THIRTEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES First Regular Session

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SENATE OFFICE OF THE SECRETARY

SENATE S. B. No. <u>14</u>07

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Introduced by Senator Pangilinan

EXPLANATORY NOTE

Republic Act No. 8353 (RA 8353) or the "Anti - Rape Act of 1997" expanded the definition of rape to cover indignities that women suffer, which may be worse than non-consensual sex. With the advent of RA 8353, rape includes the insertion of the penis into another person's mouth or anal orifice, and the insertion of "any instrument or object, into the genital or anal orifice of another person."

However, on 28 September 2000, the Department of Justice (DOJ) issued Memorandum Circular No. 22, which provides guidelines on the interpretation of RA 83 53, and it concluded that "the insertion of a finger into a woman's vagina is not rape' under the said law.

With the DOJ's guidelines, an unusual situation arises where the insertion of any object into any orifice of a person qualifies as rape; but the insertion of a person's fingers alone will not. This interpretation defies common sense, and worse, suggest that the insertion of an assailant's finger is less offensive than the insertion of other objects or instrument into a woman's vagina. This interpretation also allows perpetrators of the act of inserting a finger into the vagina to be charged only with the lesser offense of "acts of lasciviousness."

Congress must act to repair the unsound interpretation of RA 8353.

In view of the foregoing, approval of this bill is urgently recommended.

FRANCIS N. PANGILINAN

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104 JUL -7 P1:28

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SENATE S. B. No. <u>1407</u>

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Introduced by Senator Pangilinan

AN ACT AMENDING REPUBLIC ACT NO. 8353, OTHERWISE KNOWN AS "THE ANTI - RAPE LAW OF 1997"

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

SECTION 1. Section 2 of Republic Act No. 8353, otherwise known as the "Anti - Rape Law" is hereby amended to read as follows:

Chapter III Rape

Article 266-A. Rape; When and How Committed. - Rape is committed -

- 1) By a man who shall have carnal knowledge of a woman under any of the circumstances:
 - a) Through force, threat, or intimidation;
 - b) When the offended party is deprived of reason or otherwise unconscious;
 - c) By means of fraudulent machinations or grave abuse of authority; and
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
 - 2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting [his] THE penis into another person's mouth or anal orifice, or any instrument, [or] object, OR ANY OTHER PART OF THE BODY into the genital or anal orifice of another person."

SECTION 2. Separability Clause. - If any part or provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof, which are not affected, shall continue to remain in full force and effect.

SECTION 3. *Repealing Clause-* All laws, presidential decrees and issuances, executive orders, rules and regulations, or parts thereof inconsistent with or contrary to the provisions of this Act are hereby repealed or modified accordingly.

SECTION 4. *Effectivity* - This Act shall take effect fifteen (15) days following completion of its publication in at least two (2) newspapers of general circulation.

Approved,