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SENATE
S. No. **3110**

RECEIVED BY: 

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 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.¹

aur *Miriam Defensor Santiago*
MIRIAM DEFENSOR SANTIAGO

¹ Originally filed during 14th Congress, 1st Regular Session

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SENATE
S. No. **3110**

REPORT BY: CW

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 TO PROVIDE FOR THE ANALYSIS OF THE INCIDENCE AND EFFECTS OF PRISON
3 RAPE AND TO PROVIDE INFORMATION, RESOURCES, RECOMMENDATIONS,
4 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:

5 SECTION 1. *Short Title.* - This Act shall be known as the "Prison Rape Elimination
6 Act."

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

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

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

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

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

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

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

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

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

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

2 (2) inebriates until ready for release; or

3 (3) juveniles pending parental custody.

4 (D) "Prison rape" refers to the rape, as defined in Article 266-A of the Revised Penal
5 Code, of an inmate in the actual or constructive control of prison officials.

6 (E) "Inmate" or "prisoner" means any person incarcerated or detained in any facility
7 who is 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 diversionary
9 program.

10 (F) "Office" refers to the National Statistics Office.

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 prisons
15 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 rape,
20 consequently improving the management and administration of correctional facilities;

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

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

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

26 (A) IN GENERAL. - The National Statistics Office shall carry out, for each calendar
27 year, a comprehensive statistical review and analysis of the incidence and effects of prison rape.

1 The statistical review and analysis shall include, but shall not be limited to the identification of
2 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 Office shall consider-

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

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

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

12 (4) the categorization of prisons;

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

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

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

28 (E) SURVEYS. - In carrying out the review and analysis under paragraph (A), the
29 Office shall, in addition to such other methods as the Office considers appropriate, use

1 surveys and other statistical studies of current and former inmates from a sample of national,
2 provincial and municipal prisons, city jails and juvenile facilities. The Office shall ensure the
3 confidentiality of each survey participant.

4 (F) PARTICIPATION IN SURVEYS.—National, provincial, municipal and city
5 officials or facility administrators who receive a request from the Office under paragraph (D) or
6 (E) will be required to participate in the national survey and to provide access to any inmate in
7 their custody.

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

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

12 (B) MEMBERSHIP. -

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

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

18 (C) PUBLIC HEARINGS. -

19 (1) In General. - The duty of the Panel shall be to carry out, for each calendar
20 year, public hearings concerning the operation of the three (3) national, provincial
21 and municipal prisons with the highest incidence of prison rape and the two (2)
22 prisons with the lowest incidence of prison rape. The Panel shall hold a separate
23 hearing regarding the three (3) jails, police lockups and juvenile facilities with the
24 highest incidence of prison rape. The purpose of these hearings shall be to collect
25 evidence to aid in the identification of common characteristics of both victims and
26 perpetrators of prison rape, and the identification of common characteristics of
27 prisons and prison systems with a high incidence of prison rape, and the

1 identification of common characteristics of prisons and prison systems that appear
2 to have been successful in deterring prison rape.

3 (2) Testimony at hearings.-

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

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

13 (3) Subpoenas. -

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

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

19 (D) REPORTS.-

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

23 (a) Congress;

24 (b) Secretary of Health and

25 (c) Secretary of Social Welfare and Development

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

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

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

1 (i) statistical data aggregated for the national, city, provincial,
2 municipal and juvenile prison systems, and the levels of sexual
3 abuse at individual prisons;

4 (ii) a listing of those institutions in the representative sample,
5 separated into each category identified under paragraph (F) and
6 ranked according to the incidence of prison rape in each institution;
7 and

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

11 (iv) a listing of any prisons in the representative sample that did
12 not cooperate with the survey conducted pursuant to Section 5.

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

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

25 (G) CONTRACTS AND GRANTS.- In carrying out its duties under this section, the
26 Prosecutor may--

27 (1) provide grants for research through the Department of Justice;

28 (2) contract with or provide grants to any other entity the Prosecutor deems
29 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 National Bilibid
13 Prisons and Women's Correctional shall submit a report to Congress and the
14 Secretary of Health. This report shall be available to the Director of the Office.

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

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

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

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

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

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

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

6 (b) investigating incidents of prison rape; or

7 (c) prosecuting incidents of prison rape.

8 (2) Safeguarding communities.--Safeguarding communities by-

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

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

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

21 (i) deployment of law enforcement resources (including probation
22 and parole resources); and

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

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

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

4 (C) GRANT REQUIREMENTS. -

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

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

9 (3) Matching. - The National share of a grant under this section should not
10 exceed fifty percent (50%) of the total costs of the project described in the
11 application submitted under paragraph (D) for the fiscal year for which the grant
12 was made under this section.

13 (D) APPLICATIONS. -

14 (1) In General. - To request a grant under this section, the chief executive of a
15 national, city, provincial, or municipal government agency shall submit an
16 application to the Prosecutor at such time, in such manner, and accompanied by
17 such information as the Prosecutor may require.

18 (2) Contents. - Each application required by paragraph (A) shall-

19 (a) include the certification of the chief executive that the jurisdiction
20 receiving such grant-

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

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

26 (b) specify with particularity the preventative, prosecutorial, or
27 administrative activities to be undertaken by the jurisdiction with the
28 amounts received under the grant; and

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

11 (E) REPORTS BY GRANTEE. -

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

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

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

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

24 SECTION 9. *National Prison Rape Elimination Commission*

25 (A) ESTABLISHMENT.—There is established a commission to be known as the
26 National Prison Rape Elimination Commission (in this section referred to as the
27 “Commission”).

28 (B) MEMBERS.—

1 (1) In General.—The Commission shall be composed of 9 members, of
2 whom—

3 (a) Three (3) shall be appointed by the President;

4 (b) Two (2) shall be appointed by the Speaker of the House of
5 Representatives, unless the Speaker is of the same party as the President,
6 in which case one (1) shall be appointed by the Speaker of the House of
7 Representatives and one (1) shall be appointed by the minority leader of
8 the House of Representatives;

9 (c) One (1) shall be appointed by the minority leader of the House of
10 Representatives (in addition to any appointment made under subparagraph
11 (B));

12 (d) Two (2) shall be appointed by the majority leader of the Senate, unless
13 the majority leader is of the same party as the President, in which case one
14 (1) shall be appointed by the majority leader of the Senate and one (1)
15 shall be appointed by the minority leader of the Senate; and

16 (e) One (1) member appointed by the minority leader of the Senate (in
17 addition to any appointment made under subparagraph (D)).

18 (2) Persons Eligible.—Each member of the Commission shall be an individual
19 who has knowledge or expertise in matters to be studied by the Commission.

20 (3) Consultation Required.—The President, the Speaker and minority leader of
21 the House of Representatives, and the majority leader and minority leader of the
22 Senate shall consult with one another prior to the appointment of the members of
23 the Commission to achieve, to the maximum extent possible, fair and equitable
24 representation of various points of view with respect to the matters to be studied
25 by the Commission.

26 (4) Term.—Each member shall be appointed for the life of the Commission.

27 (5) Time for Initial Appointments.—The appointment of the members shall be
28 made not later than 60 days after the date of enactment of this Act.

1 (6) Vacancies.—A vacancy in the Commission shall be filled in the manner in
2 which the original appointment was made, and shall be made not later than 60
3 days after the date on which the vacancy occurred.

4 (C) OPERATION.—

5 (1) Chairperson.—Not later than 15 days after appointments of all the members
6 are made, the President shall appoint a chairperson for the Commission from
7 among its members.

8 (2) Meetings.—The Commission shall meet at the call of the chairperson. The
9 initial meeting of the Commission shall take place not later than 30 days after the
10 initial appointment of the members is completed.

11 (3) Quorum.—A majority of the members of the Commission shall constitute a
12 quorum to conduct business, but the Commission may establish a lesser quorum
13 for conducting hearings scheduled by the Commission.

14 (4) Rules.—The Commission may establish by majority vote any other rules for
15 the conduct of Commission business, if such rules are not inconsistent with this
16 Act or other applicable law.

17 (D) COMPREHENSIVE STUDY OF THE IMPACTS OF PRISON RAPE.—

18 (1) In General.—The Commission shall carry out a comprehensive legal and
19 factual study of the penalogical, physical, mental, medical, social, and economic
20 impacts of prison rape in the Philippines on—

21 (a) National, provincial and local governments; and

22 (b) communities and social institutions generally, including individuals,
23 families, and businesses within such communities and social institutions.

24 (2) Matters Included.—The study under paragraph (1) shall include—

25 (a) a review of existing national, provincial and local government policies
26 and practices with respect to the prevention, detection, and punishment of
27 prison rape;

1 (b) an assessment of the relationship between prison rape and prison
2 conditions, and of existing monitoring, regulatory, and enforcement
3 *practices that are intended to address any such relationship;*

4 (c) an assessment of pathological or social causes of prison rape;

5 (d) an assessment of the extent to which the incidence of prison rape
6 contributes to the spread of sexually transmitted diseases and to the
7 *transmission of HIV;*

8 (e) an assessment of the characteristics of inmates most likely to commit
9 prison rape and the effectiveness of various types of treatment or programs
10 to reduce such likelihood;

11 (f) *an assessment of the characteristics* of inmates most likely to be victims
12 of prison rape and the effectiveness of various types of treatment or
13 programs to reduce such likelihood;

14 (g) an assessment of the impacts of prison rape on individuals, families,
15 *social institutions and the economy generally*, including an assessment of
16 the extent to which the incidence of prison rape contributes to recidivism
17 and to increased incidence of sexual assault;

18 (h) an examination of the feasibility and cost of conducting surveillance,
19 *undercover activities, or both, to reduce the incidence of prison rape;*

20 (i) an assessment of the safety and security of prison facilities and the
21 relationship of prison facility construction and design to the incidence of
22 prison rape;

23 (j) *an assessment of the feasibility and cost of any particular proposals for*
24 *prison reform;*

25 (k) an identification of the need for additional scientific and social science
26 research on the prevalence of prison rape in national, provincial, and local
27 prisons;

28 (l) an assessment of the general relationship between prison rape and
29 prison violence;

1 (m) an assessment of the relationship between prison rape and levels of
2 training, supervision, and discipline of prison staff; and

3 (n) an assessment of existing national and provincial systems for reporting
4 incidents of prison rape, including an assessment of whether existing
5 systems provide an adequate assurance of confidentiality, impartiality and
6 the absence of reprisal.

7 (3) Report.—

8 (a) Distribution.—Not later than 1 year after the date of the initial meeting
9 of the Commission, the Commission shall submit a report on the study
10 carried out under this subsection to—

11 (i) the President;

12 (ii) the Congress;

13 (iii) the Secretary of Justice;

14 (iv) the Health Secretary;

15 (v) the Director of the Bureau of Corrections;

16 (vi) the Director of the Bureau of Jail Management and Penology;

17 (vii) the Department of Social Welfare and Development;

18 (viii) the Governor of each province; and

19 (ix) the Director of the Jail Division of each province.

20 (b) Contents.—The report under subparagraph (A) shall include—

21 (i) the findings and conclusions of the Commission;

22 (ii) recommended national standards for reducing prison rape;

23 (iii) recommended protocols for preserving evidence and treating
24 victims of prison rape; and

25 (iv) a summary of the materials relied on by the Commission in the
26 preparation of the report.

27 (E) RECOMMENDATIONS.—

28 (1) In General.—In conjunction with the report submitted under subsection (d)(3),
29 the Commission shall provide the Secretary of Justice and the Secretary of Health

1 with national standards for enhancing the detection, prevention, reduction, and
2 punishment of prison rape.

3 (2) *Matters Included.*—The information provided under paragraph (1) shall
4 include recommended national standards relating to—

5 (a) the classification and assignment of prisoners, using proven
6 standardized instruments and protocols, in a manner that limits the
7 occurrence of prison rape;

8 (b) the investigation and resolution of rape complaints by responsible
9 prison authorities, the Philippine National Police, and national and
10 provincial prosecution authorities;

11 (c) the preservation of physical and testimonial evidence for use in an
12 investigation of the circumstances relating to the rape;

13 (d) acute-term trauma care for rape victims, including standards relating
14 to—

15 (e) the manner and extent of physical examination and treatment to be
16 provided to any rape victim; and

17 (f) the manner and extent of any psychological examination, psychiatric
18 care, medication, and mental health counseling to be provided to any rape
19 victim;

20 (g) referrals for long-term continuity of care for rape victims;

21 (h) educational and medical testing measures for reducing the incidence of
22 HIV transmission due to prison rape;

23 (i) post-rape prophylactic medical measures for reducing the incidence of
24 transmission of sexual diseases;

25 (j) the training of correctional staff sufficient to ensure that they
26 understand and appreciate the significance of prison rape and the necessity
27 of its eradication;

28 (k) the timely and comprehensive investigation of staff sexual misconduct
29 involving rape or other sexual assault on inmates;

1 (l) ensuring the confidentiality of prison rape complaints and protecting
2 inmates who make complaints of prison rape;

3 (m) creating a system for reporting incidents of prison rape that will
4 ensure the confidentiality of prison rape complaints, protect inmates who
5 make prison rape complaints from retaliation, and assure the impartial
6 resolution of prison rape complaints;

7 (n) data collection and reporting of—

8 (i) prison rape;

9 (ii) prison staff sexual misconduct; and

10 (iii) the resolution of prison rape complaints by prison officials and
11 national, provincial and local investigation and prosecution
12 authorities; and

13 (o) such other matters as may reasonably be related to the detection,
14 prevention, reduction, and punishment of prison rape.

15 (F) CONSULTATION WITH RELATED ORGANIZATIONS.—In developing
16 recommended national standards for enhancing the detection, prevention, reduction, and
17 punishment of prison rape, the Commission shall consider any standards that have already been
18 developed, or are being developed simultaneously to the deliberations of the Commission.

19 (G) HEARINGS.—

20 (1) *In General.*—The Commission shall hold public hearings. The Commission
21 may hold such hearings, sit and act at such times and places, take such testimony,
22 and receive such evidence as the Commission considers advisable to carry out its
23 duties under this section.

24 (2) *Witness Expenses.*—Witnesses requested to appear before the Commission
25 shall be paid an appropriate fee, to be paid from funds appropriated to the
26 Commission.

27 (H) INFORMATION FROM NATIONAL AGENCIES.—The Commission may
28 secure directly from any national government department or agency such information as the
29 Commission considers necessary to carry out its duties under this section. The Commission may

1 request the head of any provincial or local department or agency to furnish such information to
2 the Commission.

3 (I) PERSONNEL MATTERS.—

4 (1) Travel Expenses.—The members of the Commission shall be allowed
5 reasonable travel expenses.

6 (K) SUBPOENAS.—

7 (1) Issuance.—The Commission may issue subpoenas for the attendance of
8 witnesses and the production of written or other matter.

9 (2) Enforcement.—In the case of contumacy or refusal to obey a subpoena, the
10 Secretary of Justice may obtain an appropriate order to enforce the subpoena.

11 (3) Confidentiality of Documentary Evidence.—Documents provided to the
12 Commission pursuant to a subpoena issued under this subsection shall not be
13 released publicly without the affirmative vote of 2/3 of the Commission.

14 (L) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be
15 appropriated such sums as may be necessary to carry out this section.

16 (M) TERMINATION.—The Commission shall terminate on the date that is 60 days
17 after the date on which the Commission submits the reports required by this section.

18 (O) IMPLEMENTATION.—The Secretary of Justice shall establish procedures and a
19 timeline for the implementation of this subsection.

20 SECTION 10: *PREA Independent Oversight Agency* --

21 (A) ESTABLISHMENT. – The Commission on Human Rights of the Philippines
22 (CHR) shall establish, designate or maintain an independent oversight agency (IOA) to oversee
23 the implementation of PREA, including by auditing and measuring compliance with the PREA
24 standards developed by the Commission, pursuant to Section 9, paragraph E.

25 (1) The IOA and the IOA personnel shall be wholly independent from the
26 Department of Justice, the Philippine National Police, the Department of Social
27 Welfare and Development, and the Bureau of Jail Management and Penology.

1 (2) The CHR shall take necessary measures to ensure that the members of the
2 IOA have the required capabilities and professional knowledge to serve the IOA
3 effectively and efficiently.

4 (3) The IOA shall carry out its oversight and monitoring functions in accordance
5 with international treaties to which the Philippines is a state party.

6 (B) POWERS OF THE IOA. – At a minimum, the IOA shall be authorized:

7 (1) to visit all facilities, as defined in Section 3, paragraphs A-C, at any time
8 without notification.

9 (2) to have private interviews with inmates without witnesses, either personally or
10 with a translator if deemed necessary, as well as with any other person who the
11 IOA believes may supply relevant information.

12 (3) to receive confidential communications from any interested stakeholder,
13 including inmates, their relatives, corrections staff, and advocates.

14 (4) to exercise the powers granted to the CHR under Section 18 of the
15 Constitution and Section 3 of Executive Order No. 163, except the power to grant
16 immunity from prosecution.

17 (C) DUTIES OF THE IOA. --

18 (1) The IOA shall monitor implementation of PREA at the national, provincial,
19 and municipal levels by:

20 (a) gathering the views and concerns of PREA stakeholders, including
21 provincial, municipal and national departments of corrections,
22 professional organizations, prisoners' rights advocates, former and current
23 prisoners, and other organizations and individuals with expertise and
24 experience regarding prison rape and policies and practices to eliminate it;

25 (b) reviewing statistical studies, academic and other analyses, litigation
26 addressing prison rape, and prison rape criminal prosecutions;

27 (c) consulting with the National Statistics Office, the National
28 Clearinghouse, the Prison Rape Elimination Commission, the Review
29 Panel on Prison Rape, and the Chief State Prosecutor,

1 (2) The IOA shall audit each facility, in accordance with Section D, to measure
2 compliance with the PREA standards.

3 (3) The IOA shall publish reports of its findings, in accordance with Section G.

4 (D) FACILITY AUDITS --

5 (1) Effective one year after the release of the national standards, as established in
6 Section 9, the IOA shall audit each prison, jail, and police lock-up to measure its
7 compliance with the standards. These audits will occur on a rotating basis, such
8 that one-third of all facilities are audited each year, and every facility has been
9 audited within a three year period.

10 (2) As part of each audit, the IOA shall visit and examine facilities as defined in
11 Section 3, paragraphs A-C, and to examine the treatment of inmates as defined in
12 Section 3, paragraph E, to assess compliance with the national standards.

13 (3) When conducting audits, the IOA must (a) identify and gather data to be
14 analyzed, (b) employ proper professional judgment when analyzing data, and (c)
15 work effectively with the appropriate authorities in planning audits.

16 (E) ACCESS TO INFORMATION -- In order to enable the IOA to fulfill its duties,
17 the Department of Justice undertakes to grant it:

18 (1) Access to all information concerning the number of inmates, as well as the
19 number of places of detention and their location;

20 (2) Access to all information referring to the treatment of inmates as well as their
21 conditions of detention;

22 (3) Access to all places of detention and their installations and facilities;

23 (4) The opportunity to have private interviews with any inmate without witnesses,
24 either personally or with a translator if deemed necessary, as well as with any
25 other person who the IOA believes may supply relevant information;

26 (5) The liberty to choose places to visit and the persons to interview;

27 (F) PROTECTION OF INFORMATION

28 (1) No authority or official shall order, apply, permit or tolerate any sanction
29 against any person or organization for having communicated to the IOA any

1 information, whether true or false, and no such person or organization shall be
2 otherwise prejudiced in any way.

3 (2) Confidential information collected by the IOA shall be privileged. No personal
4 data shall be published without the express consent of the person concerned.

5 (G) REPORTS

6 (1) The IOA shall submit an annual report to Congress, the Secretary of Justice,
7 the Secretary of Health, the Secretary of Social Welfare and Development,
8 and the National Clearinghouse established under Section 7 that includes:

9 (a) an assessment of national PREA implementation;

10 (b) identified gaps in the progress of PREA-related efforts;

11 (c) inconsistencies between PREA and other laws and policies; and

12 (d) recommendations for further action.

13 (2) At the conclusion of each facility audit, the IOA shall publish a report
14 measuring the level of compliance with the national standards. In addition to
15 identifying with which standards the facility is not in compliance, the report will
16 discuss the level of cooperation afforded by facility officials and administration,
17 the extent of changes made throughout the audit process, and recommendations
18 for further improvements.

19 (3) Facility audit reports shall be provided to the chief executive with jurisdiction
20 over that facility, the warden of the facility audited, the Review Panel on Prison
21 Rape, and the National Clearinghouse.

22 (4) All reports shall be made publicly available on the CHR website and under
23 the National Clearinghouse established under Section 7.

24 SECTION 11. *Appropriations.* - To carry out the provisions of this Act, such amount as
25 may be necessary is hereby authorized to be appropriated from the National Treasury.

26 SECTION 12. *Separability Clause.* - If any provision or part hereof, is held invalid or
27 unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain
28 valid and subsisting.

1 SECTION 13. *Repealing Clause.* - Any law, presidential decree or issuance, executive
2 order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent
3 with the provisions of this Act is hereby repealed, modified or amended accordingly.

4 SECTION 14. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
5 publication in at least two (2) newspapers of general circulation.

Approved,