

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



Senate
Office of the Secretary

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SENATE

S. B. No. 1252

RECEIVED BY: 

Introduced by Senator **Ana Theresia "Risa" Hontiveros - Baraquel**

**AN ACT STRENGTHENING REPUBLIC ACT NO. 8353, OTHERWISE KNOWN
AS THE
ANTI-RAPE ACT OF 1997**

EXPLANATORY NOTE

The statistics on rape and sexual violence in the Philippines are chilling. According to the Center for Women's Resources, every fifty three minutes, a woman or child is raped in this country. Based on CWR's estimate, the number of recorded rape cases increased by 92 percent from 5,132 in 2010 to 9,875 in 2014. Violations of the Anti-Violence Against Women and Children Act escalated by 200 percent from year 2010 to 2014.

Despite the inroads being made by women in areas of governance and participation, a woman is vulnerable to violation in the most sacred of spaces – her own body. And despite evidence showing that the Philippines leads the way in the region for gender equality, anachronistic cultural norms make it difficult for women victimized by sexual violence to find redress in courts of law. Many rape victims are subjected to humiliation for daring to report cases of rape, and many perpetrators are let off the hook because of a policy and cultural environment that engenders machismo and blames the victim.

This bill seeks to amend and modernize our current legislation against rape. Specifically, it introduces the following amendments:

- It emphasizes absence of consent as the essential element of the crime of rape, over evidence of physical resistance and external injuries;
- It increases the age of statutory rape to eighteen years old from the current age of twelve years old;
- It introduces as aggravating circumstances (1) the use of video recording or electronic device during the commission of the rape; (2) the status of the offender as a personal or public or moral authority, when such authority is used to perpetrate the act of rape; (3) the perpetration of rape as a hate crime against those belonging to marginalized categories;
- It repeals the "forgiveness clause" in the Revised Penal Code.

These amendments are long overdue, and will create a policy framework that will protect women and children from rape and sexual violence, ensure justice for rape victims, and create an enabling environment for true gender equality.

The passage of this bill is earnestly sought.


**ANA THERESIA "RISA" HONTIVEROS -
BARAQUEL**



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

1 **Section 1. Title.** – This Act shall be known as the "Anti-Rape Act of 2016".
2

3 **Section 2. Declaration of Principles.** – It is the policy of the State to value the dignity of
4 every human person and guarantee full respect for human rights. It is likewise the policy
5 of the state to recognize the role of women in nation-building and ensure the
6 fundamental equality before the law of women and men.
7

8 **Section 3. Lack of consent as essential element of the crime of rape.** – Rape is a
9 sexual assault that violates a person's right to personal security and bodily integrity with
10 the essential element of lack of consent.
11

12 **Section 4. Rape, when and how committed.** Article 266A of Act No. 3815, otherwise
13 known as the Revised Penal Code, Title 8, Chapter 3 on Rape, is hereby deleted and
14 replaced with a new Article 266A, which will read as follows:
15

16 **ARTICLE 266A.**

17 **SECTION 1. RAPE, WHEN AND HOW COMMITTED.**

18 **A. THE CRIME OF RAPE IS COMMITTED:**

- 19
20
21
22 1) BY A MAN WHO HAS CARNAL KNOWLEDGE OF A WOMAN WITHOUT
23 HER CONSENT, WHETHER OR NOT THE WOMAN SUFFERS INJURIES;
24 2) BY A MAN WHO TOUCHES OR INSERTS HIS PENIS INTO THE
25 FEMALE'S INNER OR OUTER VAGINAL LABIA, WITHOUT HER
26 CONSENT, WHETHER OR NOT THE WOMAN SUFFERS INJURIES;
27 3) BY A MAN WHO TOUCHES OR INSERTS HIS PENIS INTO ANOTHER
28 PERSON'S MOUTH OR ANAL ORIFICE, WITHOUT THE PERSON'S
29 CONSENT, WHETHER OR NOT THE PERSON SUFFERS INJURIES;
30 4) BY A PERSON WHO TOUCHES OR INSERTS ANY INSTRUMENT OR
31 BODY PART OR OBJECT, INTO THE GENITAL OR ANAL ORIFICE OF
32 ANOTHER PERSON, WITHOUT THE LATTER'S CONSENT;
33

34 **B. THE CRIME IS COMMITTED UNDER ANY OF THE FOLLOWING
35 CIRCUMSTANCES:**

- 36
37 1) THROUGH LACK OF VICTIM'S CONSENT, FORCE, THREAT, OR

- 1 INTIMIDATION;
2 2) THROUGH FRAUDULENT MACHINATION OR ABUSE OF AUTHORITY;
3 3) IN COERCIVE OR OTHER SIMILAR CIRCUMSTANCES RENDERING THE
4 VICTIM INCAPABLE OF GIVING CONSENT, INCLUDING FORCING
5 ANOTHER INDIVIDUAL TO SEXUALLY ASSAULT THE VICTIM;
6 4) WHEN THE VICTIM IS DEPRIVED OF REASON OR OTHERWISE
7 UNCONSCIOUS, OR IS DEMENTED EVEN THOUGH NONE OF THE
8 CIRCUMSTANCES MENTIONED ABOVE BE PRESENT, PROVIDED THAT
9 HE/SHE IS NOT IN HIS/HER LUCID INTERVAL DURING THE SEXUAL
10 ACT;
11 5) WHEN THE VICTIM IS UNDER EIGHTEEN (18) YEARS OF AGE, EVEN
12 THOUGH NONE OF THE CIRCUMSTANCES MENTIONED ABOVE BE
13 PRESENT.
14

15 **Section 5. Aggravating circumstances.** The list of aggravating circumstances found in
16 Article 266-B shall be amended to include the following paragraphs:
17

18 “WHEN THE COMMISSION OF THE CRIME OF RAPE IS ATTENDED BY
19 VIDEO RECORDING ON ANY ELECTRONIC DEVICE, WHETHER OR NOT
20 SUCH RECORDING SHALL BE SUBSEQUENTLY MADE PUBLIC;”
21

22 “WHEN THE CRIME IS COMMITTED BY PERSONS OF PUBLIC OR
23 MORAL AUTHORITY, INCLUDING BUT NOT LIMITED TO GOVERNMENT
24 OFFICIALS AND RELIGIOUS LEADERS, WHEN THE OFFENDER TOOK
25 ADVANTAGE OF HIS POSITION AND INFLUENCE OVER THE VICTIM TO
26 FACILITATE THE COMMISSION OF THE CRIME;” and
27

28 “WHEN THE COMMISSION OF THE CRIME OF RAPE IS PROVEN TO
29 HAVE BEEN ATTENDED BY THE OFFENDER’S HATE AND PREJUDICE
30 AGAINST THE VICTIM’S SEXUAL ORIENTATION AND GENDER
31 IDENTITY, RACE OR RELIGION.”
32

33 **Section 6. Repeal of the ‘forgiveness clause’.** – Article 266-C of the Anti-Rape Law of
34 1997 shall be deleted.
35

36 **Section 7. Presumptions.** Article 266-D shall be amended to read as follows.
37

38 Article 266-D. *Presumptions.* – Any physical overt act manifesting resistance
39 against the act of rape in any degree from the offended party, or where the
40 offended party is so situated as to render her/him incapable of giving valid
41 consent, may be accepted as evidence in the prosecution of the acts
42 punished under Article 266-A, **PROVIDED THAT THE ABSENCE OF**
43 **PHYSICAL RESISTANCE MUST NOT BE TAKEN AS CONSENT ON THE**
44 **PART OF THE COMPLAINANT.**
45

46
47 **Section 8. Separability Clause.** - Should any provision of this Act be declared
48 unconstitutional, the remaining parts not affected thereby shall remain valid and
49 operational.
50

51 **Section 9. Repealing Clause.** - All laws, decrees, orders, circulars, issuances, rules and
52 regulations and parts thereof which are inconsistent with this act are hereby repealed,
53 amended or modified accordingly.

54 **Section 10. Effectivity.** - This act shall take effect fifteen (15) days after its publication in
55 the Official Gazette or in any two (2) newspaper of general circulation in the Philippines.
56

57 **Approved,**