

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

SENATE
S.B. No. 1817

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 2, Sections 10, 11, 13 and 14 provide:

Section 10. The State shall promote social justice in all phases of national development.

Section 11. The State values the dignity of every human person and guarantees full respect for human rights.

Section 13. The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

Section 14. The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

Article 13, Section 14 provides:

Section 14. The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.

This law seeks to shift accountability about prostitution from the prostituted person to the exploiters—traffickers, pimps, brothel owners, organized crime members, and corrupt officials.

All the components of the demand need to be penalized – the men who purchase sex acts, the exploiters. We could greatly reduce the number of victims, if the demand for them was penalized. If there were no men seeking to buy sex acts, no women and children would be bought and sold. If there were no brothels waiting for victims, no victims would be recruited. If there were no false messages about prostitution, no women or girls would be deceived into thinking prostitution is a glamorous or legitimate job.


MIRIAM DEFENSOR SANTIAGO

THIRTEENTH CONGRESS OF THE REPUBLIC)
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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

*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 Anti-Prostitution Act of
2004.”

SECTION 2. *Declaration of Policies.* – The State:

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

(b) recognizes prostitution as a human rights violation that calls for coordinated and
sustained response from all agencies of government;

(c) recognizes that women and children are systematically victimized by and in the
system of prostitution and must, therefore, be given protection and support by the State, instead
of being treated as criminals; and

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

SECTION 3. *Definition of Terms.* – The following terms are defined for purposes of this
Act:

(a) *Prostitution* – any act, transaction, scheme or deign involving the use of a person,
whether woman, man or child, for sexual the gratification, exploitation or pleasure of another in

exchange for cash, profit or other consideration, or any act that promotes or facilitates the accomplishment of the said act, transaction, scheme or design, as specifically defined in Section 4 of this Act.

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

(c) *Child* – refers to any person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

(d) *Sexual exploitation* – refers to the participation or engagement of a person for any sexual act in exchange for cash, profit or other consideration as a result of being subjected to a threat, deception, coercion abduction, force, abuse of authority, debt bondage, fraud or through abuse of his/her vulnerability.

(e) *Sexual Act* – refers to sexual intercourse, including genital-to-genital, oral-to-genital, anal-to-genital, or oral-to-anal intercourse or contact, bestiality, masturbation, sadistic or masochistic abuse, exhibition of the genitals or public area of any person, and other acts presumed to obtain sexual gratification for the buyer whether the same is made between persons of the same or opposite sex.

(f) *Establishment* – refers to any business, enterprise or establishment, including, but not limited to, sauna, bath, massage parlor, discotheque, bar, restaurant, resort, lodging house, motel, hotel, thereafter, ship, vessel, cab or taxi, or any other vehicle, or any dwelling house, structure or building serving as a cover or venue for prostitution, or nay group association or organization that engages in prostitution activities as defined in Section 4 of this Act.

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

(a) any person who gives or delivers money or any other consideration in exchange for the actual performance or mere demonstration of a sexual act as defined in Section 3(e) of this Act by a person exploited in prostitution, regardless of whether the person giving or delivering money or any other consideration is the recipient of such a sexual act;

(b) any person who is the recipient of a sexual act as defined in Section 3(c) of this Act, whether such a recipient has given or delivered money or any other consideration for the procurement of a person exploited in prostitution, provided, however, that for purposes of this Section, being a recipient shall include person or persons or a crowd with whom a person exploited in prostitution has actually performed or merely demonstrated such a sexual act;

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

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

(e) any person who induces, persuades, entices, compels, kidnaps, recruits or in any manner procures or causes a person to work in an establishment knowing that the same is involved in prostitution activities or when he/she has reasonable cause to believe that such establishment is involved in the said activities;

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

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

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

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

(j) any person who derives profit or advantage from any of the prohibited acts defined in this Section as owner, operator, manager, head, director, officer, or agent of the establishment here any prostitution activity defined in this Section takes place, or of the establishment serving as a cover or venue for any such prostitution activity, or aiding another establishment or person involved in any prostitution activity;

(k) any person who leases, subleases, or in any manner allows the use of any dwelling, house, structure, building, land or any other property knowing that the lessee/sublessee intends to

use or uses it for prostitution activities as defined in this Section. For the purpose of this paragraph, the owner of the dwelling, house structure, building, land or any other property used for prostitution and his/her agent shall be presumed to have knowledge that the place is being used or intended to be used for prostitution unless he/she disproves it.

(l) any member of the military or police establishment, or any government official or employee, or any person in authority who commits, causes, or promotes, facilitates, allows, or tolerates the commission of any of the acts defined in this Section, or who, in any manner, provides protection to the perpetrators of the said acts;

For purposes of this Section, it is understood that the prohibited acts of prostitution may be committed in any establishment as defined in Section 3(f) above or in any other place not otherwise mentioned in Section 3(f).

SECTION 5. Attempt to Commit Child Prostitution. – An attempt to commit child prostitution is committed by:

(a) any person who, not being a grandparent, parent, guardian or blood relative of a child, is found alone with the said child inside a room or cubicle of a house, inn, hotel, motel, pension house, apartelle, or any similar establishment, vessel, vehicle or any hidden or secluded area, or under circumstances that would lead a reasonable person to believe that the child is about to be prostituted;

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

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

SECTION 6. Persons Liable. – The acts defined in Section 4 of this Act may be committed by any natural or juridical person, establishment, association club movement, cult religious group or organization. For the purpose of Section 4, the terms “person” when used to

refer to the offender, shall be interpreted to include the aforesaid persons or entities whenever applicable.

SECTION 7. *Person Exploited in Prostituted as Victims.* — Any woman, man or child used or employed for another person's sexual gratification, pleasure or exploitation and for the monetary gain or profit of others, as defined in Section 4 of this Act, shall be treated as victims of prostitution. As such, they shall not incur any criminal liability under this Act, except to the extent referred to under Section 8(g) hereof.

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

SECTION 8. *Penalties and Sanctions.* —

(a) any person found guilty of the acts defined in Section 4(a) and (b) shall be penalized as follows:

First offense – six (60 months of mandatory human rights education on the plight of the victims of prostitution and a fine of Fifty Thousand Pesos (P50,000.00);

Second and subsequent offenses – imprisonment of one (1) year and a fine of One Hundred Thousand Pesos (P100,000.00).

However, when the person exploited in prostitution referred to in Section 4(a) and (b) is a child, the penalty shall be as follows:

First offense – imprisonment of one (1) year and a fine of One Hundred Thousand Pesos (P100,000.00);

Second and subsequent offenses – imprisonment of two (2) years and a fine of Two Hundred Thousand Pesos (P200,000.00)

(b) any person found guilty of the acts defined in Section 4(c), (d), (e), (f) and (g) shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than One Million Pesos (P1,000,000.00) but not more than Two Million Pesos (P2,000,000.00); provided,

however, that when the person exploited in prostitution under Section 4(c), (d), (e), (f) and (g) is a child, the penalty shall be life imprisonment and a fine of not less than (P2,000,000.00) but not more than Five Million Pesos (P5,000,000.00);

(c) any persons found guilty of the acts defined in Section 4(h), (i), (j), and (k) shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five Hundred Thousand Pesos (P500,000.00) but not more than One Million Pesos (P1,000,000.00);

(d) any person found guilty of the acts defined in Section 4(i) shall suffer the penalty of life imprisonment and a fine of not less than Two Million Pesos (P2,000,000.00) but not more than Five Million Pesos (P5,000,000.00). In addition, the offender shall be perually disqualified from holding any appointive position or from running for any elective position in government;

(e) when the offender is the legal or common-law spouse, ascendant, parent, guardian, stepparent, collateral relative within the fourth degree of consanguinity or affinity or one who exercises parental authority or moral ascendancy over the person exploited in prostitution, he/she shall suffer the penalty of life imprisonment and a fine of not less than Two Million Pesos (P2,000,000.00) but not more than Five Million Pesos (P5,000,000.00). This penalty shall also apply to any offender who is the legal spouse or common-law spouse of any of the persons aforementioned;

(f) when the offender is any establishment as defined in this Act, the penalty shall be imposed upon the owner and operator or manager, or the directors and officers, or the responsible officers or agents of the establishment, corporation, partnership or association found to be engaged in any of the acts defined in Section 4 of this Act.

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

(g) when the offender is a person who is also exploited in prostitution or had been exploited in prostitution, he/she shall be penalized as follows:

First offense – the offender shall undergo three (3) months of mandatory counseling and rehabilitation program with the Department of Social Welfare and Development;

Second offense – imprisonment of one (1) month and mandatory counseling and rehabilitation program with the DSWD

Third offense – imprisonment of one (1) month and mandatory counseling and rehabilitation program with the DSWD for six (6) months;

Fourth and subsequent offense – imprisonment of one (1) year and mandatory counseling and rehabilitation program with the DSWD from six (6) months to one (1) year.

Notwithstanding the *criminal liability* imposed upon the offender under this provision, such liability shall not operate to divest him/her of the rights, benefits and protection accorded to persons exploited in prostitution under this Act.

(h) when the offender is a foreigner, he/she shall be deported immediately after service of sentence and permanently barred from entry into the country;

(i) any person found guilty of an attempt to commit child prostitution shall suffer the penalty of imprisonment of four (4) years, without prejudice to the filing of other criminal charges under other applicable laws;

Except to the extent referred to in Section 8(g) above, any person found guilty of any prohibited act under Section 4 shall, in addition to the penalty of imprisonment and fine, undergo a rehabilitation program with the DSWD for a period of not less than three (3) months but no longer than one (1) year, provided, that only first-time offenders shall undergo such rehabilitation program. The DSWD shall submit to the court a report on the rehabilitation of the offender.

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

Provinces, cities and municipalities shall be liable for damages, in addition to any other criminal or administrative liability under existing laws, to persons exploited in prostitution when it is proven that the responsible authorities had knowledge or were informed of the activities constituting prostitution of this Section, the responsible authorities shall be deemed to have knowledge of the production activities when the same are common knowledge in the community.

SECTION 10. *Prosecution under this Act or R.A. No. 9208.* – Acts or omissions covered and penalized under this Act may be prosecuted under this Act or under Republic Act No. 9208 or the Anti-Trafficking in Persons Act whenever the latter is applicable; provided, however, that the institution of a criminal complaint under this Act, arising from the same act, transaction, design or scheme, shall be a bar to the institution of another criminal complaint under R.A. No. 9208, or *vice versa*.

SECTION 11. *Prosecution of Cases.* – Any person who has personal knowledge of the commission of any offenses under this Act, or the person exploited in prostitution, the parents, spouse, siblings, children or legal guardian, or the law enforcement agencies, or the Task Force created under this Act may file a complaint for prostitution.

SECTION 12. *Venue.* – A criminal action arising from a violation of this Act shall be filed here the offense was committed, or where any of its elements occurred, or where the person exploited in prostitution actually resides as the time of the commission of the offense; provided, that the court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts.

SECTION 13. *Prescriptive Period.* – Cases under this Act shall prescribe in ten (10) years. The prescriptive period shall commence to run from the day on which the person exploited in prostitution is delivered or released from the situation of exploitation and shall be interrupted by the filing of the complaint or information and shall commence to run again when

such proceedings terminate without the accused being convicted or acquitted or are unjustifiably stopped for any reason not imputable to the accused.

SECTION 14. *Applicability of Republic Act No. 7309 and Republic Act No. 6981.* – Persons exploited in prostitution shall be covered by the Witness Protection, Security and Benefit Act (R.A. No. 6981). They may also file claims with the Board of Claims created under Republic Act No. 7309. For the purpose of the application of Republic Act No. 7309, persons exploited in prostitution shall be deemed victims of violent crimes under Section 3, paragraph (d) hereof.

SECTION 15. *Human Rights of Persons Exploited in Prostitution.* – Persons exploited in prostitution have human rights that must be respected, protected and promoted by all branches, agencies and instrumentalities of the government in law enforcement drives, criminal prosecution, civil suits, service provision, and program development and implementation. These rights include, but are not limited to:

- (a) the right to be treated as human beings;
- (b) the right to dignity and security of person;
- (c) the right against any form of discrimination;
- (d) the right to equal protection of the law;
- (e) the right to be protected from abuse and exploitation;
- (f) the right to seek redress for violations of their rights and to have their complaints appropriated addressed;
- (g) the right to fair and humane treatment;
- (h) the right to sensitive and appropriate legal, health, and other social services;
- (i) the right to organize themselves and fight for their legitimate concerns; and
- (j) the right to be consulted on any governmental initiative affecting them.

Persons exploited in prostitution shall not be detained on the occasion of on by reason of a raid or in the name of law enforcement. There shall be at least one social worker or one

representative from a non-governmental organization known to be working with women exploited in prostitution present during raids.

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

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

It shall be the responsibility of any journalist, reporter, editor, publisher or producer or print and broadcast media to protect the identity and privacy of persons exploited in prostitution, most particularly on the occasion of a raid of rescue operation. Any journalist, reporter, editor, publisher or producer of print and broadcast media who exposes to the public the identity of any person exploited in prostitution without her or hi consent thereto in writing, or causes the publication of any picture or video that violates the dignity and other human rights of the person exploited in prostitution, shall suffer the penalty of one (1) year imprisonment. In addition, the owner or publisher of the print or broadcast media found guilty of the violation shall pay a fine of five hundred thousand pesos (P500,000.00) This shall be without prejudice to the right of persons exploited in prostitution to file a civil action for damages for the violation of their human rights or for any injury caused them by the publication.

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

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

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

(b) maintain open garages, or those that do not have doors or any closing mechanism;

(c) maintain good lighting in all its entrances, exits, driveways and garages.

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

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

SECTION 18. *Responsibilities of Government Agencies in Anti-prostitution Efforts.* – Local government units shall exercise their powers to curb prostitution within their respective jurisdictions. It shall be unlawful for any local government unit to issue licenses or permits for the operation of any establishment that is used or intended to be used for any prostitution activity. Any such license or permit already issued prior to the effectivity of this Act shall be deemed automatically revoked or cancelled and shall not be renewed.

Their responsibility shall include conducting public information campaign against prostitution, carrying out rescue operations and ensuring the safety or security of victims of prostitution.

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

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

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

The Department of Tourism (DOT) shall undertake corrective and enforcement measures to stop activities in tourism constituting, promoting or facilitating prostitution in consultation and coordination with government agencies and non-governmental organizations (NGOs) working for the elimination of prostitution.

SECTION 19. *Social Services and Programs.* – There shall be a National Anti-Prostitution Task Force composed of the following:

- (a) Department of Social Welfare and Development (DSWD) as lead agency
- (b) National Commission on the Role of Filipino Women (NCRFW)
- (c) Department of Labor and Employment (DOLE)
- (d) the TESDA
- (e) Department of Health (DOH)
- (f) Department of Interior and Local Government (DILG)
- (g) Department of Justice (DOJ)
- (h) National Bureau of Investigation (NBI)
- (i) Philippine National Police (PNP)
- (j) Three (3) non-government organizations (NGOs) to be selected by NGOs providing support services to victims of prostitution
- (k) Three (3) representatives of persons exploited in prostitution.

The National Anti-Prostitution Task Force shall perform the following functions:

- i. develop a program addressing prostitution and the needs of persons exploited prostitution and those vulnerable to be exploited in prostitution. The program shall include public information and education campaign against prostitution, crisis intervention service, education assistance, socio-economic assistance such as sustainable livelihood skills training and

financial support for scale businesses, and integration and complete after-care programs for persons exploited in prostitution, among others;

ii. Identify and, if necessary, create centers in strategic places all over the Philippines that will provide health services, including counseling and therapy, temporary shelter and other crisis intervention services to persons exploited in prostitution. The rape crisis centers established under Republic Act No. 8505 and the hospital-based prosecution units for women and children may also served as centers servicing persons exploited in prostitution. Each center shall establish a network of health care and other service providers to address the needs of persons exploited in prostitution;

iii. ensure that units are created or identified within relevant government agencies, particularly those composing the Task Force, that shall focus on addressing prostitution and the needs of persons exploited in prostitution. This shall include units within the National Prosecution Service Offices in local government units, that shall specifically focus on the prosecution of offenders under this Act;

iv. ensure that relevant government agencies work in close coordination with each other in addressing prostitution and the needs of persons exploited in prostitution.

v. 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;

vi. ensure that local counterparts of the Task Force are created in every municipality, city and provinces;

vii. undertake the lead the prosecution of any violation of this Act; and

viii. promulgate, when necessary, rules and regulations for the effective implementation and enforcement of this Act.

SECTION 20. *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 (LGUs) for programs, project and activities aimed to control prostitution activities within their jurisdiction, including the development and conduct of deterrent information campaigns directed to potential and actual buyers of prostitution sex.

SECTION 21. *Separability Clause.* -If any provision of this Act is declared invalid or unconstitutional, the remaining provisions shall not affected thereby shall continue in full force.

SECTION 22. *Suppletory Application.* – The provisions of Republic Act No. 9280 or the Anti-Trafficking in Persons Act shall have suppletory application to this Act.

SECTION 23. *Repealing Clause.* – Article 202 and 341 of the Revised Penal Code are hereby repealed . Articles III, Section 5 and 6 of Republic Act No. 7610 and all other laws, decrees, ordinances and rules inconsistent with the provisions of this Act are hereby modified or repealed accordingly.

SECTION 24. *Effectivity Clause.* - This Act shall take effect upon completion of its publication in at least two (2) newspapers of general circulation.

Approved,

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