

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



Senate  
Office of the Secretary

'13 AUG -8 P2 57

SENATE  
S. B. No. 1257

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Introduced by Senator Maria Lourdes Nancy S. Binay

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#### EXPLANATORY NOTE

Section 3, par. 2 of Article XV of the Philippine Constitution provides that the State shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation or other conditions prejudicial to their development.

In response to the mandate of the Philippine Constitution, the state enacted Republic Act No. 8552, or the Domestic Adoption Act of 1998, Republic Act No. 8043, or the Inter-Country Adoption Act of 1995, and more recently, Republic Act No. 10165, or the Foster Care Act of 2012, which recognizes that adoption and foster care also provides children who have been weakened by inopportune circumstances, protection and guidance.

The state must be vigilant nevertheless to protect children who have been abandoned, neglected and orphaned from being abused by the very persons entrusted with their custody and care. Similar to incestuous rape, crimes committed by the adopters or foster parents, as well as their spouses, against the person of an adopted child or one who is placed under foster care is the highest form of betrayal of trust, and destroys the moral fibers of society.

This bill seeks to qualify the crime of rape, and impose a higher penalty, if the offender is the adopter, the foster parent, or their spouses.

In view of the foregoing, the passage of this bill is earnestly recommended.

MARIA LOURDES NANCY S. BINAY  
Senator



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1  
2 AN ACT CONSIDERING AS QUALIFYING CIRCUMSTANCE IN CRIME OF RAPE IF  
3 THE OFFENDER IS THE ADOPTER, THE FOSTER PARENT, THE LEGAL SPOUSE  
4 OF THE ADOPTER OR THE FOSTER PARENT, OR THER COMMON-LAW  
5 SPOUSE OF THE ADOPTER OR THE FOSTER PARENT, AMENDING FOR THIS  
6 PURPOSE ACT 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AS  
7 AMENDED  
8

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

11 **SECTION 1.** Article 266-B of Act 3815, otherwise known as the Revised Penal Code of the  
12 Philippines, as amended, is hereby further amended to read as follows:  
13

14 Article 266-B. *Penalty.* -

15  
16 x x x

17  
18 The death penalty shall also be imposed if the crime of rape is committed with any  
19 of the following aggravating/qualifying circumstances:  
20

21 1) When the victim is under eighteen (18) years of age and the offender is a parent,  
22 ascendant, step-parent, guardian, relative by consanguinity or affinity within the  
23 third civil degree, **THE ADOPTER, THE SPOUSE OF THE ADOPTER, THE**  
24 **FOSTER PARENT, THE SPOUSE OF THE FOSTER PARENT,** or the  
25 common-law spouse of the parent, **THE ADOPTER, OR THE FOSTER**  
26 **PARENT** of the victim;  
27

28 x x x  
29

30 **SECTION 2.** *Separability Clause.* If any portion or provision of this Act is declared void  
31 and unconstitutional, the remaining portions or provisions hereof shall not be affected by  
32 such declaration.  
33

34 **SECTION 3.** *Repealing Clause.* All laws, decrees, orders, rules and regulations, other  
35 issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or  
36 modified accordingly.  
37

1 **SECTION 4. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its complete  
2 publication in at least two (2) newspapers of general circulation.  
3  
4 Approved.