

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session

House Bill 3735



INTRODUCED BY REPRESENTATIVE MANUEL ANTONIO F. ZUBIRI

Explanatory Note

Providing special and equal protection to children against sexual abuse is long overdue.

Article 266-A of the Revised Penal Code states that rape is committed even without the presence of elements of force, threat, intimidation, or fraudulent machinations, as long as the victim is under the age of 12 or is demented. This crime is known as "statutory rape," wherein consent of the victim to engage in sex – even if present or was presumed given – cannot be used as a defense on account of the victim's age.

The 2015 Philippine National Baseline Study on Violence against Children and Young People released in 2015 has revealed that one in every five children (17.1%) aged (13 to below 18) years old experience sexual violence, while 124 (one in 25 or 3.2%) reported they were raped. In the same report, it was found that the perpetrators are often family members. Another study revealed that more boys (65.2%) than girls (60.4%) reported experiencing sexual violence.

The age to determine statutory rape in the Philippines is far below international standards. A 2015 report released by the United Nations Children's Fund (UNICEF) East Asia and Pacific Regional Office revealed that it is, in fact, the lowest among ASEAN member states. It is thus the proposal of this bill that the age be increased to 16 years old, which is the global average.

In view of the above, swift passage and enactment of this measure is earnestly sought.


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3rd District, Bukidnon

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8 House Bill **3735**
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15 **AN ACT**
16 **PROVIDING STRONGER PROTECTION FOR CHILDREN AGAINST SEXUAL**
17 **ABUSE, AMENDING FOR THE PUROSE RA 8353 AND ACT 3815 AS**
18 **AMENDED**
19

20 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
21 *assembled:*
22

23 Section 1. *Short Title.* – This Act shall be known as "ANTI-CHILD RAPE LAW OF THE
24 PHILIPPINES."
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26 Section 2. Article 266-A of Act No. 3815, otherwise known as the Revised Penal Code, as
27 amended, is hereby further amended to read as follows:
28

29 "Article 266-A. *Rape, When and How Committed* – Rape is committed by
30 any person who shall commit any of the following acts against any person
31 without their consent, whether or not injuries were suffered:
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- 33 1. Inserting a person's penis into another person's inner or outer vaginal
34 labia, mouth or anal orifice of another person;
35
- 36 2. Inserting any instrument or object, including a finger, into another
37 person's inner or outer vaginal labia or anal orifice of another person; or
38
- 39 3. Causing the insertion of another person's penis into the inner or outer
40 vaginal labia, mouth or anal orifice of the offender through force, threat,
41 intimidation, verbal pressure, persuasion, coercion, administration of
42 alcohol or drugs resulting to deprivation of reason or fraudulent
43 machination or grave abuse of authority shall also be guilty of the crime
44 of rape.
45
- 46 4. When the offended party is deprived of reason or otherwise
47 unconscious.

- 48 5. Causing two or more persons to engage in sexual acts, or their
49 performance of any of the above-mentioned acts in this paragraph
50 through force, threat, intimidation, verbal pressure, persuasion,
51 coercion, administration of alcohol or drugs resulting to deprivation of
52 reason or fraudulent machination or grave abuse of authority shall also
53 be guilty of the crime of rape even if the perpetrator does not participate
54 in such acts.

55
56 Section 3. Article 266-B of Act No. 3815, otherwise known as the Revised Penal Code, as
57 amended, is hereby further amended to read as follows:

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59 "Article 266-B. *Statutory Rape*. - The crime of statutory rape is
60 committed when any of the acts enumerated in Article 266-A is committed
61 against a minor under sixteen (16) years of age or those over but are unable to
62 fully take care of themselves from abuse, neglect, cruelty, exploitation or
63 discrimination because of a physical or mental disability or condition. There
64 shall be no valid consent in these instances.

65
66 Section 4. Article 266-B of Act No. 3815, otherwise known as the Revised Penal Code, as
67 amended, enumerating the *penalties* for the crime of rape shall be renumbered as Article
68 266-C. *Penalties* and is hereby further amended to read as follows:

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70 "Article 266-C. *Penalty*. - Rape under Article 266-A, as defined in this law shall be
71 punished by reclusion perpetua. The same penalty shall apply in cases of statutory rape.

72
73 "Whenever the rape is committed with the use of a deadly weapon or by two or more
74 persons, the penalty shall be reclusion perpetua to death.

75
76 "When by reason or on the occasion of the rape, the victim has become insane, the
77 penalty shall become reclusion perpetua to death.

78
79 "When the rape is attempted and a homicide is committed by reason or on the
80 occasion thereof, the penalty shall be reclusion perpetua to death.

81
82 "When by reason or on the occasion of the rape, homicide is committed, the penalty
83 shall be death.

84
85 "The death penalty shall also be imposed if the crime of rape is committed with any
86 of the following aggravating/qualifying circumstances:

87
88 1) When the victim is under eighteen (18) years of age and the offender is a
89 parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within
90 the third civil degree, or the common-law spouse of the parent of the victim;

91
92 2) When the victim is under the custody of the police or military authorities or
93 any law enforcement or penal institution;

3) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;

4) When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime;

5) When the victim is a child below seven (7) years old;

6) When the offender knows that he is afflicted with the Human Immuno-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;

7) When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime;

8) When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability;

9) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and

10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

Section 5. Article 266-C of Act No. 3815, otherwise known as the Revised Penal Code, as amended, shall be renumbered as Article 266-D and is further amended to read as follows:

"Article 266-D. Effect of Forgiveness and Subsequent Valid Marriage. – The subsequent valid marriage between the offended party and the offender, shall not automatically extinguish the criminal action or the penalty imposed."

Section 6. Article 266-D of Act No. 3815, otherwise known as the Revised Penal Code, as amended, on *Presumptions* shall be renumbered as Article 266-E. *Presumptions*. Article 266-E. is further amended to read as follows:

"Article 266-E. Presumptions. Any act manifesting resistance against the acts of rape in any degree from the offended party, or where the offended party is so situated as to render her/him incapable of giving valid consent, may be accepted as evidence in the prosecution of the acts punished under Article 266-A and 266-B."

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141 Section 7. *Separability Clause* – If any part or provision of this Act is declared invalid or
142 unconstitutional, the other parts thereof not affected thereby shall remain valid.

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144 Section 8. *Repealing Clause* – Republic Act 8353 and Articles 266-A, 266-B, 337 and 338 of
145 Act No. 3815, otherwise known as the Revised Penal Code, as amended, and all laws, acts
146 presidential decrees, executive orders, administrative orders, rules and regulations
147 inconsistent with or contrary to the provisions of this Act are deemed amended, modified or
148 repealed accordingly.

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150 Section 9. *Effectivity*. – This Act shall take effect fifteen (15) days after completion of its
151 publication in the Official Gazette or at least in two (2) newspapers of general circulation.