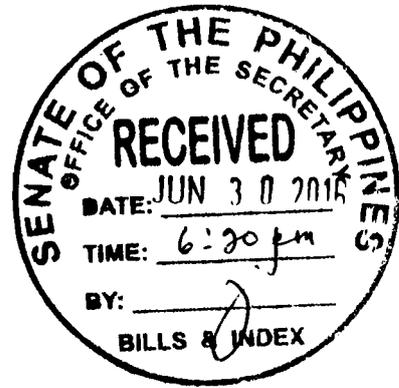


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

SENATE BILL NO. 195

Introduced by SENATOR LEILA M. DE LIMA

**AN ACT DEFINING CRIMINAL EXPLOITATION OF CHILDREN AND
INCREASING PENALTIES FOR ALL CRIMES INVOLVING THEM, AND FOR
OTHER PURPOSES**

EXPLANATORY NOTE

Upholding the human rights slogan that “a jail is no place for a child,” this bill seeks to ensure that the weight of penal sanctions shall be borne solely and especially by those who do not honor their moral obligation to protect children. This is in response to calls from some sectors to lower the age of criminal liability despite the rising incidence of children being used and exploited, no less by their parents in some instances.

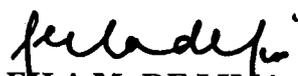
Children are made victims when criminals—in any capacity or extent—involve them in the commission of offenses. As such, this bill seeks to provide stiffer penalties to include imprisonment for individuals who engage, promote, facilitate, or induce a child in unlawful activities.

Minors should be guided, not jailed. They do not possess the same level of discernment that adults have, making them vulnerable to influences that place their lives and future at risk. Imprisonment of children violates their human right to development.

It is important to refer to Article XV Section 1(2) of the Constitution which states that children have the right to special protection from all forms of neglect, abuse, exploitation and other conditions prejudicial to their environment. Likewise, the United Nations Convention on the Rights of the Child express particular care for anyone below the age of eighteen (18) years.

This bill also seeks to reiterate that a child who is fifteen (15) years of age or under during the time the offense was committed is exempt from criminal liability. A child above fifteen (15) years old but below eighteen (18) years old is also exempt from criminal liability but can be subject to state intervention.

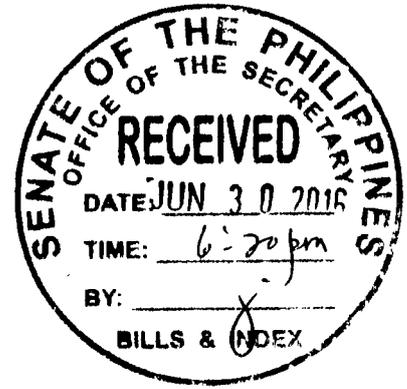
It is for this reason that the passage of this bill is earnestly sought.


LEILA M. DE LIMA

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE

SENATE BILL NO. 195



Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT DEFINING CRIMINAL EXPLOITATION OF CHILDREN AND
INCREASING PENALTIES FOR ALL CRIMES INVOLVING THEM**

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

1 Chapter I

2 General Provisions

3
4 Section 1. Short Title. - This Act shall be known as the "*Anti-Criminal Exploitation*
5 *of Children Act of 2016*".

6
7 SEC. 2. Declaration of Policy. - It is hereby declared policy of the State that:

8 1. The State values the dignity of every child, for which reason the best
9 interest of children shall be the primordial consideration in all legislative
10 measures that pertain to them;

11 2. The State guarantees that the Philippine legal system is not designed
12 to punish children, and those who are incapable of forming criminal intent
13 owing to either their age or disability; and

14 3. That in all crimes involving children, they hold the status of, and
15 shall be presumed as victims.

1
2 SEC. 3. Definition of terms. -

3 a. *Children* - as defined under Republic Act (RA) No. 7610, refers to
4 persons below eighteen (18) years of age or those over but are unable to fully
5 take care of themselves or protect themselves from abuse, neglect, cruelty,
6 exploitation or discrimination because of a physical or mental disability or
7 condition.

8
9 b. *Minimum Age of Criminal Responsibility* – As mandated by RA No.
10 9344, a child fifteen (15) years of age or under at the time of the commission of
11 the offense shall be exempt from criminal liability. However, the process in
12 Section 20 of said law shall be undertaken.

13
14 A child above fifteen (15) years but below eighteen (18) years of age
15 shall likewise be exempt from criminal liability and be subjected to an
16 intervention program, unless he/she has acted with discernment, in which
17 case, such child shall be subjected to the appropriate proceedings in
18 accordance with RA No. 9344.

19
20 The exemption from criminal liability herein established does not include
21 exemption from civil liability, which shall be enforced in accordance with
22 existing laws.

23
24 c. *Criminal Exploitation*- the positive or negative act of taking
25 advantage or using of children in the commission of a crime, or obtaining of
26 gain from a crime. It includes, but is not limited to, harmful and illegal

1 activities that make use of children as participants and/or tools in the
2 commission of crimes, such as those defined in the Revised Penal Code, and
3 special laws, such as Presidential Decree 603, particularly Article 59 thereof,
4 Republic Act No. 7610, particularly Sections 5-10 thereof, RA No. 9231,
5 particularly Section 3 thereof, RA No. 9344, particularly Sections 60-62
6 thereof; and RA 9208, particularly Sections 4-6 as amended by RA No. 10364
7 thereof, Republic Act No. 9775 Section 4 thereof. In addition to the afore-
8 stated instances of making use of children in the commission of crimes and/or
9 obtaining of gains from crimes, criminal exploitation of children likewise
10 refers to the commission of crimes directly against them, whether in their
11 persons, property, liberty and those that affect, injure or impact physical,
12 sexual, psychological and emotional well being. For purposes of this act, all
13 sexual offenses against children involve violence.

14
15 d. Syndicated Criminal Exploitation of Children. - When the crime of
16 criminal exploitation of children is carried out by three or more persons
17 conspiring or confederating with one another.

18
19 SEC. 4. Criminal Exploitation of Children. - The following penalties shall be imposed
20 on the crime of criminal exploitation of children as defined in Section 3(c) of this Act:

21
22 (a) The penalty provided in existing laws in its maximum period, with fine provided
23 by this Act, shall be imposed when the perpetrator is a parent, biological or adoptive,
24 a person in whose care the child is entrusted, member of a syndicate, or a public
25 officer or employee and the offense that falls under Section 3(c) of this Act is sexual
26 violence in nature or involves prohibited drugs.

1
2 (b) For acts of criminal exploitation which do not involve sexual violence or use of
3 drugs, the penalty to be imposed shall be that which is provided by the pertinent law
4 violated, and taking into consideration the presence of modifying circumstances.

5
6 (c) Fine for criminal exploitation of children shall be determined by the Court,
7 which shall not be lower than FIVE MILLION PESOS. Provided that, when the
8 perpetrator is NON-FILIPINO, the currency with which the fine shall be computed
9 shall be the most stable currency in the financial market in the year of the conviction.

10
11 SEC. 5. Exemption from criminal responsibility. - In all offenses that qualify as
12 criminal exploitation of children, persons aged fifteen years and under are absolutely
13 exempt from criminal liability. Civil liability will however be determined under
14 existing laws. A no-arrest policy shall also be strictly implemented in all cases
15 involving children.

16
17 SEC. 6. Ombudsman for Children.- Consistent with its mandate to promote and
18 protect human rights, monitor compliance with human rights standards and other
19 legally binding obligations found in treaties ratified by the Philippine government,
20 the Commission on Human Rights (CHR) shall perform the function of Child
21 Ombudsman. The existing Child Rights Center of CHR shall be the focal point for
22 this mandate.

23
24 SEC. 7. Reportorial Requirement. - All national government agencies, local
25 government units, inter-agency councils, and non-governmental organizations duly
26 organized under the law, whose programs and services relate to the protection of

1 children against criminal exploitation shall submit annual report to CHR on such
2 programs and services. Provided that CHR shall consolidate the reports into a
3 human rights situationer on children which shall be submitted to both Houses of
4 Congress in their respective Committees on Human Rights and Children. The report
5 shall include sections on Areas of Concern, and Recommendations.

6
7 SEC. 8. Mandatory Reporting. For individuals, not otherwise covered by Section 7
8 hereof, which include but not limited to medical and health care professionals, social
9 workers, teachers, and media professionals, who in the exercise of their work, receive
10 information concerning criminal exploitation of children, shall report to the
11 appropriate law enforcement agency or to the Child Ombudsman for its investigation.

12
13 Parents or persons under whose care the child/children is entrusted, and relatives up
14 to the fourth civil degree of consanguinity, are included in this provision.

15
16 SEC. 9. Other Penalty. - For those referred to in Section 8 of this Act, who fail to
17 make the required report, imprisonment of not less than one year shall be imposed.
18 They shall also be required to undergo training on child protection with the Child
19 Ombudsman.

20
21 SEC. 10. Separability Clause. - If, for any reason, a provision is declared invalid,
22 other provisions not affected thereby shall remain in full force and effect.

23
24 SEC. 11. Repealing Clause. - All laws, decrees, executive orders, rules and regulations
25 contrary to or inconsistent with the provisions of this Act are hereby repealed or
26 modified accordingly.

1

2 SEC. 12. Effectivity. - This Act shall take effect fifteen (15) day after its publication in
3 the Official Gazette or in a newspaper of general circulation.

4

5 Approved,