

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



Senate
Office of the Secretary

13 JUL -4 A8:19

SENATE

S. B. No. 445

RECEIVED BY: *ja*

Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

Article 11 of the Constitution provides that the State values the dignity of every human person and guarantees full respect for human rights. The State also recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. Further, the State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

This proposed bill seeks to abate prostitution, which is becoming more rampant, continues to be a menace to society, violating the rights of more women and children. It provides that a woman, man or child used, employed or exploited for another person's sexual gratification or pleasure, and for the monetary gain or profit of others shall be treated as victims of prostitution. It also imposes penalties on perpetrators and provides protective measures and support services for its victims.

In view thereof, the early passage of this bill is earnestly sought.

FRANCIS G. ESCUDERO

13 JUL -4 1979

SENATE

S. B. No. 445

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
ADDRESSING THE SYSTEM OF PROSTITUTION, IMPOSING PENALTIES ON ITS
PERPETRATORS, PROVIDING PROTECTIVE MEASURES AND SUPPORT
SERVICES FOR ITS VICTIMS, REPEALING FOR THE PURPOSE ARTICLES 202
AND 341 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED
PENAL CODE

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

1 **SECTION 1. Short Title.** - This Act shall be known as "The Anti-Prostitution Act."

2 **SECTION 2. Declaration of policies.** - The State:

- 3
- 4 (a) Declares its commitment to end the continuing sexual exploitation of women, men
5 and children, and all forms of gender-based violence;
- 6 (b) Recognizes prostitution as a human rights violation that calls for coordinated and
7 sustained response from all agencies of government;
- 8 (c) Recognizes that women and children are systematically victimized by, and in, the
9 system of prostitution and must therefore be given protection and support by the
10 State, instead of being treated as criminals; and
- 11 (d) Recognizes that eliminating prostitution is essential for women and children to
12 genuinely and meaningfully participate in nation-building.

13

14 **SECTION 3. Definition of Terms.** - For the purposes of this Act, the term:

- 15
- 16 (a) "**Prostitution**" means any act, transaction, scheme or design involving the use or
17 exploitation of another person, whether woman, man or child, for the sexual
18 gratification or pleasure of another in exchange for cash, profit or other
19 consideration, or any act that promotes or facilitates the accomplishment of the said
20 act, transaction, scheme or design.
- 21

1 (b) **“Person exploited in prostitution”** means a woman, man or child used, employed or
2 exploited for another person’s sexual gratification or pleasure, and for the monetary gain
3 or profit of others, as defined in Section 4 of this Act.
4

5 (c) **“Child”** means any person below eighteen (18) years of age or one who is over
6 eighteen (18) but is unable to fully take care of or protect himself/herself from abuse,
7 neglect, cruelty, exploitation or discrimination because of a physical or mental disability
8 or condition.
9

10 (d) **“Sexual exploitation”** means the participation or engagement of a person for any
11 sexual act in exchange for cash, profit or other consideration as a result of being
12 subjected to a threat, deception, coercion, abduction, force, abuse of authority, debt
13 bondage, fraud or through abuse of his/her vulnerability.
14

15 (e) **“Sexual Act”** means sexual intercourse, including genital-to-genital, oral-to-genital,
16 anal-to-genital, or oral-to-anal intercourse or contact, bestiality, masturbation, sadistic or
17 masochistic abuse, exhibition of the genitals or pubic area of any person, and other acts
18 of a sexual nature whether the same is made between persons of the same or opposite sex.
19

20 (f) **“Establishment”** means any business, enterprise or establishment, including, but not
21 limited to, sauna, bath, massage parlor, discotheque, bar, restaurant, resort, lodging
22 house, motel, hotel, theater, ship, vessel, cab or taxi, or any other vehicle, or any dwelling
23 house, structure or building serving as a cover or venue for prostitution, or any group,
24 association or organization that engages in prostitution activities as defined in Section 4
25 of this Act.
26

27 (g) **“Cult”** refers to, but not limited to, fanatic groups that entice, recruit or condition any
28 person to become sexual offerings in organizational rituals or in other circumstances as
29 part of membership requirement.
30

31 **SECTION 4. Punishable Acts.** -Prostitution is a crime committed by:
32

- 33 (a) Any person who gives or delivers money or any other consideration in exchange for the
34 actual performance or mere demonstration of a sexual act by a person exploited in
35 prostitution, regardless of whether the person giving or delivering money or any other
36 consideration is the recipient of such sexual act;

- 1 (b) Any person who is the recipient of a sexual act as defined in Section 3(e) of this Act,
2 whether such a recipient has given or delivered money or any other consideration for the
3 procurement of a person exploited in prostitution; *Provided, however,* that for purposes
4 of this Section, a recipient shall include any person or persons or a crowd with whom a
5 person exploited in prostitution has actually performed or merely demonstrated such a
6 sexual act;
- 7 (c) Any person who offers another person for sexual exploitation in exchange for money or
8 any other consideration;
- 9 (d) Any person who induces, persuades, entices, compels, kidnaps, recruits or in any manner
10 procures or causes a person to serve in an establishment knowing that the same is
11 involved in prostitution activities or when he/she has reasonable cause to believe that
12 such establishment is involved in the said activities;
- 13 (e) Any person who uses information technology or any form of media for the purpose of
14 prostitution;
- 15 (f) Any person who organizes or arranges travel tours and/or tourism-related activities that
16 involve the sexual exploitation of any person or the escort services of any person who is
17 expected to perform the sexual act;
- 18 (g) Any person who, as a part of cult or religious obligation, uses, entices, recruits, or offers
19 any person as sexual offering or favor to other members of the cult or religious
20 organization;
- 21 (h) Any official or employee of any jail or detention center or any person connected thereto
22 who commits, causes, promotes, facilitates, allows or tolerates the commission of any of
23 the acts defined in this section upon inmates, or who, in any manner, provides protection
24 to the perpetrators of the said act;
- 25 (i) Any person who derives profit or advantage from any of the prohibited acts defined in
26 this Section as owner, operator, manager, head, director, officer, or agent of the
27 establishment where any prostitution activity defined in this Section takes place, or of the
28 establishment serving as a cover for any such prostitution activity, or who aids another
29 establishment or person involved in any prostitution activity;
- 30 (j) Any person who leases, subleases, or in any manner allows the use of any dwelling,
31 house, structure, building, land or any other property knowing that the lessee/sub lessee
32 intends to use or uses it for prostitution activities, as defined in this Section. For the
33 purpose of this paragraph, the owner of the dwelling, house structure, building, land or
34 any other property used for prostitution and his/her agent shall be presumed to have
35 knowledge that the place is being used or intended to be used for prostitution unless
36 he/she disproves it;

1 (k) Any member of the military or police establishment, or any government official or
2 employee, or any person in authority who commits, causes, or promotes, facilitates,
3 allows, or tolerates the commission of any of the acts defined in this Section, or who, in
4 any manner, provides protection to the perpetrators of the said acts.
5

6 For purposes of this Section, it is understood that the prohibited acts of prostitution may
7 be committed in any establishment as defined in Section 3(f) above or in any other place not
8 otherwise mentioned in Section 3(f). Furthermore, an attempt to commit any of the acts defined
9 in this Section is also prohibited.
10

11 **SECTION 5. *Person Exploited in Prostitution as Victims.*** - Any woman, man or child
12 used, or employed for, another person's sexual gratification, pleasure or exploitation, and for the
13 monetary gain or profit of others, as defined in Section 4 of this Act, shall be treated as victims
14 of prostitution. As such, they shall not incur any criminal liability under this Act, except to the
15 extent referred to under Section 6 (b) hereof.
16

17 In addition, the consent of the person exploited in prostitution to the commission of any
18 of the acts defined in Section 4 of this Act shall not in any way exempt the offender from, or
19 mitigate, his/her criminal liability.
20

21 **SECTION 6. *Penalties and Sanctions.***-
22

23 (a) Any person found guilty of the acts defined in Section 4 shall suffer the penalty of
24 imprisonment of twenty (20) years and a fine of not less than one million pesos
25 (P1,000,000.00) but not more than two million pesos (P2,000,000.00);
26

27 (b) Any person guilty of the acts defined in Section 4 who is also exploited in prostitution or
28 had been exploited in prostitution shall suffer the penalty of imprisonment of ten (10)
29 years for the first offense and fifteen (15) years for the succeeding violations and a fine
30 of not less than five hundred thousand pesos (P500,000.00) but not more than one
31 million pesos (P1,000,000.00);
32

33 (c) Any person guilty of attempting to commit any of the prohibited acts shall suffer the
34 penalty of imprisonment of fifteen (15) years and a fine of not less than five hundred
35 thousand pesos (P500, 000.00) but not more than one million pesos (P1, 000, 000.00);
36

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

5
6 In addition, the establishment, corporation, partnership or association shall be
7 immediately closed and its registration and/or license to operate shall be revoked. A sign
8 with the words "off limits" shall be conspicuously displayed outside the establishment by the
9 Department of Social Welfare and Development (DSWD) for such period as the Department
10 may determine which shall not be less than one (1) year. The unauthorized removal of such
11 sign shall be punishable by imprisonment of six (6) months;

12
13 (e) When the offender is a foreigner, he or she shall be deported immediately after service of
14 sentence and permanently barred from entry into the country;

15
16 (f) Any person found guilty of committing or attempting to commit any of the prohibited
17 acts under Section 4 shall, in addition to the penalties stated in this section, undergo
18 counseling, rehabilitation and mandatory education on the human rights situation of
19 victims of prostitution with DSWD or its accredited NGO for a period of not less than
20 three (3) months but not longer than one (1) year. The DSWD shall submit to the court a
21 report on the rehabilitation of the offender.

22
23 **SECTION 7. *Civil Liability for Prostitution.*** - Persons exploited in prostitution may file
24 independent civil cases for damages against the persons, natural or juridical, responsible for their
25 exploitation.

26
27 Provinces, cities and municipalities shall be liable for damages, in addition to any other
28 criminal or administrative liability under existing laws, to persons exploited in prostitution when
29 it is proven that the responsible authorities had knowledge or were informed of the activities
30 constituting prostitution but did not take proper action within a reasonable period of time. For
31 purposes of this Section, the responsible authorities shall be deemed to have knowledge of the
32 production activities when the same are of common knowledge in the community.

33
34 **SECTION 8. *Prosecution of Cases.*** - The person exploited in prostitution, his/her
35 parents, spouse, siblings, children or legal guardian, law enforcement agencies, or the Inter-
36 Agency Council Against Trafficking and Prostitution (IACATP) created under this Act or any

1 person who has personal knowledge of the commission of any offense under this Act, may file a
2 complaint for prostitution.

3
4 **SECTION 9. *Venue.*** - A criminal action arising from a violation of this Act shall be
5 filed where the offense was committed, or where any of its elements occurred, or where the
6 person exploited in prostitution actually resides at the time of the commission of the offense;
7 *Provided*, that the court where the criminal action is first filed shall acquire jurisdiction to the
8 exclusion of other courts.

9
10 **SECTION 10. *Prescriptive Period.*** - Cases under this Act shall prescribe in twenty (20)
11 years. The prescriptive period shall commence to run from the day on which the person exploited
12 in prostitution is delivered or released from the situation of exploitation and shall be interrupted
13 by the filing of the complaint or information. It shall commence to run again when such
14 proceedings terminate without the accused being convicted or acquitted or are unjustifiably
15 stopped for any reason not imputable to the accused.

16
17 **SECTION 11. *Exemption from Filing Fees.*** - When the victim of prostitution institutes
18 a separate civil action, he or she shall be exempt from the payment of filing fees.

19
20 **SECTION 12. *Confiscation and Forfeiture of the Proceeds and Instruments Derived***
21 ***from Prostitution.*** - In addition to the penalty imposed for the violation of this Act, the Court
22 shall order the confiscation and forfeiture, in favor of the government, of all the proceeds and
23 properties derived from the commission of the crime, unless they are the property of a third
24 person not liable for the unlawful act; *Provided, however*, that all awards for damages shall be
25 taken from the personal and separate properties of the offender; *Provided, further*, That if such
26 properties are insufficient, the balance shall be taken from the confiscated and forfeited
27 properties.

28
29 When the proceeds, properties and instruments of the offense have been destroyed,
30 diminished in value or otherwise rendered worthless by any act or omission, directly or
31 indirectly, of the offender, or it has been concealed, removed, converted or transferred to prevent
32 the same from being found or to avoid forfeiture or confiscation, the offender shall be ordered to
33 pay the amount equal to the value of the proceeds, property or instruments of the offense.

34 **SECTION 13. *Trust Fund.*** - All fines imposed under this Act and the proceeds and the
35 properties forfeited and confiscated pursuant to Section 12 hereof, shall accrue to a Trust Fund to
36 be administered by the IACATP to be used exclusively for programs that will prevent

1 prostitution and protect, heal, and reintegrate prostituted persons into the mainstream of society.
2 Such programs shall include, but are not limited to, those provided for under Section 19 sub-
3 paragraph (1) of this Act.
4

5 **SECTION 14. *Human Rights of Persons Exploited in Prostitution.*** - Persons exploited
6 in prostitution have human rights that must be respected, protected and promoted by all branches,
7 agencies and instrumentalities of the government in law enforcement drives, criminal
8 prosecution, civil suits, service provision, and program development and implementation. These
9 rights include, but are not limited to:

- 10
- 11 (a) The right to be treated as human beings;
 - 12 (b) The right to dignity and security of person;
 - 13 (c) The right against any form of discrimination;
 - 14 (d) The right to equal protection of the law;
 - 15 (e) The right to be protected from abuse or exploitation,
 - 16 (f) The right to seek redress for violations of their rights and to have their complaints
17 appropriately addressed;
 - 18 (g) The right to fair and humane treatment;
 - 19 (h) The right to sensitive and appropriate legal, health, and other social services;
 - 20 (i) The right to *organize themselves and fight for their* legitimate concerns; and
 - 21 (j) The right to be consulted on any government initiative affecting them.
- 22

23 Persons exploited in prostitution shall not be detained on the occasion of, or by reason of,
24 a raid, or in the name of law enforcement. There shall be at least one (1) social worker or one (1)
25 representative from a non-governmental organization (NGO) known to be working with women
26 exploited in prostitution present during raids.

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

31 It shall also be the duty of the law enforcers to ensure that persons exploited in
32 prostitution are not exposed to the media on the occasion of a raid. Law enforcers who allow or
33 facilitate the exposure to the media of persons exploited in prostitution shall suffer the penalty of
34 six (6) months imprisonment, without prejudice to the filing of other criminal, civil and
35 administrative charges under applicable laws.
36

1 **SECTION 15. Confidentiality.** - It shall be the responsibility of any journalist, reporter,
2 editor, publisher or producer of print and broadcast media to protect the identity and privacy of
3 persons exploited in prostitution, most particularly on the occasion of a raid or rescue operation.
4 Any journalist, reporter, editor, publisher or producer of print and broadcast media who exposes
5 to the public the identity of any person exploited in prostitution without her or his consent thereto
6 in writing, or causes the publication of any picture or video that violates the dignity and other
7 human rights of the person exploited in prostitution, shall suffer the penalty of one (1) year
8 imprisonment. In addition, the owner or publisher of the print or broadcast media found guilty of
9 the violation shall pay a fine of Five Hundred Thousand Pesos (P500,000.00). This shall be
10 without prejudice to the right of persons exploited in prostitution to file a civil action for
11 damages for the violation of their human rights or for any injury caused them by the publication.
12

13 **SECTION 16. Entrapment Prohibited.** - Law enforcers shall not use entrapment as a
14 method in law enforcement activities when the same will involve the sexual exploitation of
15 persons as defined in Section 3(b) of this Act. A law enforcement officer who resorts to this
16 method shall suffer the penalty of eight (8) years imprisonment.
17

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

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

23 (b) Maintain open garages, or those that do not have doors or any closing mechanism;
24 and

25 (c) Maintain good lighting in all its entrances, exits, driveways and garages.
26

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

29 For the purpose of this Section, hotels, motels, and lodging houses already operating shall
30 have six (6) months from the effectivity of this Act to comply with this provision. Failure of any
31 hotel, motel and lodging house to comply with this Section shall result in the cancellation of their
32 license or permit to operate.
33

34 **SECTION 18. Mechanisms for Implementation and Monitoring.** - To effectively
35 implement and monitor the provisions of this Act, the Inter-Agency Council Against Trafficking
36 (IACAT) created under Republic Act No. 9208 or the Anti-Trafficking in Persons Act of 2003,
37 shall be expanded and renamed as the Inter-Agency Council Against Trafficking and

1 Prostitution (IACATP).

2 The Secretary of Department of Justice (DOJ) will continue to serve as the Chairperson
3 and the Secretary of DSWD as Co-Chairperson. The membership of the IACAT shall be
4 amended to include the following:

5 (a) Secretary, Department of the Interior and Local Government

6 (b) Secretary, Department of Health

7 (c) Secretary, Department of Tourism

8 (d) Director, National Bureau of Investigation

9 (e) Director General, Technical Education and Skills Development Authority

10 (f) Additional NGO Representative of persons exploited in prostitution.

11

12 **SECTION 19. *Functions of the IACATP.*** - The following additional functions shall be
13 performed by the IACATP:

14 (1) Develop a program addressing prostitution and the needs of persons exploited in
15 prostitution and those vulnerable to be exploited in prostitution. The program shall include public
16 information and education campaign against prostitution, such as but not limited to putting up
17 posters and other similar paraphernalia with appropriate warnings in all places frequented by
18 tourists, including entry and exit points to the Philippines, crisis intervention service, education
19 assistance, socio-economic assistance such as sustainable livelihood skills training and financial
20 support for small-scale businesses, and integration and complete after-care programs for persons
21 exploited in prostitution, among others;

22 (2) Identify and, if necessary, create centers in strategic places all over the Philippines
23 that will provide health services, including counseling and therapy, temporary shelter and other
24 crisis intervention services to persons exploited in prostitution. The rape crisis centers
25 established under Republic Act No. 8505 and the hospital-based prosecution units for women
26 and children may also serve as centers servicing persons exploited in prostitution.

27 Each center shall establish a network of health care and other service providers to address
28 the needs of persons exploited in prostitution;

29 (3) Ensure that units are created or identified within relevant government agencies,
30 particularly those composing the IACATP, that shall focus on addressing prostitution and the
31 needs of persons exploited in prostitution.

32 This shall include units within the National Prosecution Service Offices in local
33 government units (LGUs) that shall specifically focus on the prosecution of offenders under this
34 Act;

35 (4) Ensure that relevant government agencies work in close coordination with each other
36 in addressing prostitution and the needs of persons exploited in prostitution;

1 (5) Develop and implement a training program for law enforcers, public prosecutors,
2 judges, government lawyers, government health care providers, social workers and *barangay*
3 officials that aims to increase their understanding of prostitution as a system, and equip them
4 with the perspective and skills to appropriately address the needs of persons exploited in
5 prostitution, respect, protect and promote their human rights, and pursue the prosecution of
6 offenders;

7 (6) Ensure that local counterparts of the IACATP are created in every municipality, city
8 and provinces;

9 (7) Undertake to lead the prosecution of any violation of this Act; and

10 (8) Promulgate, when necessary, rules and regulations for the effective implementation
11 and enforcement of this Act.

12
13 **SECTION 20. *Responsibilities of Local Government Agencies in Anti-prostitution***

14 ***Efforts.*** - Local government units (LGUs) shall exercise their powers to curb prostitution within
15 their respective jurisdictions. LGUs shall create a local IACATP that shall combat and prevent
16 any act of prostitution in their area. The local IACATP shall be responsible for the monitoring
17 and documentation of cases on prostitution within their areas of jurisdiction and shall submit an
18 annual report to the national IACATP. If a local committee dealing with issues related to
19 prostitution such as trafficking and violence against women and children had already been
20 established, the LGU shall ensure that programs and services for prostituted persons are
21 integrated in the plan of action of the said committee. It shall be unlawful for any LGU to issue
22 licenses or permits for the operation of any establishment that is used or intended to be used for
23 any prostitution activity. Any such license or permit already issued prior to the effectivity of this
24 Act shall be deemed automatically revoked or cancelled and shall not be renewed.

25 Other responsibilities of LGUs shall include conducting public information campaign
26 against prostitution, carrying out rescue operations and ensuring the safety or security of victims
27 of prostitution. They may employ elements of the National Bureau of Investigation (NBI) or the
28 Philippine National Police (PNP) as provided for under Republic Act No. 6975, as amended by
29 Republic Act No. 8551.

30
31 **SECTION 21. *Immunity of Government and DSWD-Accredited NGOs from Undue***
32 ***Interference.***- Members of the national and local IACATP and DSWD-accredited NGOs that
33 are involved in the implementation of anti-prostitution programs are granted immunity from suit
34 and other legal proceedings in connection with the enforcement of said programs.

35
36 **SECTION 22. *Appropriations.*** - The amount necessary to carry out the provisions of
37 this Act is hereby authorized to be appropriated in the General Appropriations Act of the year

1 following the enactment of this law and every year thereafter. All LGUs are likewise mandated
2 to allot not less than five percent (5%) of their gender and development (GAD) budget and not
3 less than five percent (5%) of the local development fund of LGUs for programs, project and
4 activities aimed to control and eliminate prostitution activities within their jurisdiction, including
5 the development and conduct of deterrent information campaigns directed to potential and actual
6 buyers of prostitution sex.

7
8 **SECTION 23. *Separability Clause.*** - If any provision of this Act is declared invalid or
9 unconstitutional, the remaining provisions shall not be affected thereby and shall continue to be
10 in full force.

11
12 **SECTION 24. *Suppletory Application.*** - The provisions of Republic Act No. 9208 or the
13 Anti-Trafficking in Persons Act shall have suppletory application to this Act.

14
15 **SECTION 25. *Repealing Clause.*** - Article 202 and 341 of the Revised Penal Code are
16 hereby repealed. All other laws, decrees, ordinances and rules inconsistent with the provisions of
17 this Act are hereby modified or repealed accordingly.

18
19 **SECTION 26. *Effectivity Clause.*** - This Act shall take effect upon completion of its
20 publication in at least two (2) newspapers of general circulation.

Approved,