

SENATE

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S.B. No. 382

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INTRODUCED BY: SENATOR EMMANUEL D. PACQUIAO

AN ACT
TO IMPOSE THE DEATH PENALTY ON THE HEINOUS CRIME OF RAPE WITH
HOMICIDE, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS,
AS AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The imposition of capital punishment or the death penalty was abolished under Republic Act No. 9346 on June, 2006. Notwithstanding the suspension, the framers were mindful that the law was merely temporary as the Constitution provides that "Excessive fines shall not be imposed nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, *unless*, for compelling reasons involving heinous crimes, the Congress hereafter provides for it."

There is almost nothing more deplorable than receiving news of a crime that discounts both the honor and the life of the victim. Filipinos are repeatedly angered by increasing reports of crimes of rape, with more rage in the cases that come with the death of the victim. Honor in chastity is as priceless as life.

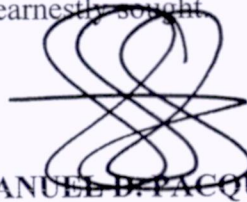
The danger does not only come from unknown persons, but at times from within the corners of the home that should have been safe. Criminals have violated and victimized even children of mean ages. The futures of the victims are lost. Families are destroyed, and the shame of the country follows the growing number of crimes of rape.

The State has a duty to protect its people from those who have lost their moral values. The increasing incidents of rape, and especially those that result in the death of the victim, must be addressed.

The present bill is being filed separately from similarly intended bills for other kinds of crimes in order for the bill to be given the greater consideration that it deserves and with distinct attention to crimes of rape as against other crimes.

This will show that the State is deliberate in strengthening its responsibility to secure the safety of people in the country against those who want to violate their honor.

In view of the foregoing, approval of this bill is earnestly sought.

A handwritten signature in black ink, appearing to be 'EMMANUEL D. PACQUIAO', written over a horizontal line.

EMMANUEL D. PACQUIAO

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

1 **Section 1.** *Declaration of Policy.* – It is hereby declared the policy of the State to foster
2 and ensure not only obedience to its authority, but also to adopt such measures as would
3 effectively promote the maintenance of peace and order, the protection of life, liberty and
4 property, and the promotion of the general welfare which are essential for the enjoyment by
5 all the people of the blessings of democracy in a just and humane society;

6
7 **Section 2.** Article 335 of the same Code is hereby amended to read as follows:

8
9 “Art. 335. When and how rape is committed. – Rape is committed by
10 having carnal knowledge of a woman under any of the following
11 circumstances:

12
13 1. By using force or intimidation;

14
15 2. When the woman is deprived of reason or otherwise unconscious;
16 and

17
18 3. When the woman is under twelve years of age or is demented.

19
20 The crime of rape shall be punished by reclusion perpetua.

21
22 Whenever the crime of rape is committed with the use of a deadly
23 weapon or by two or more persons, the penalty shall be reclusion perpetua to
24 death.

25
26 When by reason or on the occasion of the rape, the victim has become
27 insane, the penalty shall be death.
28

1 When the rape is attempted or frustrated and a homicide is committed
2 by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to
3 death.

4
5 When by reason or on the occasion of the rape, a homicide is
6 committed, the penalty shall be death.

7
8 The death penalty shall also be imposed if the crime of rape is
9 committed with any of the following attendant circumstances:

10
11 1. when the victim is under eighteen (18) years of age and the offender
12 is a parent, ascendant, step-parent, guardian, relative by consanguinity or
13 affinity within the third civil degree, or the common-law-spouse of the parent
14 of the victim.

15
16 2. when the victim is under the custody of the police or military
17 authorities.

18
19 3. when the rape is committed in full view of the husband, parent, any
20 of the children or other relatives within the third degree of consanguinity.

21
22 4. when the victim is a religious or a child below seven (7) years old.

23
24 5. when the offender knows that he is afflicted with Acquired Immune
25 Deficiency Syndrome (AIDS) disease.

26
27 6. when committed by any member of the Armed Forces of the
28 Philippines or the Philippine National Police or any law enforcement agency.

29
30 7. when by reason or on the occasion of the rape, the victim has
31 suffered permanent physical mutilation.”

32
33 **Section 3.** Article 27 of the Revised Penal Code, as amended, is hereby amended
34 to read as follows:

35
36 “Art. 27. *Reclusion perpetua*. – The penalty of *reclusion perpetua* shall
37 be from twenty years and one day to forty years.

38
39 Reclusion temporal. – The penalty of reclusion temporal shall be from
40 twelve years and one day to twenty years.

41
42 Prision mayor and temporary disqualification. – The duration of the
43 penalties of prision mayor and temporary disqualification shall be from six
44 years and one day to twelve years, except when the penalty of disqualification
45 is imposed as an accessory penalty, in which case, it shall be that of the
46 principal penalty.

47
48 Prision correccional, suspension, and destierro. – The duration of the
49 penalties of prision correccional, suspension, and destierro shall be from six
50 months and one day to six years, except when the suspension is imposed as an

1 accessory penalty, in which case, its duration shall be that of the principal
2 penalty.

3
4 Arresto mayor. – The duration of the penalty of arresto mayor shall be
5 from one month and one day to six months.

6
7 Arresto menor. – The duration of the penalty of arresto menor shall be
8 from one day to thirty days.

9
10 Bond to keep the peace. – The bond to keep the peace shall be required
11 to cover such a period of time as the court may determine.”

12
13 **Section 4.** Article 47 of the same Code is hereby amended to read as follows:
14

15 Art. 47. In what cases the death penalty shall not be imposed;
16 Automatic review of the Death Penalty Cases. – The death penalty shall be
17 imposed in all cases in which it must be imposed under existing laws, except
18 when the guilty person is below eighteen (18) years of age at the time of the
19 commission of the crime or is more than seventy years of age or when upon
20 appeal or automatic review of the case by the Supreme Court, the required
21 majority vote is not obtained for the imposition of the death penalty, in which
22 cases the penalty shall be *reclusion perpetua*.

23
24 In all cases where the death penalty is imposed by the trial court, the
25 records shall be forwarded to the Supreme Court for automatic review and
26 judgment by the Court en banc, within twenty (20) days but not earlier than
27 fifteen (15) days after promulgation of the judgment or notice of denial of any
28 motion for new trial or reconsideration. The transcript shall also be forwarded
29 within ten (10) days from the filing thereof by the stenographic reporter.”

30
31 **Section 5.** Article 62 of the same Code, as amended, is hereby amended to read as
32 follows :

33
34 “Art. 62. Effects of the attendance of mitigating or aggravating
35 circumstances and of habitual delinquency. – Mitigating or aggravating
36 circumstances and habitual delinquency shall be taken into account for the
37 purpose of diminishing or increasing the penalty in conformity with the
38 following rules:

39
40 1. Aggravating circumstances which in themselves constitute a
41 crime specially punishable by law or which are included by the law in
42 defining a crime and prescribing the penalty therefor shall not be taken
43 into account for the purpose of increasing the penalty.

44
45 2. When in the commission of the crime, the advantage was
46 taken by the offender of his public position, the penalty to be imposed
47 shall be in its maximum regardless of mitigating circumstances.
48

1 The maximum penalty shall be imposed if the offense was
2 committed by any group who belongs to an organized/syndicated
3 crime group.

4
5 An organized/syndicated crime group means a group of two or
6 more persons collaborating, confederating or mutually helping one
7 another for purposes of gain in the commission of any crime.

8
9 3. The same rule shall apply with respect to any aggravating
10 circumstances inherent in the crime to such a degree that it must of
11 necessity accompany the commission thereof.

12
13 4. Aggravating or mitigating circumstances which arise from
14 the moral attributes of the offender, or from his private relations with
15 the offended party, or from any other personal cause, shall only serve
16 to aggravate or mitigate the liability of the principals, accomplices and
17 accessories as to whom such circumstances are attendant.

18
19 5. The circumstances which consist in the material execution of
20 the act, or in the means employed to accomplish it, shall serve to
21 aggravate or mitigate the liability of those persons only who had
22 knowledge of them at the time of the execution of the act or their
23 cooperation therein.

24
25 6. Habitual delinquency shall have the following effects :

26
27 (a) Upon a third conviction the culprit shall be
28 sentenced to the penalty provided by law for the last crime of
29 which he is found guilty and to the additional penalty of prison
30 correccional in its medium and maximum periods;

31
32 (b) Upon a fourth conviction, the culprit shall be
33 sentenced to the penalty provided for the last crime of which he
34 is found guilty and to the additional penalty of prison mayor in
35 its minimum and medium periods; and

36
37 (c) Upon a fifth or additional conviction, the culprit
38 shall be sentenced to the penalty provided for the last crime of
39 which he is found guilty and to the additional penalty of prison
40 mayor in its maximum period to reclusion temporal in its
41 minimum period.

42
43 Notwithstanding the provisions of this article, the total of the
44 two penalties to be imposed upon the offender, in conformity herewith,
45 shall in no case exceed 30 years.

46
47 For purposes of this article, a person shall be deemed to be a
48 habitual delinquent, if within a period of ten years from the date of his
49 release or last conviction of the crimes of serious or less serious

1 physical injuries, robo, hurto, estafa or falsification, he is found guilty
2 of any of said crimes a third time or oftener.
3

4 **Section 6.** Article 81 of the same Code, as amended, is hereby amended to read as follows :
5

6 “Art. 81. When and how the death penalty is to be executed. – The
7 death sentence shall be executed with preference to any other and shall consist
8 in putting the person under sentence to death as may be provided by law. The
9 death sentence shall be executed under the authority of the Director of Prisons,
10 endeavoring so far as possible to mitigate the sufferings of the person under
11 the sentence during the execution of the sentence as well as during the
12 proceedings prior to the execution.
13

14 If the person under sentence so desires, he shall be anesthetized at the
15 moment of the execution.
16

17 The death sentence shall be carried out not later than one (1) year after
18 the judgment has become final.”
19

20 **Section 7.** Article 83 of the same Code is hereby amended to read as follows:
21

22 “Art. 83. Suspension of the execution of the death sentence. – The
23 death sentence shall not be inflicted upon a woman while she is pregnant or
24 within one (1) year after delivery, nor upon any person over seventy years of
25 age. In this last case, the death sentence shall be commuted to the penalty of
26 *reclusion perpetua* with the accessory penalties provided in Article 40.
27

28 In all cases where the death sentence has become final, the records of
29 the case shall be forwarded immediately by the Supreme Court to the Office of
30 the President for possible exercise of the pardoning power.”
31

32 **Section. 8.** Republic Act No. 9346 is hereby repealed. All other laws, presidential decrees
33 and issuances, executive orders, rules and regulations or parts thereof inconsistent with the
34 provisions of this Act are hereby repealed or modified accordingly.
35

36 **Section 9.** If, for any reason or reasons, any part of the provision of this Act shall be held to
37 be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby
38 shall continue to be in full force and effect.
39

40 **Section 10.** This Act shall take effect fifteen (15) days after its publication in two (2) national
41 newspapers of general circulation. The publication shall not be later than seven (7) days after
42 the approval hereof.
43
44
45

46 *Approved,*