

THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

SENATE
OFFICE OF THE SECRETARY

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S E N A T E

S. No. 479

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Estimates place the number of women and children in prostitution in the Philippines at 60,000 to 300,000 in 1993 and 1994. By conservative estimates, the figure today is half a million. Prostitution has become a highly organized business with a system of recruitment that capitalizes on the market for migrant workers, and promotions that includes pornography and the international market for sex tours.

Article 202, Paragraph 5 of the Revised Penal Code defines prostitutes as women criminals whom society should penalize, stigmatize and ostracize. Society in general is kinder to children who are easily regarded as victims with no power of choice over their situation. Yet this dichotomy between women and children in prostitution is anomalous, especially in cases where the women were brought into prostitution as children.

From a more realistic and humane perspective, prostitution can be likened to a system of slavery where the prostitute, be she a child or an adult woman is the victim, rather than the criminal perpetrator. The prostitute, who is often treated as merchandise, not as a human being, endures severe human rights violations not unlike those perpetuated in situations of slavery. Prostitutes earn very little. Most of the money paid for their services go to bar owners and pimps who cheat them, and threaten them with abuse and violence, when they refuse to indulge the demands of customers.

This bill which was filed by Senator Roco in the Eleventh Congress, seeks to address the system of prostitution in its entirety, accosting both the structural mechanisms as well as the ideological justifications which re-enforce them. In order to eradicate the evil perpetuated by prostitution, the force of the law must be aimed at establishments and male customers who control and profit from the business of prostitution. On the other hand, the law must extend a compassionate hand, and offer protection to prostitutes, rather than criminalize them for in truth they are mere victims of an extremely exploitative system.

In view of the foregoing, early passage of this bill is earnestly requested.

S. Osmeña III
SERGIO OSMEÑA III
Senator

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SENATE

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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, AMENDING FOR THE PURPOSE
THE REVISED PENAL CODE, AND FOR OTHER PURPOSES

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

1 SECTION 1. **Short Title.** – This Act shall be known as the “**Anti-**
2 **Prostitution Act of 2001.**”

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

4 a) declares its commitment to end the continuing sexual exploitation of
5 women and children and all forms of gender-based violence;

6 b) recognizes prostitution as a human rights violation which 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
10 protection and support by the State, instead of being treated as
11 criminals; and

12 d) recognizes that addressing prostitution is essential for women and
13 children to genuinely and meaningfully participate in nation-building.

14 SEC. 3. **Definition of Terms.** – The following terms are defined for
15 purposes of this Act.

1 a) *Prostitution* – any act, transaction, scheme, or design involving the
2 use of a person, whether woman, man or child, for the sexual gratification,
3 exploitation or pleasure of another in exchange for cash, profit or other
4 consideration, or any act which promotes or facilitates the accomplishment of the
5 said act, transaction, scheme or design, as specifically defined in Section 4 of
6 this Act.

7 b) *Person exploited in prostitution* – refers to a woman, man or child
8 used or employed for another person's sexual gratification, exploitation or
9 pleasure and for the monetary gain or profit of others, as defined in Section 4 (a)
10 of this Act.

11 c) *Child* - refers to a person below eighteen (18) years of age or over
12 but is unable to fully take care of herself/himself from abuse, neglect, cruelty,
13 exploitation or discrimination because of a physical or mental disability or
14 condition.

15 d) *Establishment* – refers to any business enterprise or establishment,
16 including, but not limited to, sauna bath, massage parlor, discotheque, bar,
17 restaurant, resort, lodging house, motel, hotel, ship, vessel, or any dwelling,
18 house, structure or building, or any group, association or organization serving as
19 a cover or venue for, or which engages in, prostitution activities as defined in
20 Section 4 of this Act.

21 **SEC. 4. Punishable Acts.** – Prostitution is a crime committed by:

22 (a) any person who gives, conveys or delivers money or any
23 consideration in exchange for another's sexual exploitation, or any person who is
24 the recipient of the sexual act involved in the sexual exploitation of another but
25 who did not give, convey or deliver money or any consideration; provided,
26 however, that for purposes of this Section, sexual exploitation shall include, but
27 not limited to, having sexual intercourse with or performing any form of lascivious
28 or sexual act with the person giving, conveying or delivering the money or
29 consideration, or with another person, or performing or demonstrating sexual or

1 lascivious acts in the presence of another person or persons or a crowd;
2 provided, further, that the actual performance of the acts by the person exploited
3 in prostitution is not a requirement for the offender to be prosecuted under this
4 provision;

5 (b) any person who recruits, induces, persuades, entices, compels,
6 kidnaps, or in any manner procures a person for the purpose of exploiting the
7 person in prostitution;

8 (c) any person who recruits another person purportedly for lawful
9 employment but actually for the purpose of exploiting the person in prostitution;

10 (d) any person who recruits, induces, persuades, entices, compels or
11 in any manner procures or causes a person to work in an establishment knowing
12 that the same is involved in activities defined in paragraph (a) of this Section or
13 when he/she has reasonable cause to believe that such establishment is
14 involved in the said activities;

15 (e) any person who transports a person or persons from one place to
16 another for the purpose of exploiting the person or persons in prostitution;

17 (f) any person who receives or gives or agrees to receive or give
18 money or anything of value or any consideration in exchange for or for the
19 purpose of procuring or recruiting, in any manner, a person or persons to be
20 exploited in prostitution;

21 (g) any person who organizes or arranges travel, tours and tourism-
22 related activities which involve the sexual exploitation of any person as defined in
23 (a) above, or the escort services of any person who is expected to perform the
24 sexual acts defined in (a) above;

25 (h) any person who in any manner or under any pretext advertises,
26 organizes, arranges, manages, promotes or facilitates the commission of any of
27 the acts defined in this Section;

1 (i) any person who uses information technology such as cyberspace,
2 satellite, television, or any form of media to promote any of the acts defined in
3 this Section;

4 (j) any person who derives profit or advantage from any of the acts
5 defined in this Section as owner, operator, manager, head, director, officer, or
6 agent of the establishment where any prostitution activity defined in this Section
7 takes place;

8 (k) any person who derives profit or advantage from any of the acts
9 defined in this Section as owner, operator, manager, head, director, officer, or
10 agent of the establishment serving as cover or venue for any prostitution activity,
11 or aiding another establishment or person involved in any prostitution activity;

12 (l) any member of the military or police establishment, or any
13 government official or employee, or any person in authority, who promotes,
14 facilitates, allows, or cause the commission of any of the acts defined in this
15 Section, or who, in any manner, provides protection to the perpetrators of the
16 said acts;

17 (m) any person who leases, subleases, or in any other manner allows
18 the use of any dwelling, house, structure or building knowing that the
19 lessee/sublessee intends to use or uses it for prostitution activities as defined in
20 this Section, or continues with the lease, sublease or any other arrangement for
21 its use knowing that the place is being used for prostitution. For the purpose of
22 this paragraph, the owner of the dwelling, houses, structure or building used for
23 prostitution and his/her agent shall be presumed to have knowledge that the
24 place is being used or intended to be used for prostitution unless he/she
25 disproves it.

26 **SEC. 5. Attempt to Commit Child Prostitution.** – An attempt to commit
27 prostitution of a child under Section 4 (a) of this Act is committed by:

28 (a) any person who, not being a grandparent, parent, guardian or blood
29 relative of a child, is found alone with the said child inside a room or cubicle of a

1 house, inn, hotel, motel, pension house, apartelle, or any similar establishment,
2 vessel, vehicle or any hidden or scheduled area, or under circumstances which
3 would lead a reasonable person to believe that the child is about to be
4 prostituted;

5 (b) any establishment providing entertainment or relaxation to the
6 public, including, but not limited to, sauna bath parlor, massage parlor,
7 discotheque bar, videoke or sing-along establishment, resort, lodging house,
8 motel and hotel, which employs a child;

9 (c) any person receiving services from a child in a sauna parlor or
10 bath, massage clinic, health club and any other similar establishment.

11 **SEC. 6. Who May Commit the Prohibited Acts.** – The acts defined in
12 Section 4 of this Act may be committed by any natural or judicial person,
13 establishment, association, movement, cult, religious group or any organization.
14 For the purpose of Section 4, the term “person,” when used to refer to the
15 offender, shall be interpreted to include the aforesaid persons or entities
16 whenever applicable.

17 **SEC. 7. Consent of Victim Immaterial.** – The consent of the person
18 exploited in prostitution to the commission of any of the acts defined in Section 4
19 of this Act shall not in any way exempt the offender from, or mitigate his/her,
20 criminal liability.

21 **SEC. 8. Penalties and Sanctions.** – Any person found guilty of the acts
22 defined in Section 4, paragraph (a) shall suffer the penalty of *prison mayor* in its
23 medium period, unless the person exploited in prostitution is a child, in which
24 case the penalty shall be *reclusion temporal* in its medium period, *Provided*,
25 however, that if the act against the child constitutes rape under Art. 266-A
26 paragraph (1) of the Revised Penal Code as amended by R.A. 8353 or rape by
27 sexual assault under Art. 266-A paragraph (2) of the Revised Penal Code as
28 amended by R.A. 8353, the offender shall be prosecuted under Art. 266-A paragraph 1
29 or 2, as the case may be, *Provided*, further, that the penalty for violation of Art.

1 266-A paragraph 2 involving a child shall be *reclusion temporal* in its medium
2 period. If the act against the child constitutes act of lasciviousness, the offender
3 shall be prosecuted under Art. 336 of the Revised Penal Code, *Provided*,
4 however, that the penalty shall be *reclusion temporal* in its medium period.

5 (b) The penalty of *reclusion temporal* in its minimum period shall be
6 imposed when the offender is an ascendant, parent, guardian, stepparent,
7 collateral relative within the fourth degree of consanguinity or affinity, or
8 exercises parental authority or moral ascendancy over the person exploited in
9 prostitution. This penalty shall also apply to any offender who is the common-law
10 spouse of any of the persons aforementioned. If the offended party is a child, the
11 penalty shall be *reclusion temporal* in its medium period.

12 (c) The penalty of *reclusion perpetua* and a fine of five hundred
13 thousand pesos (P500,000.00) shall be imposed on the offender who is a
14 member of the police or military establishment, or a government official or
15 employee. In addition, the offender shall be perpetually disqualified from holding
16 any appointive position or from running for any elective position in government.

17 (d) The owner or operator or manager, or the directors and officers, of
18 the establishment, corporation, partnership or association found to be engaged in
19 any of the acts defined in Section 4 shall suffer the penalty of *reclusion perpetua*
20 and a fine of not less than five hundred thousand pesos (P500,000.00) but not
21 more than one million pesos (P1,000,000.00) each: *provided*, however, that if the
22 person exploited in prostitution is a child, the fine shall be one million pesos
23 (P1,000,000.00); *provided*, further, that the responsible agents and employees
24 shall suffer that penalty of *reclusion temporal* in its medium period, and *provided*,
25 further, that if the person exploited in prostitution by the responsible agents or
26 employees is a child, the penalty shall be *reclusion temporal* in its maximum
27 period.

28 In addition, the establishment, corporation, partnership or association shall
29 be immediately closed and its registration and/or license to operate shall be

1 revoked, without prejudice to the filing of other charges under other applicable
2 laws. A sign with the words "off limits" shall be conspicuously displayed outside
3 the establishment by the Department of Social Welfare and Development
4 (DSWD) for such period as the Department may determine, which shall not be
5 less than one (1) year. The unauthorized removal of such sign shall be
6 punishable by *arresto mayor* in its maximum period.

7 (e) Any of other person found guilty or any of the acts defined in
8 Section 4 and not falling under Sec. 8 (a), 8 (b), 8 (c), 8 (d) and 8 (g) shall suffer
9 the penalty of *reclusion temporal* in its maximum period and a fine of three
10 hundred thousand pesos (P300,000.00); *provided*, however, that if the person
11 exploited in prostitution is a child, the penalty shall be *reclusion temporal* in its
12 maximum period and a fine of five hundred thousand pesos (P500,00.00);
13 *provided*, further, that if the offender is a woman who is also exploited or had
14 been exploited in prostitution, she shall suffer the penalty or *prision correccional*
15 in its maximum period and no fine shall be imposed on her.

16 (f) When the offender is a foreigner, he shall be deported immediately
17 after service of sentence and permanently barred from entry into the country.

18 (g) Any person found guilty of an attempt to commit child prostitution
19 shall suffer the penalty of *prision correccional* in its medium period, without
20 prejudice to the filing of other criminal charges under other applicable laws;
21 *provided*, however, that in cases falling under Section 5, paragraph (b), the
22 owner and operator or manage, or the directors and officers of the establishment
23 shall suffer the penalty or *prision correccional* in its medium period and a fine of
24 three hundred thousand pesos (P300,000.00);

25 (h) Persons exploited in prostitution who do not fall under Section 8 (e)
26 shall not suffer any criminal liability under this Act.

27 In addition to the penalty of imprisonment and fine, any person who is
28 found guilty of any of the acts provided under Section 4 and 5 of this Act shall
29 undergo a rehabilitation program with the Department of Social Welfare and

1 Development (DSWD) which shall not be shorter than three months nor longer
2 than one year, provided, that only first-time offenders shall undergo such
3 rehabilitation program. The DSWD shall submit to the court a report on the
4 rehabilitation of the offender.

5 **SEC. 9. Civil Liability For Prostitution.** – Person exploited in prostitution
6 may file independent civil cases for damages against the persons responsible for
7 their exploitation.

8 **SEC. 10. Applicability of Republic Act No. 7309 and Republic Act No.**
9 **6981.** – Persons exploited in prostitution shall be covered by the Witness
10 Protection, Security and Benefit Act, or Republic Act No. 7309. For the purpose
11 of the application of Republic Act No. 7309, persons exploited in prostitution shall
12 be deemed victims of violent crimes under Section 3, paragraph (d) thereof.

13 **SEC. 11. Responsibilities of Government Agencies in Anti-Prostitution**
14 **Efforts.** – Local government units shall exercise their powers to curb prostitution
15 within their respective jurisdictions. Their responsibility shall include conducting
16 public information campaign against prostitution.

17 Local government units may employ elements of the National Bureau of
18 Investigation (NBI) or the Philippines National Police (PNP) as provided for under
19 Republic Act No. 6975, as amended by Republic Act No. 8551.

20 The national government shall ensure that local government units
21 conscientiously engage in anti-prostitution activities, provide support for the
22 same, and intervene when necessary.

23 The NBI and the PNP shall continuously conduct surveillance and monitor
24 establishments to prevent prostitution. They shall promptly investigate any
25 establishment suspected to be engaged in activities constituting prostitution
26 under Section 4 of this Act and shall take appropriate measures, in coordination
27 with the local government unit concerned an other relevant government
28 agencies, for the speedy prosecution of the offenders.

1 The Department of Tourism (DOT) shall undertake corrective and
2 enforcement measures to stop activities in tourism constituting, promoting or
3 facilitating prostitution.

4 **SEC. 12. Liability of Local Government Units.** – Provinces, cities and
5 municipalities shall be liable for damages to persons exploited in prostitution
6 when it is proven that the responsible authorities had knowledge or were
7 informed of the activities constituting prostitution but did not take proper action
8 within a reasonable period of time.

9 The responsible authorities shall be deemed to have knowledge of the
10 prostitution activities when the same are common knowledge in the community.

11 **SEC. 13. Requirements for Hotels, Motels and Lodging Houses.** – Every
12 hotel, motel or lodging area shall:

13 (a) maintain a reception and registration area for guests and patron that is
14 readily within the public view;

15 (b) strictly require the registration of every guest and patron in the
16 reception and registration area referred to above, and for this purpose
17 keep a registration book at all times;

18 (c) maintain open garages, or those which do not have door or any closing
19 mechanism;

20 (d) maintain good lighting in all its entrances, exits, driveways and
21 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.

27 **SEC. 14. Human Rights of Persons Exploited in Prostitution.** – Persons
28 exploited in prostitution have human rights which must be respected, protected
29 and promoted by all branches, agencies and instrumentalities of the government

1 in law enforcement drives, criminal prosecution, civil suits, service provision, and
2 program development and implementation. These rights include, but are not
3 limited to:

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

17 Persons exploited in prostitution shall not be detained on the occasion of
18 or by reason of a raid or in the name of law enforcement. There shall be at least
19 one social worker or one representative from a non-government organization
20 known to be working with women exploited in prostitution present during raids.

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

26 It shall also be the duty of law enforcers to ensure that persons exploited
27 in prostitution are not exposed to the media on the occasion of a raid. Law
28 enforcers who allow or facilitate the exposure to media of persons exploited in
29 prostitution shall suffer the penalty of *arresto mayor* in its maximum period,

1 without prejudice to the filing of other criminal and administrative charges under
2 applicable laws.

3 Any journalist, reporter, editor, publisher or producer of print and
4 broadcast media who exposes to the public the identity of any person exploited in
5 prostitution without her or his consent thereto in writing, or causes the publication
6 of any picture that violates the dignity and other human rights of the persons
7 exploited in prostitution, shall suffer the penalty of *arresto mayor* in its maximum
8 period. In addition, the owner or publisher of the print or broadcast media found
9 guilty of the violation shall pay a fine of five hundred thousand pesos
10 (P500,000.00). This shall be without prejudice to the right of persons exploited in
11 prostitution to file a civil action for damages for the violation of their human rights
12 of for any inquiry caused them by the publication.

13 **SEC. 15. Entrapment Prohibited.** – Law enforcers shall not use
14 entrapment as a method in law enforcement activities when the same will involve
15 the sexual exploitation of persons as defined in Section 4 (a) of this Act. A law
16 enforcement officer who resorts to this method shall be punished under Section 4
17 (a) of this Act.

18 **SEC. 16. Enforcement of Labor Laws and Regulations.** – The Bureau of
19 Working Conditions of the Department of Labor and Employment (DOLE) and its
20 regional, provincial and district officers shall conduct, in coordination with the
21 local government officials and relevant agencies, quarterly monitoring of all
22 establishments to ensure that they comply with the minimum wage law and other
23 laws on labor standards. Quarterly monitoring reports shall be submitted to the
24 chief executives of provinces, cities, and municipalities for their appropriate
25 action. Copies shall also be furnished to the Task Force created under this Act.

26 **SEC. 17. Social Services and Programs.** – There shall be a National Anti-
27 Prostitution Task Force composed of the Department of Social Welfare and
28 Development as lead agency, the National Commission on the Role of Filipino
29 Women (NCRFW), the DOLE, the TESDA, the Department of Health, the

1 Department of Interior and Local Government, the Department of Justice, the
2 NBI, the PNP, three (3) non-government organizations (NGOs) selected by
3 NGOs providing support services to victims of prostitution, and three (3)
4 representatives of persons exploited in prostitution. The National Anti-Prostitution
5 Task Force shall perform the following functions:

6 (a) Develop a program addressing prostitution and the needs of
7 persons exploited in prostitution and those vulnerable to be exploited in
8 prostitution. The program shall include public information and education
9 campaign against prostitution, crisis intervention services, education assistance,
10 and socio-economic assistance such as livelihood skills training and financial
11 support for small-scale business, among others.

12 (b) Identify and, if necessary, create center in strategic places all over
13 the Philippines that will provide health services, including counseling and
14 therapy, temporary shelter and other crisis intervention services to persons
15 exploited in prostitution. The rape crisis centers established under Republic Act
16 No. 8505 and the hospital-based protection units for women and children may
17 also serve as centers servicing persons exploited in prostitution. Each center
18 shall establish a network of health care and other service providers to address the
19 needs of persons exploited in prostitution.

20 (c) Ensure the units are created or identified within relevant
21 government agencies particularly those composing the Task Force that shall
22 focus on addressing prostitution and the need for persons exploited in
23 prostitution. This shall include units within the National Prosecution Service
24 Offices in local government units that shall specifically focus on the prosecution
25 of offenders under this Act.

26 (d) Ensure that relevant government agencies work in close
27 coordination with each other in addressing prostitution and the needs of persons
28 exploited in prostitution.

(e) 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;

(f) Ensure that local counterparts of the Task Force are created in every municipality, city and province; and

(g) Promulgate, when necessary, rules and regulations for the effective implementation of this act.

SEC. 18. 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 local government units 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 local government units for programs, projects, and activities aimed to control prostitution activities within their jurisdiction.

SEC. 19. Separability Clause. – if any section or provision of this Act shall be declared unconstitutional or invalid, the other sections or provisions not affected thereby shall remain in full force and effect.

SEC. 20. Suppletory Application. – The provisions of the Revised Penal Code shall have suppletory application to this Act.

SEC. 21. Repealing Clause. – Articles 202 and 341 of the Revised Penal Code are hereby repealed. Article III, Sections 5 and 6 of Republic Act No. 7610 and all other laws, decrees, orders, rules and regulations and other issuances inconsistent with the provisions of this Act are deemed modified, revoked or repealed accordingly.

- 1 SEC. 22. **Effectivity.** This Act shall take effect fifteen (15) days after its
2 publication in two (2) leading newspapers of national circulation.

Approved,