

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

Senate of the Philippines
Office of the Secretary

SENATE

19 JUL 16 A8:52

S. No. 501

RECEIVED [initials]

Introduced by Senator **PIA S. CAYETANO**

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 THE PENAL CODE**

EXPLANATORY NOTE

The Philippine Constitution provides that "the State values the dignity of every human person and guarantees full respect for human rights." This is likewise guaranteed in the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) to which the Philippines is a signatory.

Prostitution, defined as any act involving the use of a person for sexual gratification, pleasure or exploitation, or any act that promotes the latter, is a massive problem in our country.

Poverty is often cited as the primary reason why some people choose to engage in prostitution. It forces some persons to seek any means to survive – even if it means allowing themselves to be abused and their lives to be endangered. Whether voluntary or involuntary, we cannot deny that this system uses, oppresses, and violates the rights of persons exploited in prostitution, particularly, women and children.

This measure, which was left pending in the past Congresses, was first introduced by Sen. Miriam Defensor-Santiago in the 14th Congress.

It seeks to address the root of the problem by shifting the accountability of prostitution from the prostituted person to the exploiters, including the traffickers, pimps, brothel owners, organized crime members, and corrupt officials.

The bill likewise seeks to change the public perception and treatment of persons exploited in prostitution as victims of the system and not as criminals. It provides for mechanisms to ensure that the human rights of prostituted persons are upheld, and for them to be extracted out of the system and reintegrated into society through rehabilitation programs.

Today, the number of persons exploited in prostitution is approaching the millionth mark. Let us not wait for this number to grow even more. Let us not wait for the day when we outrank all the other nations with the most number of prostitutes. Let us not wait for the day when our country will be recognized as the "Haven of Prostitution".

Let us uphold the dignity and the rights of all men, women and children involved in prostitution.

It is for these reasons that I earnestly seek the approval of this bill.



PIA S. CAYETANO

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

1 Section 1. *Short Title.* – This Act shall be known as "The Anti-Prostitution
2 Act."

3 Sec. 2. *Declaration of Policies.* – The State:

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

13 Sec. 3. *Definition of Terms.* – As used in this Act:

- 14 (a) *Prostitution* means any act, transaction, scheme, or design involving the
15 use or exploitation of a person, whether a woman, man or child, for the
16 sexual gratification or pleasure of another in exchange for cash, profit, or

1 other consideration, or any act that promotes or facilitates the
2 accomplishment of the said act, transaction, scheme, or design.

- 3 (b) *Person Exploited in Prostitution* means any woman, man or child used,
4 employed or exploited for another person's sexual gratification or
5 pleasure, and for the monetary gain or profit of others, as defined in
6 Section 4 of this Act.
- 7 (c) *Child* means any person below eighteen (18) years of age or one who is
8 over eighteen (18) but is unable to fully take care of or protect
9 himself/herself from abuse, neglect, cruelty, exploitation or
10 discrimination because of a physical or mental disability or condition.
- 11 (d) *Sexual Exploitation* means the participation or engagement of a person
12 for any sexual act in exchange for cash, profit or other consideration as
13 a result of being subjected to threat, deception, coercion, abduction,
14 force, abuse of authority, debt bondage, fraud or through abuse of
15 his/her vulnerability.
- 16 (e) *Sexual Act* means lascivious conduct or sexual intercourse, including
17 genital-to-genital, oral-to-genital, anal-to-genital, or oral-to-anal
18 intercourse or contact, bestiality, masturbation, sadistic or masochistic
19 abuse, exhibition of the genitals or pubic area of any person, and other
20 acts of a sexual nature whether the same is made between persons of
21 the same or opposite sex.
- 22 (f) *Establishment* means any business, enterprise or establishment,
23 including, but not limited to, sauna, bath, massage parlor, discotheque,
24 bar, restaurant, resort, lodging house, motel, hotel, theater, or any
25 dwelling house, structure or building serving as a cover or venue for
26 prostitution, or any vehicle, including but not limited to ship, vessel,
27 automobile, cab, or taxi or any group, association or organization that
28 engages in prostitution activities as defined in Section 4 of this Act.
- 29 (g) *Cult* refers to, but not limited to, fanatic groups that entice, recruit, or
30 condition any person to become sexual offerings in organizational rituals
31 or in other circumstances as part of membership requirement.

1 Sec. 4. *Punishable Acts.* – Prostitution is a crime committed by:

- 2 (a) Any person who gives or delivers money or any other consideration in
3 exchange for the actual performance or mere demonstration of a sexual
4 act by a person exploited in prostitution, regardless of whether the
5 person giving or delivering money or any other consideration is the
6 recipient of such sexual act;
- 7 (b) Any person who is the recipient of a sexual act as defined in Section 3(e)
8 of this Act, whether such a recipient has given or delivered money or any
9 other consideration for the procurement of a person exploited in
10 prostitution; *Provided, however,* that for purposes of this Section, a
11 recipient shall include any person or persons or a crowd with whom a
12 person exploited in prostitution has actually performed or merely
13 demonstrated such a sexual act;
- 14 (c) Any person who offers another person for sexual exploitation in
15 exchange for money or any other consideration;
- 16 (d) Any person who induces, persuades, entices, compels, kidnaps, recruits
17 or in any manner procures or causes a person to serve in an
18 establishment knowing that the same is involved in prostitution activities
19 or when he/she has reasonable cause to believe that such establishment
20 is involved in the said activities;
- 21 (e) Any person who uses information technology or any form of media for
22 the purpose of prostitution;
- 23 (f) Any person who organizes or arranges travel tours and/or tourism-
24 related activities that involve the sexual exploitation of any person or the
25 escort services of any person who is expected to perform the sexual act;
- 26 (g) Any person who, as a part of cult or religious obligation, uses, entices,
27 recruits, or offers any person as sexual offering or favor to other
28 members of the cult or religious organization;
- 29 (h) Any person who derives profit or advantage from any of the prohibited
30 acts defined in this Section as owner, operator, manager, head, director,
31 officer, or agent of the establishment where any prostitution activity
32 defined in this Section takes place, or of the establishment serving as a

- 1 cover for any such prostitution activity, or who aids another
2 establishment or person involved in any prostitution activity;
- 3 (i) Any person who leases, subleases, or in any manner allows the use of
4 any dwelling, house, structure, building, land or any other property
5 knowing that the lessee/sub lessee intends to use or uses it for
6 prostitution activities, as defined in this Section. For the purpose of this
7 paragraph, the owner of the dwelling, house, structure, building, land or
8 any other property used for prostitution and his/her agent shall be
9 presumed to have knowledge that the place is being used or intended to
10 be used for prostitution unless he/she disproves it;
- 11 (j) Any official or employee of any jail or detention center or any person
12 connected thereto who commits, causes, promotes, facilitates, allows or
13 tolerates the commission of any of the acts defined in this section upon
14 inmates, or who, in any manner, provides protection to the perpetrators
15 of the said act; and
- 16 (k) Any member of the military or police establishment, or any government
17 official or employee, or any person in authority who commits, causes, or
18 promotes, facilitates, allows, or tolerates the commission of any of the
19 acts defined in this Section, or who, in any manner, provides protection
20 to the perpetrators of the said acts.

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

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

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

1 *Sec. 6. Penalties and Sanctions. –*

- 2 (a) Any person found guilty of the acts defined in Section 4 shall suffer the
3 penalty of imprisonment of twenty (20) years and a fine of not less than
4 One Million Pesos (P1,000,000.00) but not more than Two Million Pesos
5 (P2,000,000.00);
6 (b) Any person guilty of the acts defined in Section 4 who is also exploited in
7 prostitution or had been exploited in prostitution shall suffer the penalty
8 of imprisonment of ten (10) years for the first offense and fifteen (15)
9 years for the succeeding violations and a fine of not less than Five
10 Hundred Thousand Pesos (P500,000.00) but not more than One Million
11 Pesos (P1,000,000.00);
12 (c) Any person guilty of attempting to commit any of the prohibited acts
13 shall suffer the penalty of imprisonment of fifteen (15) years and a fine
14 of not less than Five Hundred Thousand pesos (P500,000.00) but not
15 more than One Million Pesos (P1,000,000.00);
16 (d) When the offender is any establishment as defined in this Act, the
17 penalty shall be imposed upon the owner and operator, or manager, or
18 the directors and officers, or the responsible officers or agents of the
19 establishment, corporation, partnership, or association found to be
20 engaged in any of the acts defined in Section 4 of this Act.

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

- 29 (e) When the offender is a foreigner, he or she shall be deported
30 immediately after service of sentence and permanently barred from
31 entry into the country;

1 (f) Any person found guilty of committing or attempting to commit any of
2 the prohibited acts under Section 4 shall, in addition to the penalties
3 stated in this section, undergo counseling, rehabilitation, and mandatory
4 education on the human rights situation of victims of prostitution with
5 DSWD or its accredited Non-Governmental Organization (NGO) for a
6 period of not less than three (3) months but not longer than one (1)
7 year. The DSWD shall submit to the court a report on the rehabilitation
8 of the offender.

9 Sec. 7. *Civil Liability for Prostitution.* – Persons exploited in prostitution may
10 file independent civil cases for damages against the persons, natural or juridical,
11 responsible for their exploitation.

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

19 Sec. 8. *Prosecution of Cases.* – The person exploited in prostitution, his/her
20 parents, spouse, siblings, children or legal guardian, law enforcement agencies, or
21 the Inter-Agency Council Against Trafficking and Prostitution (IACATP) created under
22 this Act or any person who has personal knowledge of the commission of any
23 offense under this Act, may file a complaint for prostitution.

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

29 Sec. 10. *Prescriptive Period.* – Cases under this Act shall prescribe in twenty
30 (20) years. The prescriptive period shall commence to run from the day on which
31 the person exploited in prostitution is delivered or released from the situation of
32 exploitation and shall be interrupted by the filing of the complaint or information. It

1 shall commence to run again when such proceedings terminate without the accused
2 being convicted or acquitted or are unjustifiably stopped for any reason not
3 imputable to the accused.

4 Sec. 11. *Exemption from Filing Fees.* – When the victim of prostitution
5 institutes a separate civil action, he or she shall be exempt from the payment of
6 filing fees.

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

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

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

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

32

- 1 (a) The right to be treated as human beings;
2 (b) The right to dignity and security of person;
3 (c) The right against any form of discrimination;
4 (d) The right to equal protection of the law;
5 (e) The right to be protected from abuse or exploitation;
6 (f) The right to seek redress for violations of their rights and to have their
7 complaints appropriately addressed;
8 (g) The right to fair and humane treatment;
9 (h) The right to sensitive and appropriate legal, health, and other social
10 services;
11 (i) The right to organize themselves and fight for their legitimate concerns;
12 and
13 (j) The right to be consulted on any government initiative affecting them.

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

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

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

28 Sec. 15. *Confidentiality.* – It shall be the responsibility of any journalist,
29 reporter, editor, publisher, or producer of print and broadcast media to protect the
30 identity and privacy of persons exploited in prostitution, most particularly on the
31 occasion of a raid or rescue operation. Any journalist, reporter, editor, publisher, or
32 producer of print and broadcast media, who exposes to the public the identity of any

1 person exploited in prostitution without her or his consent thereto in writing, or
2 causes the publication of any picture or video that violates the dignity and other
3 human rights of the person exploited in prostitution, shall suffer the penalty of one
4 (1) year imprisonment. In addition, the owner or publisher of the print or broadcast
5 media found guilty of the violation shall pay a fine of Five Hundred Thousand Pesos
6 (P500,000.00). This shall be without prejudice to the right of persons exploited in
7 prostitution to file a civil action for damages for the violation of their human rights or
8 for any injury caused them by the publication.

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

14 *Sec. 17. Requirements for Hotels, Motels and Lodging Houses.* –
15 Notwithstanding any legislation, ordinance, or rule to the contrary, every hotel,
16 motel or lodging area shall:

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

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

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

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

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

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

10 Sec. 19. *Functions of the IACATP.* – The following additional functions shall be
11 performed by the IACATP:

- 12 (a) Develop a program addressing prostitution and the needs of persons
13 exploited in prostitution and those vulnerable to be exploited in
14 prostitution. The program shall include public information and education
15 campaign against prostitution, crisis intervention service, education
16 assistance, socio-economic assistance such as sustainable livelihood
17 skills training and financial support for small-scale businesses, and
18 integration and complete after-care programs for persons exploited in
19 prostitution, among others;
- 20 (b) Identify and, if necessary, create centers in strategic places all over the
21 Philippines that will provide health services, including counseling and
22 therapy, temporary shelter and other crisis intervention services to
23 persons exploited in prostitution. The rape crisis centers established
24 under Republic Act No. 8505 and the hospital-based prosecution units
25 for women and children may also serve as centers servicing persons
26 exploited in prostitution.

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

- 29 (c) Ensure that units are created or identified within relevant government
30 agencies, particularly those composing the IACATP which shall focus on
31 addressing prostitution and the needs of persons exploited in
32 prostitution.

- 1 This shall include units within the National Prosecution Service Offices in
2 local government units (LGUs) that shall specifically focus on the
3 prosecution of offenders under this Act;
- 4 (d) Ensure that relevant government agencies work in close coordination
5 with each other in addressing prostitution and the needs of persons
6 exploited in prostitution;
- 7 (e) Develop and implement training programs for law enforcers, public
8 prosecutors, judges, government lawyers, government health care
9 providers, social workers and *barangay* officials that aim to increase their
10 understanding of prostitution as a system, and equip them with the
11 perspective and skills to appropriately address the needs of persons
12 exploited in prostitution, respect, protect and promote their human
13 rights, and pursue the prosecution of offenders;
- 14 (f) Ensure that local counterparts of the IACATP are created in every
15 municipality, city and provinces;
- 16 (g) Undertake to lead the prosecution of any violation of this Act; and
- 17 (h) Promulgate, when necessary, rules and regulations for the effective
18 implementation and enforcement of this Act.

19 Sec. 20. *Responsibilities of Local Government Agencies in Anti-Prostitution*
20 *Efforts.* – Local government units (LGUs) shall exercise their powers to curb
21 prostitution within their respective jurisdictions. LGUs shall create a local IACATP
22 that shall combat and prevent any act of prostitution in their area. The local IACATP
23 shall be responsible for the monitoring and documentation of cases on prostitution
24 within their areas of jurisdiction and shall submit an annual report to the national
25 IACATP. If a local committee dealing with issues related to prostitution such as
26 trafficking and violence against women and children had already been established,
27 the LGU shall ensure that programs and services for prostituted persons are
28 integrated in the action plan of the said committee. It shall be unlawful for any LGU
29 to issue licenses or permits for the operation of any establishment that is used or
30 intended to be used for any prostitution activity. Any such license or permit already
31 issued prior to the effectivity of this Act shall be deemed automatically revoked or
32 cancelled and shall not be renewed.

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

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

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

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

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

25 Sec. 25. *Repealing Clause.* – Article 202, *as amended* by Republic Act No.
26 10158 and 341 of the Revised Penal Code are hereby repealed. All other laws,
27 decrees, ordinances and rules inconsistent with the provisions of this Act are hereby
28 modified or repealed accordingly.

29 Sec. 26. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
30 following the completion of its publication in the Official Gazette or in any two (2)
31 newspapers of general circulation.

Approved,