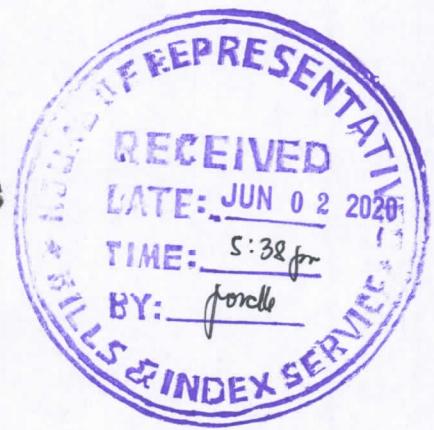


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6923



Introduced by Honorable Michael L. Romero

EXPLANATORY NOTE

In the Republic of the Philippines, the Department of Justice (**DOJ**) has seen a significant increase of about 264 percent in the number of cases of **online sexual exploitation of children (OSEC)** in the country in the past three months, or since the start of the enhanced community quarantine (ECQ).

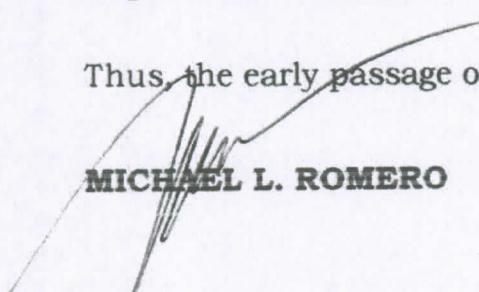
Data from the National Center for Missing and Exploited Children (**NCMEC**), the DOJ's Office of Cybercrime (**OOC**) on Monday (May 25), said that a total of **279,166 cases** of internet-related sexual exploitation of children have been reported starting March 2020.

Most of the cases include possession, manufacture, and distribution of child pornography; online enticement of children for sexual acts; child sex trafficking; sex tourism involving children; extra-familial child sexual molestation; unsolicited obscene material sent to a child; and misleading words or digital images on the internet.

The latest figure, the DOJ bared, is about three times higher than 2019, when it was 76,561 cases.

This House Bill seeks to prevent, respond and end the **Online Sexual Exploitation of Children**.

Thus, the early passage of this bill is earnestly requested.


MICHAEL L. ROMERO

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AN ACT

PROHIBITING ALL FORMS OF ONLINE SEXUAL EXPLOITATION OF CHILDREN, PROVIDING FOR STIFFER PENALTIES AND SANCTIONS, AND FOR OTHER PURPOSES

Be it enacted by the Senate and 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 of recording) that sexualizes children and/or depicts acts of sexual abuse and/or focusing on the genitalia of the child. This 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 the 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 the 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 compensations 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 LGU's shall provide the victims of *Online Sexual Exploitation of children* temporary shelters, provide counseling, psycho-social services and recovery, rehabilitation programs 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, community level, and These programs intend to provide government units at all levels with the tools to address the online sexual exploitation of children, educate families against

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, extend 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 PNP, in coordination with LGU's 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 publishes 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 complainant.

SECTION 10. PROTECTION ORDERS. - A protection order is an order issued under this 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 has gathered 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 restored 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) Directing 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 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 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 victim's suspicions, observations and circumstances of the examination or visit;

(c) automatically provide the victim free of charge 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, 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 LGU's 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 PAO 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 LGU's 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 24. EFFECTIVITY CLAUSE. – 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,