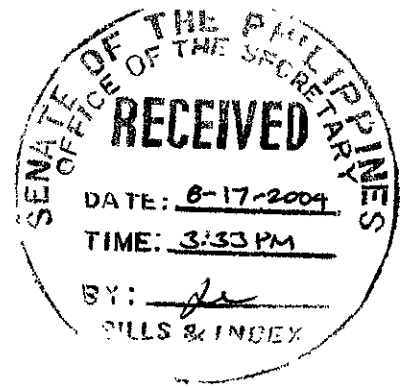


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
S.B. No. 1730



Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

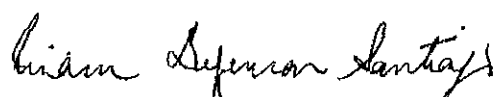
The Constitution, Article 2, Section 11, provides that:

The State values the dignity of every human person and guarantees full respect for human rights.

Men and women are raped and sexually brutalized in prisons throughout the country. Once subjected to sexual abuse, through violence or intimidation, a prisoner is easily trapped into a sexually subordinate role. Prisoners refer to the initial rape as "turning out" the victim, and the suggestion of transformation is telling. Through the act of rape, the victim is redefined as an object of sexual abuse. A prisoner has been proven weak and vulnerable in the eyes of other inmates.

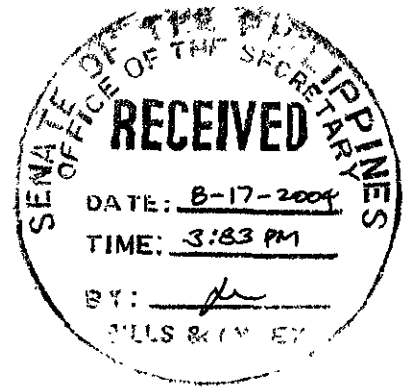
Prisoners who are unable to escape a situation of sexual abuse may find themselves becoming another inmate's "property." Victims of prison rape, in the most extreme cases, are literally the slaves of the perpetrators. Forced to satisfy another person's sexual appetites whenever demanded of the victim, the victim may also be responsible for washing clothes, giving massages, cooking food, cleaning cells, and other myriad chores. The victims are frequently "rented out" for sex, sold, or even auctioned off to other inmates, replicating the financial aspects of traditional slavery.

Prison rape is a serious human rights abuse that derails justice and destroys human dignity. This bill seeks to provide for the analysis of the incidence and effects of prison rape and to provide information, resources, recommendations, and punishment to protect individuals from prison rape.


MIRIAM DEFENSOR SANTIAGO

THIRTEENTH CONGRESS OF THE REPUBLIC)
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Introduced by Senator Miriam Defensor Santiago

AN ACT
TO PROVIDE FOR THE ANALYSIS OF THE INCIDENCE AND EFFECTS
OF PRISON RAPE AND TO PROVIDE INFORMATION,
RESOURCES, RECOMMENDATIONS, FUNDING, AND PUNISHMENT
TO PROTECT INDIVIDUALS FROM PRISON RAPE

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 "Prison Rape Elimination Act."

SECTION 2. *Declaration of Policy.* - It is the policy of state to value the dignity of every human person and guarantee full respect for human rights.

SECTION 3. *Definition of Terms.* - As used in this Act, the term:

- (1) "Prison" means any confinement facility of national, city, provincial, and municipal, whether administered by such government or by a private organization on behalf of such government, and includes –
 - (a) any local jail or police lockup; and
 - (b) any juvenile facility used for the custody or care of juvenile inmates.
- (2) "Jail" means a confinement facility of national, city, provincial, and municipal, or local law enforcement agency to hold –
 - (a) persons pending adjudication of criminal charges; or
 - (b) persons committed to confinement after adjudication of criminal charges for sentences of one (1) year or less.
- (3) "Police lockup" means a temporary holding facility of national, city, provincial, and municipal, or local law enforcement agency to hold –
 - (a) inmates pending bail or transport to jail;

- (b) inebriates until ready for release; or
 - (c) juveniles pending parental custody.
- (4) “Prison rape” is committed by an inmate, under any circumstances mentioned in paragraph 1 and 2, Article 266-A of Revised Penal Code, in the actual or constructive control of prison officials.
 - (5) “Inmate” means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.
 - (6) “Bureau” refers to the Bureau of Jail Management and Penology
 - (7) “Panel” refers to the Review Panel on Prison Rape.
 - (8) “Prosecutor” refers to the Chief State Prosecutor

SECTION 4. *Purposes.* – The purposes of this Act are as follows:

- (1) To establish a zero-tolerance standard for the incidence of prison rape in prisons in the Philippines;
- (2) To make the prevention of prison rape a top priority in each prison system;
- (3) To develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape;
- (4) To increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities;
- (5) To standardize the definitions used for collecting data on the incidence of prison rape;
- (6) To increase the accountability of prison officials who fail to detect, prevent, reduce, or punish prison rape.

SECTION 5. *Annual Comprehensive Statistical Review.*–

- (1) IN GENERAL.- The Bureau of Jail Management and Penology shall carry out, for each calendar year, a comprehensive statistical review and analysis of the

incidence and effects of prison rape. The statistical review and analysis shall include, but shall not be limited to the identification of the common characteristics of —

- (a) both victims and perpetrators of prison rape; and
- (b) prisons and prison systems with a high incidence of prison rape.

(2) CONSIDERATIONS. - In carrying out paragraph (1), the Bureau shall consider-

(a) how the Bureau should collect information about staff-on-inmate sexual assault;

(c) how the Bureau should collect information beyond inmate self-reports of prison rape;

(d) how the Bureau should adjust the data in order to account for differences among prisons;

(e) the categorization of prisons;

(f) whether a preliminary study of prison rape should be conducted to inform the methodology of the comprehensive statistical review.

(3) SOLICITATION OF VIEWS. - The Bureau shall solicit views from representatives of the following: Bureau of Correction, National Bilibid Prisons, Women's Coreccional, and Municipal jails; Department of Social Welfare and Development; former inmates; victim of prison rape advocates; researchers; and other experts in the area of sexual assault.

(4) SAMPLING TECHNIQUES. - The review and analysis under paragraph (1) shall be based on a random sample, or other scientifically appropriate sample, of not less than ten percent (10%) of National Bilibid Prisons, Women's Correccional, City jails, provincial and municipal prisons. The selection shall include at least one (1) prison from each city or province. The selection of facilities for sampling shall be made at the latest practicable date prior to conducting the surveys and shall not be disclosed to any facility or prison system official prior to the time period studied in the survey. Selection of a facility for sampling during any year shall not preclude its selection for sampling in any subsequent year.

(5) SURVEYS. - In carrying out the review and analysis under paragraph (1), the Bureau shall, in addition to such other methods as the Bureau considers appropriate, use surveys and other statistical studies of current and former inmates from a sample of municipal prisons. The Bureau shall ensure the confidentiality of each survey participant.

SECTION 6. *Review Panel on Prison Rape.* -

(1) ESTABLISHMENT. - There will be a Panel, established within the Department of Justice, to assist the Bureau in carrying out the review and analysis under Section 5 paragraph 1.

(2) MEMBERSHIP. -

(a) Composition. - The Panel shall be composed of three (3) members, each of whom shall be appointed by the Secretary of Justice, in consultation with the Secretary of Health and the Secretary of Social Welfare and Development.

(b) Qualifications. - Members of the Panel shall be selected from among individuals with knowledge or expertise in matters to be studied by the Panel.

(3) PUBLIC HEARINGS. -

(a) IN GENERAL. - The duty of the Panel shall be to carry out, for each calendar year, public hearings concerning the operation of the three (3) provincial and municipal prisons with the highest incidence of prison rape and the two (2) prisons with the lowest incidence of prison rape. The Panel shall hold a separate hearing regarding the three (3) city, provincial or municipal prisons with the highest incidence of prison rape. The purpose of these hearings shall be to collect evidence to aid in the identification of common characteristics of both victims and perpetrators of prison rape, and the identification of common characteristics of prisons and prison systems with a high incidence of prison rape, and the identification of common characteristics of prisons and prison systems that appear to have been successful in deterring prison rape.

(b) Testimony at hearings.-

(i) Public officials.- In carrying out the hearings required under subparagraph (c), the Panel shall request the public testimony of city, provincial and local officials, including the warden or director of each prison, who bears responsibility for the

prevention, detection, and punishment of prison rape at each entity, and the head of the prison system encompassing such prison.

(ii) Victims. - The Panel may request the testimony of prison rape victims, organizations, representing such victims, and other appropriate individuals and organizations.

(c) Subpoenas. -

(i) Issuance. - The Panel may issue subpoenas for the attendance of witnesses and the production of documents or other matters.

(ii) Enforcement. - In the case of contumacy or refusal to obey a subpoena, the Secretary of Justice may in a court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(4) REPORTS . —

(a) Deadline. - Not later than June 30 of each year, the Secretary of Justice shall submit a report on the activities of the Bureau and the Panel, with respect to prison rape, for the preceding calendar year to —

(i) Congress;

(ii) Secretary of Health and

(iii) Secretary of Social Welfare and Development

(b) Contents.--The report required under paragraph (1) shall include-

(i) with respect to the effects of prison rape, statistical, sociological, and psychological data;

(ii) with respect to the incidence of prison rape—

(aa) statistical data aggregated at the National, City, Provincial prison system, and prison levels;

(bb) a listing of those institutions in the representative sample, separated into each category identified under subsection (c)(6) and ranked according to the incidence of prison rape in each institution; and

(cc) an identification of those institutions in the representative sample that appear to have been successful in deterring prison rape; and

(dd) a listing of any prisons in the representative sample that did

not cooperate with the survey conducted pursuant to Section 6.

(5) DATA ADJUSTMENTS. - In preparing the information specified in paragraph (2), the Prosecutor shall use established statistical methods to adjust the data as necessary to account for differences among institutions in the representative sample, which are not related to the detection, prevention, reduction and punishment of prison rape, or which are outside the control of the State, prison, or prison system, in order to provide an accurate comparison among prisons. Such differences may include the mission, security level, size, and jurisdiction under which the prison operates. For each such adjustment made, the Attorney General shall identify and explain such adjustment in the report.

(6) CATEGORIZATION OF PRISONS. - The report shall divide the prisons surveyed into three (3) categories. One category shall be composed of all national and local prisons. The other two categories shall be defined by the Prosecutor in order to compare similar institutions.

(7) Contracts and Grants.--In carrying out its duties under this section, the Prosecutor may--

- (1) provide grants for research through the Department of Justice;
- (2) contract with or provide grants to any other entity the Prosecutor deems

appropriate.

SECTION 7. *Prison Rape Prevention And Prosecution -*

(1) INFORMATION AND ASSISTANCE. —

(a) National clearinghouse. - There will be a National Clearinghouse established within the National Bilibid Prisons and Women's Correccional a for the provision of information and assistance to local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

(b) Training and education. - The National Bilibid Prisons and Women's Correccional shall conduct periodic training and education programs for national, city, provincial and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

(2) REPORTS. —

(a) IN GENERAL. - Not later than September 30 of each year, the National Bilibid Prisons and Women's Correccional shall submit a report to Congress and the Secretary of Health. This report shall be available to the Director of the Bureau.

(b) CONTENTS. - The report required under paragraph (1) shall summarize the activities of the Department of Justice regarding prison rape abatement for the preceding calendar year.

(3) PENALTY. - The prosecution for Prison Rape is equivalent to the penalty imposed in rape with aggravating/qualifying circumstances under the Republic Act No. 8353 or otherwise known as "The Anti-Rape Law of 1997."

SECTION 8. *Grants To Protect Inmates And Safeguard Communities* —

(1) GRANTS AUTHORIZED. - From amounts made available for grants under this section, the Prosecutor shall make grants to assist the national, city, provincial, and municipal in ensuring that budgetary circumstances (such as reduced national and local spending on prisons) do not compromise efforts to protect inmates (particularly from prison rape) and to safeguard the communities to which inmates return. The purpose of grants under this section shall be to provide funds for personnel, training, technical assistance, data collection, and equipment to prevent and prosecute prisoner rape.

(2) USE OF GRANT AMOUNTS. - Amounts received by a grantee under this section may be used by the grantee, directly or through subgrants, only for one or more of the following activities:

(a) Protecting inmates.--Protecting inmates by—

- (i) undertaking efforts to more effectively prevent prison rape;
- (ii) investigating incidents of prison rape; or
- (iii) prosecuting incidents of prison rape.

(b) Safeguarding communities.--Safeguarding communities by—

(i) making available, to officials of national and local governments who are considering reductions to prison budgets, training and technical assistance in successful methods for moderating the growth of prison populations without compromising public safety, including successful methods used by other jurisdictions;

(ii) developing and utilizing analyses of prison populations and risk assessment instruments that will improve national and local governments' understanding of risks to the community regarding release of inmates in the prison population;

(iii) preparing maps demonstrating the concentration, on a community-by-community basis, of inmates who have been released, to facilitate the efficient and effective —

(aa) deployment of law enforcement resources (including probation and parole resources); and

(bb) delivery of services (such as job training and substance abuse treatment) to those released inmates;

(iv) promoting collaborative efforts, among officials of National and local governments and leaders of appropriate communities, to understand and address the effects on a community of the presence of a disproportionate number of released inmates in that community; or

(v) developing policies and programs that reduce spending on prisons by effectively reducing rates of parole and probation revocation without compromising public safety.

(3) GRANT REQUIREMENTS. —

(a) Period. - A grant under this section shall be made for a period of not more than two (2) years.

(b) Amount. - The amount of a grant under this Section shall be appropriated from the National Treasury.

(c) Matching. - The National share of a grant under this section should not exceed fifty percent (50%) of the total costs of the project described in the application submitted under subsection.

(d) for the fiscal year for which the grant was made under this section.

(4) APPLICATIONS. —

(a) IN GENERAL. - To request a grant under this section, the chief executive of a City, Province, and Municipality shall submit an application to the Prosecutor at such time, in such manner, and accompanied by such information as the Prosecutor may require.

(b) CONTENTS. - Each application required by paragraph (1) shall—

(i) include the certification of the chief executive that the city, provincial, or municipal receiving such grant—

(aa) has adopted all national prison rape standards that, as of the date on which the application was submitted, have been promulgated under this Act; and

(bb) will consider adopting all national prison rape standards that are promulgated under this Act after such date;

(ii) specify with particularity the preventative, prosecutorial, or administrative activities to be undertaken by the State with the amounts received under the grant; and

(iii) in the case of an application for a grant for one or more activities specified in paragraph (2) of subsection (b)—

(aa) review the extent of the budgetary circumstances affecting the national generally;

(bb) describe the rate of growth of the national, city, provincial, and municipal prison population over the preceding 10 years and explain why the national may have difficulty sustaining that rate of growth; and

(cc) explain the extent to which officials (including law enforcement officials) of national and local governments and victims of crime will be consulted regarding decisions whether, or how, to moderate the growth of the national, city, provincial and municipal prison population.

(5) REPORTS BY GRANTEE. —

(a) *IN GENERAL.* - The Prosecutor shall require each grantee to submit, not later than ninety (90) days after the end of the period for which the grant was made under this Section, a report on the activities carried out under the grant. The report shall identify and describe those activities and shall contain an evaluation of the effect of those activities on—

(i) the number of incidents of prison rape, and the grantee's response to such incidents; and

(ii) the safety of the prisons, and the safety of the communities in which released inmates are present.

(2) Dissemination. -The Prosecutor shall ensure that each report submitted under paragraph (1) is made available under the national clearinghouse established under Section 7.

SECTION 9. *Appropriations.* - To carry out the provisions of this Act, such amount as may be necessary is hereby authorized to be appropriated from the National Treasury.

SECTION 10. *Separability Clause.* - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

SECTION 11. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 12. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,

/Atty. A. Paulino

J.P.A.