs intend to provide government units at all levels with the tools to address the online sexual exploitation of children and educate families against such.

SECTION 7. Training of Persons Involved in Responding to Online Sexual Exploitation of Children Cases. – All agencies involved in responding to victims of Online
Sexual Exploitation of Children cases shall be required to undergo education and training to acquaint them with:

a. The nature, extent, and causes of Online Sexual Exploitation Against Children;

b. The legal rights of, and remedies available to, victims of Online Sexual Exploitation Against Children;

c. The services and facilities available to victims or survivors;

d. The legal duties imposed on police officers to make arrest and to offer protection and assistance; and

e. Techniques for handling incidents of Online Sexual Exploitation Against Children that minimize the likelihood of injury to the officer and promote the safety of the victim or survivor.

The Philippine National Police, in coordination with the Local Government Units, shall establish an education and training program for police officers and barangay officials to enable them to properly handle cases of Online Sexual Exploitation of Children.

SECTION 8. Confidentiality. – All records pertaining to cases of Online Sexual Exploitation of Children, including those in the barangay shall be confidential and all public officers and employees and public or private clinics to hospitals shall respect the right to privacy of the victim.

Whoever published or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other identifying information of a victim or an immediate family member, without the latter’s consent, shall be liable to the contempt power of the court.

SECTION 9. Venue. – The Regional Trial Court designated as a Family Court shall have original and exclusive jurisdiction over cases of Online Sexual Exploitation Against Children under this Act.

In the absence of such court in the place where the offense was committed, the case shall be filed in the Regional Trial Court where the crime or any of its elements was committed at the option of the complaint.

SECTION 10. Protection Orders. – A protection order is an order issued under the Act for the purpose of preventing further acts of Online Sexual Exploitation of Children and granting other necessary relief.

The relief granted under a protection order serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim’s daily life, and
facilitating the opportunity and ability of the victim to independently regain control over their life.

The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Act are the barangay protection order (BPO), temporary protection order (TPO), and permanent protection order (PPO). The protection orders that may be issued under this Act shall include any, some, or all of the following reliefs:

(a) Prohibition of the respondent from threatening to commit or committing, personally or through another, any of the acts;

(b) Prohibition of the respondent from harassing, annoying, telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;

(c) Removal and exclusion of the respondent from the residence of the petitioner, regardless of ownership of the residence, either temporarily for the purpose of protecting the petitioner, or permanently where no property rights are violated, and if respondent must remove personal effects from the residence, the court shall direct a law enforcement agent to accompany the respondent to gather his things and escort respondent from the residence;

(d) Directing the respondent to stay away from petitioner and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member;

(e) Directing lawful possession and use by petitioner of an automobile and other essential personal effects, regardless of ownership, and directing the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely resorted to the possession of the automobile and other essential personal effects, or to supervise the petitioner’s or respondent’s removal of personal belongings;

(f) Granting a temporary or permanent custody of a child/children to the petitioner;

(g) Granting the respondent to provide support to the woman and/or her child if entitled to legal support. Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent’s employer for the same to be automatically remitted directly to the
woman. Failure to remit and/or withhold or any delay in the remittance
of support to the woman and/or her child without justifiable cause
shall render the respondent or his employer liable for indirect contempt
of court;

(h) Prohibition of the respondent from any use or possession of any firearm
or deadly weapon and order him to surrender the same to the court for
appropriate disposition by the court, including revocation of license and
disqualification to apply for any license to use or possess a firearm. If
the offender is a law enforcement agent, the court shall order the
offender to surrender his firearm and shall direct the appropriate
authority to investigate on the offender and take appropriate action on
the matter;

(i) Restitution for actual damages caused by the violence inflicted,
including, but not limited to, property damage, medical expenses,
childcare expenses, and loss of income;

(j) Directing the DSWD or any appropriate agency to provide whatever the
petitioner may need; and

(k) Provision of such other forms of relief as the court deems necessary to
protect and provide for the safety of the petitioner and any designated
family or household member, provided petitioner and any designated
family or household member consents to such relief.

The issuance of a BPO or the pendency of an application for BPO shall not
preclude a petitioner from applying for, or the court from granting a TPO or PPO.

Violation of any provision of a TPO or PPO issued under this Act shall constitute
contempt of court punishable under Rule 71 (Contempt) of the Rules of Court, without
prejudice to any other criminal or civil action that the offended party may file for any of
the acts committed.

SECTION 11. Applicability of Protection Orders to Criminal Cases. – The foregoing
provisions on protection orders shall be applicable in impliedly instituted with the
criminal actions involving Online Sexual Exploitation of Children.

SECTION 12. Public Crime. – Online Sexual Exploitation of Children shall be
considered a public offense which may be prosecuted upon the filing of a complaint by
any citizen having personal knowledge of the circumstances involving the commission
of the crime.

SECTION 13. Healthcare Provider Response. – Any healthcare provider, including,
but not limited to, an attending physician, nurse, clinician, barangay health worker,
therapist, or counselor who suspects violation or has been informed by the victim of
Online Sexual Exploitation of Children shall:
(a) Properly document any of the victim's physical, emotional, or psychological injuries;

(b) Properly record any of the victim's suspicions, observations, and circumstances of the examination or visit;

(c) Automatically provide the victim free of charge of a medical certificate concerning the examination or visit;

(d) Safeguard the records and make them available to the victim upon request at actual cost; and

(e) Provide the victim immediate and adequate notice of rights and remedies provided under this Act, and services available to them.

SECTION 14. Duties of Other Government Agencies and LGUs. — Other government agencies and LGUs shall establish programs such as, but not limited to, education and information campaign and seminars or symposia on the nature, causes, and incidence and consequences of such violence particularly towards educating the public on its social impacts.

It shall be the duty of the concerned government agencies and LGUs to ensure the sustained education and training of their officers and personnel on the prevention of Online Sexual Exploitation of Children under this Act.

SECTION 15. Rights of Victims. — In addition to their rights under existing laws, victims of online sexual exploitation of children shall have the following rights:

(a) To be treated with respect and dignity;

(b) To avail of legal assistance from the Public Attorney's Office of the Department of Justice (DOJ) or any public legal assistance office;

(c) To be entitled to support services from the DSWD and LGUs;

(d) To be entitled to all legal remedies and support as provided for under the Family Code; and

(e) To be informed of their rights and the services available to them including their right to apply for a protection order.

SECTION 16. Damages. — Any victim of Online Sexual Exploitation of Children under this Act shall be entitled to actual, compensatory, moral, and exemplary damages.
SECTION 17. Penalties and Sanctions. – Any person/entity that violates this Act, shall suffer the minimum penalty of three (3) years imprisonment and a fine of not less than Five Hundred Thousand Pesos (P500,000.00).

The offender shall also undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

SECTION 18. Funding. – The amount necessary to implement the provisions of this Act shall be included in the annual General Appropriations Act (GAA).

The Development Budget of all the mandated agencies and LGUs shall be used to implement the services and facilities for the victims of Online Sexual Exploitation of Children.

SECTION 19. Transitory Provision. – Existing industries, businesses, and offices affected by the implementation of this Act shall be given six (6) months transitory period from the effectivity of the IRR or such other period as may be determined to comply with the requirements of this Act.

SECTION 20. Suppletory Application. – For purposes of this Act, the Revised Penal Code and other applicable laws shall have suppletory application.

SECTION 21. Implementing Rules and Regulations. – The departments and agencies charged with carrying out the provisions of this Act shall, within sixty (60) days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

SECTION 22. Repealing Clause. – All laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 23. Separability Clause. – If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby.

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

Approved,