

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3865



Introduced by **REP. EVELINA G. ESCUDERO**

EXPLANATORY NOTE

Article 11 of the Constitution provides that the State values the dignity of every human person and guarantees full respect for human rights. The State also recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. Further, the State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

This proposed bill seeks to abate prostitution, which is becoming more rampant, continues to be a menace to society, violating the rights of more women and children. It provides that a woman, man or child used, employed or exploited for another person's sexual gratification or pleasure, and for the monetary gain or profit of others shall be treated as victims of prostitution. It also imposes penalties on perpetrators and provides protective measures and support services for its victims.

In view thereof, the early passage of this bill is earnestly sought.

EVELINA G. ESCUDERO

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AN ACT
ADDRESSING THE SYSTEM OF PROSTITUTION, IMPOSING PENALTIES ON ITS PERPETRATORS, PROVIDING PROTECTIVE MEASURES AND SUPPORT SERVICES FOR ITS VICTIMS, REPEALING FOR THE PURPOSE ARTICLES 202 AND 341 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE

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 Anti-Prostitution Act."

SEC. 2. *Declaration of policies.* - The State:

- (a) Declares its commitment to end the continuing sexual exploitation of women, men and children, and all forms of gender-based violence;
- (b) Recognizes prostitution as a human rights violation that calls for coordinated and sustained response from all agencies of government;
- (c) Recognizes that women and children are systematically victimized by, and in, the system of prostitution and must therefore be given protection and support by the State, instead of being treated as criminals; and
- (d) Recognizes that eliminating prostitution is essential for women and children to genuinely and meaningfully participate in nation-building.

SEC. 3. *Definition of Terms.* - For the purposes of this Act, the term:

- (a) **"Prostitution"** means any act, transaction, scheme or design involving the use or exploitation of another person, whether woman, man or child, for the sexual gratification or pleasure of another in exchange for cash, profit or other consideration, or any act that promotes or facilitates the accomplishment of the said act, transaction, scheme or design.
- (b) **"Person exploited in prostitution"** means a woman, man or child used, employed or exploited for another person's sexual gratification or pleasure, and for the monetary gain or profit of others, as defined in Section 4 of this Act.

- (c) **“Child”** means any person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.
- (d) **“Sexual exploitation”** means the participation or engagement of a person for any sexual act in exchange for cash, profit or other consideration as a result of being subjected to a threat, deception, coercion, abduction, force, abuse of authority, debt bondage, fraud or through abuse of his/her vulnerability.
- (e) **“Sexual Act”** means sexual intercourse, including genital-to-genital, oral-to-genital, anal-to-genital, or oral-to-anal intercourse or contact, bestiality, masturbation, sadistic or masochistic abuse, exhibition of the genitals or pubic area of any person, and other acts of a sexual nature whether the same is made between persons of the same or opposite sex.
- (f) **“Establishment”** means any business, enterprise or establishment, including, but not limited to, sauna, bath, massage parlor, discotheque, bar, restaurant, resort, lodging house, motel, hotel, theater, ship, vessel, cab or taxi, or any other vehicle, or any dwelling house, structure or building serving as a cover or venue for prostitution, or any group, association or organization that engages in prostitution activities as defined in Section 4 of this Act.
- (g) **“Cult”** refers to, but not limited to, fanatic groups that entice, recruit or condition any person to become sexual offerings in organizational rituals or in other circumstances as part of membership requirement.

SEC. 4. Punishable Acts. -Prostitution is a crime committed by:

- (a) Any person who gives or delivers money or any other consideration in exchange for the actual performance or mere demonstration of a sexual act by a person exploited in prostitution, regardless of whether the person giving or delivering money or any other consideration is the recipient of such sexual act;
- (b) Any person who is the recipient of a sexual act as defined in Section 3(e) of this Act, whether such a recipient has given or delivered money or any other consideration for the procurement of a person exploited in prostitution; *Provided, however,* that for purposes of this Section, a recipient shall include any person or persons or a crowd with whom a person exploited in prostitution has actually performed or merely demonstrated such a sexual act;
- (c) Any person who offers another person for sexual exploitation in exchange for money or any other consideration;
- (d) Any person who induces, persuades, entices, compels, kidnaps, recruits or in any manner procures or causes a person to serve in an establishment knowing that the same is involved in prostitution activities or when he/she has reasonable cause to believe that such establishment is involved in the said activities;
- (e) Any person who uses information technology or any form of media for the purpose of prostitution;

- (f) Any person who organizes or arranges travel tours and/or tourism-related activities that involve the sexual exploitation of any person or the escort services of any person who is expected to perform the sexual act;
- (g) Any person who, as a part of cult or religious obligation, uses, entices, recruits, or offers any person as sexual offering or favor to other members of the cult or religious organization;
- (h) Any official or employee of any jail or detention center or any person connected thereto who commits, causes, promotes, facilitates, allows or tolerates the commission of any of the acts defined in this section upon inmates, or who, in any manner, provides protection to the perpetrators of the said act;
- (i) Any person who derives profit or advantage from any of the prohibited acts defined in this Section as owner, operator, manager, head, director, officer, or agent of the establishment where any prostitution activity defined in this Section takes place, or of the establishment serving as a cover for any such prostitution activity, or who aids another establishment or person involved in any prostitution activity;
- (j) Any person who leases, subleases, or in any manner allows the use of any dwelling, house, structure, building, land or any other property knowing that the lessee/sub lessee intends to use or uses it for prostitution activities, as defined in this Section. For the purpose of this paragraph, the owner of the dwelling, house structure, building, land or any other property used for prostitution and his/her agent shall be presumed to have knowledge that the place is being used or intended to be used for prostitution unless he/she disproves it;
- (k) Any member of the military or police establishment, or any government official or employee, or any person in authority who commits, causes, or promotes, facilitates, allows, or tolerates the commission of any of the acts defined in this Section, or who, in any manner, provides protection to the perpetrators of the said acts.

For purposes of this Section, it is understood that the prohibited acts of prostitution may be committed in any establishment as defined in Section 3(f) above or in any other place not otherwise mentioned in Section 3(f). Furthermore, an attempt to commit any of the acts defined in this Section is also prohibited.

SEC. 5. *Person Exploited in Prostitution as Victims.* - Any woman, man or child used, or employed for, another person's sexual gratification, pleasure or exploitation, and for the monetary gain or profit of others, as defined in Section 4 of this Act, shall be treated as victims of prostitution. As such, they shall not incur any criminal liability under this Act, except to the extent referred to under Section 6 (b) hereof.

In addition, the consent of the person exploited in prostitution to the commission of any of the acts defined in Section 4 of this Act shall not in any way exempt the offender from, or mitigate, his/her criminal liability.

SEC. 6. Penalties and Sanctions.-

- (a) Any person found guilty of the acts defined in Section 4 shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than one million pesos (P1,000,000.00) but not more than two million pesos (P2,000,000.00);
- (b) Any person guilty of the acts defined in Section 4 who is also exploited in prostitution or had been exploited in prostitution shall suffer the penalty of imprisonment of ten (10) years for the first offense and fifteen (15) years for the succeeding violations and a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00);
- (c) Any person guilty of attempting to commit any of the prohibited acts shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than five hundred thousand pesos (P500, 000.00) but not more than one million pesos (P1, 000, 000.00);
- (d) When the offender is any establishment as defined in this Act, the penalty shall be imposed upon the owner and operator or manager, or the directors and officers, or the responsible officers or agents of the establishment, corporation, partnership, or association found to be engaged in any of the acts defined in Section 4 of this Act.

In addition, the establishment, corporation, partnership or association shall be immediately closed and its registration and/or license to operate shall be revoked. A sign with the words "off limits" shall be conspicuously displayed outside the establishment by the Department of Social Welfare and Development (DSWD) for such period as the Department may determine which shall not be less than one (1) year. The unauthorized removal of such sign shall be punishable by imprisonment of six (6) months;

- (e) When the offender is a foreigner, he or she shall be deported immediately after service of sentence and permanently barred from entry into the country;
- (f) Any person found guilty of committing or attempting to commit any of the prohibited acts under Section 4 shall, in addition to the penalties stated in this section, undergo counseling, rehabilitation and mandatory education on the human rights situation of victims of prostitution with DSWD or its accredited NGO for a period of not less than three (3) months but not longer than one (1) year. The DSWD shall submit to the court a report on the rehabilitation of the offender.

SEC. 7. Civil Liability for Prostitution. - Persons exploited in prostitution may file independent civil cases for damages against the persons, natural or juridical, responsible for their exploitation.

Provinces, cities and municipalities shall be liable for damages, in addition to any other criminal or administrative liability under existing laws, to persons exploited in prostitution when it is proven that the responsible authorities had knowledge or were informed of the activities constituting prostitution but did not take proper action within a reasonable period of time. For purposes of this Section, the responsible authorities shall be deemed to have knowledge of the production activities when the same are of common knowledge in the community.

SEC. 8. Prosecution of Cases. - The person exploited in prostitution, his/her parents, spouse, siblings, children or legal guardian, law enforcement agencies, or the Inter-Agency Council

Against Trafficking and Prostitution (IACATP) created under this Act or any person who has personal knowledge of the commission of any offense under this Act, may file a complaint for prostitution.

SEC. 9. Venue. - A criminal action arising from a violation of this Act shall be filed where the offense was committed, or where any of its elements occurred, or where the person exploited in prostitution actually resides at the time of the commission of the offense; *Provided*, that the court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts.

SEC. 10. Prescriptive Period. - Cases under this Act shall prescribe in twenty (20) years. The prescriptive period shall commence to run from the day on which the person exploited in prostitution is delivered or released from the situation of exploitation and shall be interrupted by the filing of the complaint or information. It shall commence to run again when such proceedings terminate without the accused being convicted or acquitted or are unjustifiably stopped for any reason not imputable to the accused.

SEC. 11. Exemption from Filing Fees. - When the victim of prostitution institutes a separate civil action, he or she shall be exempt from the payment of filing fees.

SEC. 12. Confiscation and Forfeiture of the Proceeds and Instruments Derived from Prostitution. - In addition to the penalty imposed for the violation of this Act, the Court shall order the confiscation and forfeiture, in favor of the government, of all the proceeds and properties derived from the commission of the crime, unless they are the property of a third person not liable for the unlawful act; *Provided, however*, that all awards for damages shall be taken from the personal and separate properties of the offender; *Provided, further*, That if such properties are insufficient, the balance shall be taken from the confiscated and forfeited properties.

When the proceeds, properties and instruments of the offense have been destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly, of the offender, or it has been concealed, removed, converted or transferred to prevent the same from being found or to avoid forfeiture or confiscation, the offender shall be ordered to pay the amount equal to the value of the proceeds, property or instruments of the offense.

SEC. 13. Trust Fund. - All fines imposed under this Act and the proceeds and the properties forfeited and confiscated pursuant to Section 12 hereof, shall accrue to a Trust Fund to be administered by the IACATP to be used exclusively for programs that will prevent prostitution and protect, heal, and reintegrate prostituted persons into the mainstream of society. Such programs shall include, but are not limited to, those provided for under Section 19 sub-paragraph (1) of this Act.

SEC. 14. Human Rights of Persons Exploited in Prostitution. - Persons exploited in prostitution have human rights that must be respected, protected and promoted by all branches, agencies and instrumentalities of the government in law enforcement drives, criminal prosecution, civil suits, service provision, and program development and implementation. These rights include, but are not limited to:

- (a) The right to be treated as human beings;
- (b) The right to dignity and security of person;
- (c) The right against any form of discrimination;
- (d) The right to equal protection of the law;
- (e) The right to be protected from abuse or exploitation,

- (f) The right to seek redress for violations of their rights and to have their complaints appropriately addressed;
- (g) The right to fair and humane treatment;
- (h) The right to sensitive and appropriate legal, health, and other social services;
- (i) The right to organize themselves and fight for their legitimate concerns; and
- (j) The right to be consulted on any government initiative affecting them.

Persons exploited in prostitution shall not be detained on the occasion of, or by reason of, a raid, or in the name of law enforcement. There shall be at least one (1) social worker or one (1) representative from a non-governmental organization (NGO) known to be working with women exploited in prostitution present during raids.

During raids of establishment, and at any stage of the investigation, prosecution and trial of complaints for violation of this Act, law enforcers, prosecutors and judges shall not disclose to the public the name, personal circumstances and other information that will establish the identity of the person exploited in prostitution, unless the latter consents thereto in writing.

It shall also be the duty of the law enforcers to ensure that persons exploited in prostitution are not exposed to the media on the occasion of a raid. Law enforcers who allow or facilitate the exposure to the media of persons exploited in prostitution shall suffer the penalty of six (6) months imprisonment, without prejudice to the filing of other criminal, civil and administrative charges under applicable laws.

SEC. 15. Confidentiality. - It shall be the responsibility of any journalist, reporter, editor, publisher or producer of print and broadcast media to protect the identity and privacy of persons exploited in prostitution, most particularly on the occasion of a raid or rescue operation. Any journalist, reporter, editor, publisher or producer of print and broadcast media who exposes to the public the identity of any person exploited in prostitution without her or his consent thereto in writing, or causes the publication of any picture or video that violates the dignity and other human rights of the person exploited in prostitution, shall suffer the penalty of one (1) year imprisonment. In addition, the owner or publisher of the print or broadcast media found guilty of the violation shall pay a fine of Five Hundred Thousand Pesos (P500,000.00). This shall be without prejudice to the right of persons exploited in prostitution to file a civil action for damages for the violation of their human rights or for any injury caused them by the publication.

SEC. 16. Entrapment Prohibited. - Law enforcers shall not use entrapment as a method in law enforcement activities when the same will involve the sexual exploitation of persons as defined in Section 3(b) of this Act. A law enforcement officer who resorts to this method shall suffer the penalty of eight (8) years imprisonment.

SEC. 17. Requirements for Hotels, Motels and Lodging Houses. - Notwithstanding any legislation, ordinance or rule to the contrary, every hotel, motel or lodging area shall:

- (a) Maintain a reception and registration area for guests and patrons that is readily within the public view;
- (b) Maintain open garages, or those that do not have doors or any closing mechanism; and
- (c) Maintain good lighting in all its entrances, exits, driveways and garages.

No hotel, motel or lodging house shall be allowed to operate in any part of the Philippines without complying with the preceding requirements.

For the purpose of this Section, hotels, motels, and lodging houses already operating shall have six (6) months from the effectivity of this Act to comply with this provision. Failure of any hotel, motel and lodging house to comply with this Section shall result in the cancellation of their license or permit to operate.

SEC. 18. *Mechanisms for Implementation and Monitoring.* - To effectively implement and monitor the provisions of this Act, the Inter-Agency Council Against Trafficking (IACAT) created under Republic Act No. 9208 or the Anti-Trafficking in Persons Act of 2003, shall be expanded and renamed as the Inter-Agency Council Against Trafficking and Prostitution (IACATP).

The Secretary of Department of Justice (DOJ) will continue to serve as the Chairperson and the Secretary of DSWD as Co-Chairperson. The membership of the IACAT shall be amended to include the following:

- (a) Secretary, Department of the Interior and Local Government
- (b) Secretary, Department of Health
- (c) Secretary, Department of Tourism
- (d) Director, National Bureau of Investigation
- (e) Director General, Technical Education and Skills Development Authority
- (f) Additional NGO Representative of persons exploited in prostitution.

SECTION 19. *Functions of the IACATP.* - The following additional functions shall be performed by the IACATP:

(1) Develop a program addressing prostitution and the needs of persons exploited in prostitution and those vulnerable to be exploited in prostitution. The program shall include public information and education campaign against prostitution, such as but not limited to putting up posters and other similar paraphernalia with appropriate warnings in all places frequented by tourists, including entry and exit points to the Philippines, crisis intervention service, education assistance, socio-economic assistance such as sustainable livelihood skills training and financial support for small-scale businesses, and integration and complete after-care programs for persons exploited in prostitution, among others;

(2) Identify and, if necessary, create centers in strategic places all over the Philippines that will provide health services, including counseling and therapy, temporary shelter and other crisis intervention services to persons exploited in prostitution. The rape crisis centers established under Republic Act No. 8505 and the hospital-based prosecution units for women and children may also serve as centers servicing persons exploited in prostitution.

Each center shall establish a network of health care and other service providers to address the needs of persons exploited in prostitution;

(3) Ensure that units are created or identified within relevant government agencies, particularly those composing the IACATP, that shall focus on addressing prostitution and the needs of persons exploited in prostitution.

This shall include units within the National Prosecution Service Offices in local government units (LGUs) that shall specifically focus on the prosecution of offenders under this Act;

(4) Ensure that relevant government agencies work in close coordination with each other in addressing prostitution and the needs of persons exploited in prostitution;

(5) Develop and implement a training program for law enforcers, public prosecutors, judges, government lawyers, government health care providers, social workers and *barangay* officials that aims to increase their understanding of prostitution as a system, and equip them with the perspective and skills to appropriately address the needs of persons exploited in prostitution, respect, protect and promote their human rights, and pursue the prosecution of offenders;

(6) Ensure that local counterparts of the IACATP are created in every municipality, city and provinces;

(7) Undertake to lead the prosecution of any violation of this Act; and

(8) Promulgate, when necessary, rules and regulations for the effective implementation and enforcement of this Act.

SEC. 20. *Responsibilities of Local Government Agencies in Anti-prostitution Efforts.* -

Local government units (LGUs) shall exercise their powers to curb prostitution within their respective jurisdictions. LGUs shall create a local IACATP that shall combat and prevent any act of prostitution in their area. The local IACATP shall be responsible for the monitoring and documentation of cases on prostitution within their areas of jurisdiction and shall submit an annual report to the national IACATP. If a local committee dealing with issues related to prostitution such as trafficking and violence against women and children had already been established, the LGU shall ensure that programs and services for prostituted persons are integrated in the plan of action of the said committee. It shall be unlawful for any LGU to issue licenses or permits for the operation of any establishment that is used or intended to be used for any prostitution activity. Any such license or permit already issued prior to the effectivity of this Act shall be deemed automatically revoked or cancelled and shall not be renewed.

Other responsibilities of LGUs shall include conducting public information campaign against prostitution, carrying out rescue operations and ensuring the safety or security of victims of prostitution. They may employ elements of the National Bureau of Investigation (NBI) or the Philippine National Police (PNP) as provided for under Republic Act No. 6975, as amended by Republic Act No. 8551.

SEC. 21. *Immunity of Government and DSWD-Accredited NGOs from Undue Interference.*- Members of the national and local IACATP and DSWD-accredited NGOs that are involved in the implementation of anti-prostitution programs are granted immunity from suit and other legal proceedings in connection with the enforcement of said programs.

SEC. 22. *Appropriations.* - The amount necessary to carry out the provisions of this Act is hereby authorized to be appropriated in the General Appropriations Act of the year following the enactment of this law and every year thereafter. All LGUs are likewise mandated to allot not less than five percent (5%) of their gender and development (GAD) budget and not less than five percent (5%) of the local development fund of LGUs for programs, project and activities aimed to control and eliminate prostitution activities within their jurisdiction, including the development and conduct of deterrent information campaigns directed to potential and actual buyers of prostitution sex.

SEC. 23. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the remaining provisions shall not be affected thereby and shall continue to be in full force.

SEC. 24. *Suppletory Application.* - The provisions of Republic Act No. 9208 or the Anti-Trafficking in Persons Act shall have suppletory application to this Act.

SEC. 25. *Repealing Clause.* - Article 202 and 341 of the Revised Penal Code are hereby repealed. All other laws, decrees, ordinances and rules inconsistent with the provisions of this Act are hereby modified or repealed accordingly.

SEC. 26. *Effectivity Clause.* - This Act shall take effect upon completion of its publication in at least two (2) newspapers of general circulation.

Approved,