

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5153



Introduced by **HON. GUS S. TAMBUNTING**

EXPLANATORY NOTE

Almost everyone in our country is now equipped with mobile phones. With the technology today, mobile phones have become handy tools in our fast-paced lifestyle. Now, mobile phones compete in terms of clarity of camera as well as video shooting. Hence, everyone had virtually become a photographer or videographer in their own right. But with these powerful tools also come with great responsibility. This responsibility entails the adherence to protecting the rights of women and their children who are vulnerable to abuse through the usage of technology.

For the past years since camera phones have become a commodity, video or photo scandals involving women have been circulating in the internet as well as passed one from one mobile phone to another. Sadly, the usual culprit is the partner of the woman whom she trusted and loved. These sad and emotional plights women have to go through under the guise of love and trust are appalling and disturbing.

Hence, this bill seeks to protect these women and their children from all forms of electronic violence, thus augmenting and fortifying the mandates under Republic Act NO. 9262 or the Anti-Violence against Women and their Children Act as well as under Republic Act No. 9995 or the Anti-Photo and Video Voyeurism Act.

The salient feature of this proposed measure is the issuance of an E-VAW Protection Order. Herein, it orders for the immediate blocking, blacklisting or shutdown of any internet site that propagates the uncompromising photo or video shots of the victim. More importantly, the measure aptly defines electronic violence by including harassment through text messaging and cyber-bullying.

Thus, the passage of this bill is earnestly sought.


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AN ACT TO AMENDING REPUBLIC ACT NO. 9262 OTHERWISE KNOWN AS THE ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT OF 2004, DEFINING ELECTRONIC VIOLENCE AGAINST WOMEN (E-VAW), PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES.

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

SECTION 1. *Short Title.* - This Act shall be known as the "E-VAW Act of 2017".

SECTION 2. Section 3 (a) of Republic Act No. 9262, otherwise known as the Violence Against Women and their Children Act of 2004, is hereby amended to read as follows:

"Section 3. Definition of Terms. - As used in this Act,

(a) "*Violence against women and their children*" refers to any act or a series of acts committed by any person against a woman who is wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:

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(E) "ELECTRONIC VIOLENCE" REFERS TO ANY ACT OR OMISSION INVOLVING THE USE OR EXPLOITATION OF EPHEMERAL DATA OR ANY FORM OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) WHICH CAUSES OR IS LIKELY TO CAUSE MENATAL, EMOTIONAL OR PSYCHOLOGICAL DISTRESS OR

SUFFERING TO THE VICTIM, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

- 1. UNAUTHORIZED RECORDING, REPRODUCTION OR DISTRIBUTION OF VIDEOS SHOWING THE VICTIM'S PRIVATE AREA OR THE VICTIM'S NAKED OR UNDERGARMENT-CLAD GENITALS, PUBIC AREA, BUTTOCKS OR BREASTS;**
- 2. UPLOADING OR SHARING WITHOUT THE CONSENT OF THE VICTIM, ANY FORM OF MEDIA THAT CONTAIN PICTURES, VOICE OR VIDEO OF THE VICTIM WITH LEWD, INDECENT, OBSCENE OR SEXUAL CONTENT;**
- 3. HARASSING OR THREATENING THE VICTIM THROUGH TEXT MESSAGING OR OTHER CYBER, ELECTRONIC OR MULTIMEDIA MEANS;**
- 4. CYBER-STALKING WHICH INCLUDES, BUT IS NOT LIMITED TO THE HACKING OF PERSONAL ACOUNTS ON SOCIAL NETWORKING SITES AND THE USE OF LOCATION TRACKERS ON CELLULAR DEVICES; AND**
- 5. UNAUTHORIZED USE OF THE VICTIM'S PICTURE, VIDEO, VOICE, NAME OR ANY OTHER ASPECT OF THE VICTIM'S IDENTITY AND DISTRIBUTING THE SAME IN ANY VIDEO GAME, PHONE APPLICATION, PROGRAM AND THE LIKES, WHICH PUTS OR TENDS TO PUT THE VICTIM IN A BAD LIGHT OR INJURE THE VICTIM'S REPUTATION."**

SECTION 3. Section 5 of Republic Act No. 9262, otherwise known as the Violence Against Women and their Children Act of 2004, is hereby amended to read as follows:

"SECTION 5. *Acts of Violence Against Women and Their Children.* - The crime of violence against women and their children is committed through any of the following acts:

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(J) CAUSING ELECTRONIC VIOLENCE AGAINST A WOMAN OR HER CHILD; AND

(k) THREATENING TO CAUSE ELECTRONIC VIOLENCE AGAINST A WOMAN OR HER CHILD."

SECTION 4. Section 6 of Republic Act No. 9262, otherwise known as the Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

"SECTION 6. *Penalties.* - The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

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(G) ACTS FALLING UNDER SECTION 5(J) SHALL BE PUNISHED BY PRISION CORRECTIONAL; AND

(H) ACTS FALLING UNDER SECTION 5(K) SHALL BE PUNISHED BY ARRESTO MAYOR.

(I) ANY ACT OR OMISSION INVOLVING THE USE OR EXPLOITATION OF ANY FORM OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) WHICH CAUSES OR IS LIKELY TO CAUSE MENTAL, EMOTIONAL OR PSYCHOLOGICAL DISTRESS OR SUFFERING TO THE VICTIM, SHALL BE PUNISHED BY PRISION CORRECTIONAL OR A FINE IN THE AMOUNT OF NOT LESS THAN THREE HUNDRED THOUSAND PESOS (PHP 300,000.00) BUT NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (PHP 500,000.00)

If the acts are committed while the woman or child is pregnant or committed in the presence of her child, the penalty to be applied shall be the maximum period of penalty prescribed in the section.

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One Hundred Thousand Pesos (P100,000.00) but not more than three Hundred Thousand Pesos (P300,000.00), **PROVIDED, THAT, IN E-VAW CASES, THE FINE THAT MAY BE IMPOSED SHALL NOT BE LESS THAN THREE HUNDRED THOUSAND PESOS (PHP 300,000.00) BUT NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (PHP 500,000.00);** (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

SECTION 5. Section 8 of Republic Act No. 9262, otherwise known as the Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

"SECTION 8. *Protection Orders.* - A protection order is an order issued under this act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act 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 her life. The provision 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) **AND E-VAW PROTECTION ORDER (EPO) FOR CASES OF ELECTRONIC VIOLENCE.** The protection orders that may be issued under this Act shall include any, some or all of the following reliefs:

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(L) FOR E-VAW CASES, ORDERING THE IMMEDIATE BLOCKING, BLACKLISTING, REMOVAL OR SHUTDOWN OF ANY UPLOAD, PROGRAM OR APPLICATION THAT CAUSES OR TENDS TO CAUSE VIOLENCE AGAINST THE VICTIM.

Any of the relief provided under this selection shall be granted even in the absence of a decree of legal separation or annulment or declaration of absolute nullity of marriage.

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 **OR EPO.**

SECTION 6. Section 11 of Republic Act No. 9262, otherwise known as the Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

"SECTION 11. *How to Apply for a Protection Order.* - The application for a protection order must be in writing, signed and verified under oath by the applicant. It may be filed as an independent action or as incidental relief in any civil or criminal case the subject matter or issues thereof partakes of a violence as described in this Act. A standard protection order application form, written in English with translation to the major local languages, shall be made available to facilitate applications for protections order, and shall contain, among other, the following information:

- (a) names and addresses of petitioner and respondent;
- (b) description of relationships between petitioner and respondent;
- (c) a statement of a circumstances of the abuse;
- (d) description of the reliefs requested by petitioner as specified in Section 8 herein;
- (e) request for counsel and reasons for such;
- (f) request for waiver of application fees until hearing; and
- (g) an attestation that there is no pending application for a protection order in another court.

If the applicant is not the victim, the application must be accompanied by an affidavit of the applicant attesting to (a) the circumstances of the abuse suffered by the victim and (b) the circumstances of consent given by the victim for the filing of the application. When disclosure of the address of the victim will pose danger to her life, it shall be so stated in the application. In such a case, the applicant shall attest that the victim is residing in the municipality or city over which court has territorial jurisdiction, and shall provide a mailing address for purpose of service processing.

An application for protection order filed with a court shall be considered an application for both a TPO and PPO.

AN APPLICATION FOR BPO, TPO OR PPO SHALL AUTOMATICALLY INCLUDE AN APPLICATION FOR EPO. THE LATTER MAY BE ISSUED AS PART OF THE CONDITIONS FOR THE BPO, TPO OR PPO OR AS A SEPARATE PROTECTION ORDER.

Barangay officials and court personnel shall assist applicants in the preparation of the application. Law enforcement agents shall also extend assistance in the application for protection orders in cases brought to their attention.

SECTION 7. Section 16-A is hereby inserted to read as follows:

"SECTION 16-A. E-VAW PROTECTION ORDER. - IN CASES OF ELECTRONIC VIOLENCE, AN E-VAW PROTECTION ORDER MAY BE ISSUED SIMULTANEOUSLY OR SUBSEQUENT TO THE ISSUANCE OF A BPO, TPO OR PPO.

E-VAW PROTECTION ORDERS SHALL BE ISSUED BY THE BARANGAY OR THE COURTS, AS THE CASE MAY BE, INDEPENDENTLY OF OR IN ADDITION TO NON-E-VAW PROTECTION ORDERS. HOWEVER, AN E-VAW PROTECTION ORDER, ONCE ISSUED, DOES NOT EXPIRE AND CONTINUES TO TAKE EFFECT WHILE THE CASE IS PENDING AND UNTIL THE SAME IS REVOKED BY THE ORDER OF THE COURT."

SECTION 8. Section 39 of Republic Act No. 9262, otherwise known as the Violence Against Women and Their Children Act of 2004, is hereby amended to read as follows:

SECTION 39. *Inter-Agency Council on Violence Against Women and Their Children (IAC-VAWC).* In pursuance of the abovementioned policy, there is hereby established an Inter-Agency Council on Violence Against Women and their Children, hereinafter known as the Council, which shall be composed of the following agencies:

(a) Department of Social Welfare and Development (DSWD);

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(l) National Bureau of Investigation (NBI); **AND**

(M) DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (DICT).

These agencies are tasked to formulate programs and projects to eliminate VAW based on their mandates as well as develop capability programs for their employees to become more sensitive to the needs of their clients. The Council will also serve as the monitoring body as regards to VAW 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 in their behalf, and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations.

SECTION 9. *Separability Clause.* – If any portion or provision of this Act is held unconstitutional or invalid, the remaining portions or provisions shall not be affected.

SECTION 10. *Repealing Clause.* – All laws, decrees, executive orders and rules and regulations, or parts thereof, inconsistent with the provision of this Act are hereby repealed or modified accordingly.

SECTION 11. *Effectivity.* – This Act shall take effect fifteen (15) days from the date of its complete publication in at least two (2) newspapers of general circulation.

Approved,