

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

8 JAN 29 2015

SENATE  
S. No. 2033

RECEIVED BY: JA

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.

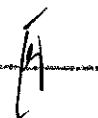
*Miriam Defensor Santiago*  
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1 AN ACT  
2 TO PROVIDE FOR THE ANALYSIS OF THE INCIDENCE AND EFFECTS  
3 OF PRISON RAPE AND TO PROVIDE INFORMATION, RESOURCES,  
4 RECOMMENDATIONS, FUNDING, AND PUNISHMENT  
5 TO PROTECT INDIVIDUALS FROM PRISON RAPE

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

8 SECTION 1. *Short Title.* - This Act shall be known as the "Prison Rape  
9 Elimination Act of 2008."

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

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

13 (A) "Prison" means any confinement facility of national, city, provincial, and  
14 municipal, whether administered by such government or by a private organization on  
15 behalf of such government, and includes -

16 (1) any local jail or police lockup; and

17 (2) any juvenile facility used for the custody or care of juvenile inmates.

18 (B) "Jail" means a confinement facility of national, city, provincial, and  
19 municipal, or local law enforcement agency to hold -

20 (1) persons pending adjudication of criminal charges; or

21 (2) persons committed to confinement after adjudication of criminal  
22 charges for sentences of one (1) year or less.

23 (C) "Police lockup" means a temporary holding facility of national, city,  
24 provincial, and municipal, or local law enforcement agency to hold -

25 (1) inmates pending bail or transport to jail;

1 (2) inebriates until ready for release; or

2 (3) juveniles pending parental custody.

3 (D) "Prison rape" is committed by an inmate, under any circumstances mentioned  
4 in paragraph 1 and 2, Article 266-A of Revised Penal Code, in the actual or constructive  
5 control of prison officials.

6 (E) "Inmate" means any person incarcerated or detained in any facility who is  
7 accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of  
8 criminal law or the terms and conditions of parole, probation, pretrial release, or  
9 diversionary program.

10 (F) "Bureau" refers to the Bureau of Jail Management and Penology

11 (G) "Panel" refers to the Review Panel on Prison Rape

12 (H) "Prosecutor" refers to the Chief State Prosecutor

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

14 (A) To establish a zero-tolerance standard for the incidence of prison rape in  
15 prisons in the Philippines;

16 (B) To make the prevention of prison rape a top priority in each prison system;

17 (C) To develop and implement national standards for the detection, prevention,  
18 reduction, and punishment of prison rape;

19 (D) To increase the available data and information on the incidence of prison  
20 rape, consequently improving the management and administration of correctional  
21 facilities;

22 (E) To standardize the definitions used for collecting data on the incidence of  
23 prison rape;

24 (F) To increase the accountability of prison officials who fail to detect, prevent,  
25 reduce, or punish prison rape.

26 SECTION 5. *Annual Comprehensive Statistical Review.* -

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

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

3 (1) both victims and perpetrators of prison rape; and

4 (2) prisons and prison systems with a high incidence of prison rape.

5 (B) CONSIDERATIONS. - In carrying out paragraph (A), the Bureau shall  
6 consider-

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

9 (2) how the Bureau should collect information beyond inmate self reports  
10 of prison rape;

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

13 (4) the categorization of prisons;

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

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

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

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

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

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

9 (B) MEMBERSHIP. -

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

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

15 (C) PUBLIC HEARINGS. -

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

27 (2) Testimony at hearings.-

1 (a) Public officials.- In carrying out the hearings required under  
2 subparagraph (C), the Panel shall request the public testimony of city,  
3 provincial and local officials, including the warden or director of each  
4 prison, who bears responsibility for the prevention, detection, and  
5 punishment of prison rape at each entity, and the head of the prison system  
6 encompassing such prison.

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

10 (3) Subpoenas. -

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

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

16 (D) REPORTS.-

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

20 (a) Congress;

21 (b) Secretary of Health and

22 (c) Secretary of Social Welfare and Development

23 (2) Contents.--The report required under paragraph (A) shall include-

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

26 (b) with respect to the incidence of prison rape-

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

1 (ii) a listing of those institutions in the representative  
2 sample, separated into each category identified under subsection  
3 (3)(g) and ranked according to the incidence of prison rape in each  
4 institution; and

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

8 (iv) a listing of any prisons in the representative sample that  
9 did not cooperate with the survey conducted pursuant to Section 6.

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

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

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

25 (a) provide grants for research through the Department of Justice;

26 (b) contract with or provide grants to any other entity the Prosecutor  
27 deems appropriate.

1 SECTION 7. *Prison Rape Prevention And Prosecution* -

2 (A) INFORMATION AND ASSISTANCE. -

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

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

11 (B) REPORTS. -

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

16 (2) CONTENTS. - The report required under paragraph (A) shall  
17 summarize the activities of the Department of Justice regarding prison rape  
18 abatement for the preceding calendar year.

19 (C) PENALTY. - The prosecution for Prison Rape is equivalent to the penalty  
20 imposed in rape with aggravating/qualifying circumstances under the Republic Act No.  
21 8353 or otherwise known as "The Anti-Rape Law of 1997."

22 SECTION 8. *Grants to Protect Inmates and Safeguard Communities* -

23 (A) GRANTS AUTHORIZED. - From amounts made available for grants under  
24 this section, the Prosecutor shall make grants to assist the national, city, provincial, and  
25 municipal in ensuring that budgetary circumstances (such as reduced national and local  
26 spending on prisons) do not compromise efforts to protect inmates (particularly from  
27 prison rape) and to safeguard the communities to which inmates return. The purpose o f



1 grants under this section shall be to provide funds for personnel, training, technical  
2 assistance, data collection, and equipment to prevent and prosecute prisoner rape.

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

6 (1) Protecting inmates.--Protecting inmates by-

7 (a) undertaking efforts to more effectively prevent prison rape;

8 (b) investigating incidents of prison rape; or

9 (c) prosecuting incidents of prison rape.

10 (5) Safeguarding communities.--Safeguarding communities by-

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

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

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

23 (i) deployment of law enforcement resources (including  
24 probation and parole resources); and

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

27 (iii) promoting collaborative efforts, among officials of  
28 National and local governments and leaders of appropriate  
29 communities, to understand and address the effects on a

1 community of the presence of a disproportionate number of  
2 released inmates in that community; or

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

6 (C) GRANT REQUIREMENTS. -

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

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

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

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

15 (D) APPLICATIONS. -

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

20 (2) CONTENTS. - Each application required by paragraph (A) shall-

21 (a) include the certification of the chief executive that the city,  
22 provincial, or municipal receiving such grant-

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

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

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

4 (iv) in the case of an application for a grant for one or more  
5 activities specified in paragraph (B) of subsection (2), review the  
6 extent of the budgetary circumstances affecting the national  
7 generally; describe the rate of growth of the national, city,  
8 provincial, and municipal prison population over the preceding 10  
9 years and explain why the national may have difficulty sustaining  
10 that rate of growth; and explain the extent to which officials  
11 (including law enforcement officials) of national and local  
12 governments and victims of crime will be consulted regarding  
13 decisions whether, or how, to moderate the growth of the national,  
14 city, provincial and municipal prison population.

15 (E) REPORTS BY GRANTEE. -

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

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

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

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

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

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

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

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

13           Approved,