

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



23 MAR -7 P 3:59

SENATE

S. No. 1971

RECEIVED BY: 

INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

AN ACT

REVISING AND STRENGTHENING THE DEFINITION OF THE CRIME OF RAPE, AMENDING FOR THE PURPOSE ARTICLES 266-A, 266-B AND 266-D, AND REPEALING ARTICLE 266-C OF ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AS AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

According to the Philippine National Police (PNP), the crime of rape is one of the most common crimes committed in the last six months – from July 2022 to January 2023, with its incidence reported at 3,762. In 2022, its recorded incidence was at 7,197. Only the cases reported to the police or to a qualified authority are taken into account, and not every single one has been reported, particularly in cases of incest.

The 2017 National Demographic and Health Survey reported that one in 20 women and girls aged 15 to 49 years have experienced sexual violence in their lifetime. Moreover, based on the 2016 National Baseline Study on Violence Against Children (NBS-VAC), 17.1 percent of Filipinos aged 13 to 17 years old experienced sexual violence, while 3.2 percent had forced consummated sex—anal, oral, and/or vaginal—throughout their childhood.

The NBS-VAC moreover revealed that 13.7 percent were committed in the home, 7.8 percent in the community, 7.1 percent in the workplace, and 5.3 percent in the school. Based on the results of the same study, the most common methods of sexual coercion used by perpetrators in cases of forced consummated sex is verbal insistence or *pangungulit*, with 33.9 percent of the respondents saying it was what they experienced.

Thus, this bills seeks to remove the distinction between rape through sexual intercourse and rape by sexual assault and rape shall now be defined as a single offense. Moreover, the penalty imposed for rape shall be also be amended to become singular – by *reclusion perpetua*.

Under this measure, the following acts shall neither mitigate nor expunge the penalty imposed against rape:

1. When the offender is the legal husband of the victim;
2. When the offender and the offended party have previously had a relationship or engaged in prior sexual activity;
3. When the offended party did not manifest resistance against the act through verbal or physical action; and
4. When the spermatozoa from the offender are not found in the offended party's orifice during forensic examination.

Hence, the immediate approval of this bill is earnestly sought.



JOSEPH VICTOR G. EJERCITO

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

1 Section 1.- Article 266-A of Act No. 3815, otherwise known as the Revised Penal
2 Code, as amended, is hereby further amended as follows:

3 "Art. 266-A. Rape, When and How Committed. - Rape is committed [:]

4 **PERSON WHO SHALL INSERT, OR CAUSE THE INSERTION OF THEIR PENIS,**
5 **TONGUE, FINGER, OR ANY OBJECT OR INSTRUMENT ANOTHER PERSON'S**
6 **INNER OR OUTER LABIA, ANAL ORIFICE, OR MOUTH UNDER ANY OF THE**
7 **FOLLOWING CIRCUMSTANCES:**

8 **A) WHEN THE OFFENDED PARTY DID NOT INDICATE FULL EFFECTIVE**
9 **CONSENT BEFORE OR DURING THE SEXUAL ACT;**

10 **B) WHEN THE OFFENDED PARTY WITHDRAWS FULL AND EFFECTIVE**
11 **CONSENT;**

12 **C) WHEN THE OFFENDED PARTY IS INCAPABLE OF INDICATING FULL AND**
13 **EFFECTIVE CONSENT DUE TO BEING DEPRIVED OF REASON OR**
14 **OTHERWISE UNCONSCIOUS;**

1 **D) WHEN THE CONSENT WAS OBTAINED BY THE OFFENDER THROUGH THE**
2 **USE OF VIOLENCE, FORCE, THREAT, INTIMIDATION, DECEPTION, OR**
3 **ABUSE OF AUTHORITY OR MORAL ASCENDANCY;**

4 **E) WHEN THE OFFENDED PARTY, THROUGH OVERT VERBAL OR PHYSICAL**
5 **ACTS, MANIFESTS RESISTANCE TO THE SEXUAL ACT; OR**

6 **[d]F)** When the offended party is under sixteen (16) years of age or is demented,
7 even though none of the circumstances mentioned above be present: *Provided,* That
8 there shall be no criminal liability on the part of a person having carnal knowledge of
9 another person sixteen (16) years of age when the age difference between the parties
10 is not more than three (3) years, and the sexual act in question is proven to be
11 consensual, non-abusive, and non-exploitative: *Provided, further,* That if the victim is
12 under thirteen (13) years of age, this exception shall not apply.

13 As used in this Act, non-abusive shall mean the absence of undue influence,
14 intimidation, fraudulent machinations, coercion, threat, physical, sexual,
15 psychological, or mental injury or maltreatment, either with intention or through
16 neglect, during the conduct of sexual activities with the child victim. On the other
17 hand, non-exploitative shall mean there is no actual or attempted act or acts of unfairly
18 taking advantage of the child's position of vulnerability, differential power, or trust
19 during the conduct of sexual activities."

20 ~~[1) By a man who shall have carnal knowledge of a woman under any of the following~~
21 ~~circumstances:~~

22 ~~a) Through force, threat, or intimidation;~~

23 ~~b) When the offended party is deprived of reason or otherwise unconscious;~~

24 ~~c) By means of fraudulent machination or grave abuse of authority; and~~

25 ~~d) When the offended party is under twelve (12) years of age or is demented, even~~
26 ~~though none of the circumstances mentioned above be present.~~

27 ~~2) By any person who, under any of the circumstances mentioned in paragraph~~
28 ~~1 hereof, shall commit an act of sexual assault by inserting his penis into another~~
29 ~~person's mouth or anal orifice, or any instrument or object, into the genital or anal~~
30 ~~orifice of another person.]~~

31 Sec. 2. Article 266-B of the Revised Penal Code, as amended, is hereby
32 amended to read as follows:

1 **"ARTICLE 266-B. PENALTY. - ANY PERSON WHO COMMITS THE**
2 **CRIME OF RAPE SHALL BE PUNISHED BY *RECLUSION PERPETUA*."**

3 ~~[Rape under paragraph 1 of the next preceding article shall be punished by~~
4 ~~*reclusion perpetua*.~~

5 ~~Whenever the rape is committed with the use of a deadly weapon or by two or~~
6 ~~more persons, the penalty shall be *reclusion perpetua* to death.~~

7 ~~When by reason or on the occasion of the rape, the victim has become insane,~~
8 ~~the penalty shall become *reclusion perpetua* to death.~~

9 ~~When the rape is attempted and a homicide is committed by reason or on the~~
10 ~~occasion thereof, the penalty shall be *reclusion perpetua* to death.~~

11 ~~When by reason or on the occasion of the rape, homicide is committed, the~~
12 ~~penalty shall be death.~~

13 ~~The death penalty shall also be imposed if the crime of rape is committed with~~
14 ~~any of the following aggravating/qualifying circumstances:~~

15 ~~1) When the victim is under eighteen (18) years of age and the offender is a~~
16 ~~parent, ascendant, step parent, guardian, relative by consanguinity or affinity~~
17 ~~within the third civil degree, or the common-law spouse of the parent of the~~
18 ~~victim;~~

19 ~~2) When the victim is under the custody of the police or military authorities or~~
20 ~~any law enforcement or penal institution;~~

21 ~~3) When the rape is committed in full view of the spouse, parent, any of the~~
22 ~~children or other relatives within the third civil degree of consanguinity;~~

23 ~~4) When the victim is a religious engaged in legitimate religious vocation or~~
24 ~~calling and is personally known to be such by the offender before or at the time~~
25 ~~of the commission of the crime;~~

26 ~~5) When the victim is a child below seven (7) years old;~~

27 ~~6) When the offender knows that he is afflicted with the Human Immuno-~~
28 ~~Deficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS) or any~~
29 ~~other sexually transmissible disease and the virus or disease is transmitted to~~
30 ~~the victim;~~

31 ~~7) When committed by any member of the Armed Forces of the Philippines or~~
32 ~~para-military units thereof or the Philippine National Police or any law~~

1 enforcement agency or penal institution, when the offender took advantage of
2 his position to facilitate the commission of the crime;

3 ~~8) When by reason or on the occasion of the rape, the victim has suffered~~
4 ~~permanent physical mutilation or disability;~~

5 ~~9) When the offender knew of the pregnancy of the offended party at the time~~
6 ~~of the commission of the crime; and~~

7 ~~10) When the offender knew of the mental disability, emotional disorder and/or~~
8 ~~physical handicap of the offended party at the time of the commission of the~~
9 ~~crime.~~

10 Rape under paragraph 2 of the next preceding article shall be punished by
11 ~~prision mayor.~~

12 Whenever the rape is committed with the use of a deadly weapon or by two or
13 more persons, the penalty shall be ~~prision mayor to reclusion temporal.~~

14 When by reason or on the occasion of the rape, the victim has become insane,
15 the penalty shall be ~~reclusion temporal.~~

16 When the rape is attempted and a homicide is committed by reason or on the
17 occasion thereof, the penalty shall be ~~reclusion temporal to reclusion perpetua.~~

18 When by reason or on the occasion of the rape, homicide is committed, the
19 penalty shall be ~~reclusion perpetua.~~

20 Reclusion temporal shall be imposed if the rape is committed with any of the
21 ~~ten aggravating/qualifying circumstances mentioned in this article.]~~

22 Sec. 3. Article 266-D of the Revised Penal Code is hereby further amended to
23 read as follows:

24 "Article 266-D. [Presumptions] **CIRCUMSTANCES NOT ACCEPTED. - THE**
25 **FOLLOWING CIRCUMSTANCES SHALL NEITHER BE CONSIDERED AS**
26 **MITIGATING CIRCUMSTANCES NOR EXEMPT THE OFFENDER FROM**
27 **CRIMINAL ACT:**

28 **1. WHEN THE OFFENDER IS THE LEGAL HUSBAND OF THE VICTIM;**

29 **2. WHEN THE OFFENDER AND THE OFFENDED PARTY HAVE PREVIOUSLY**
30 **HAD A RELATIONSHIP OR ENGAGED IN PRIOR SEXUAL ACTIVITY;**

31 **3. WHEN THE OFFENDED PARTY DID NOT MANIFEST RESISTANCE AGAINST**
32 **THE ACT THROUGH VERBAL OR PHYSICAL ACTION; AND**

1 **4. WHEN THE SPERMATOZOA FROM THE OFFENDER ARE NOT FOUND IN**
2 **THE OFFENDED PARTY'S ORIFICE DURING FORENSIC EXAMINATION."**
3 **EXAMINATION."**

4 ~~[Any physical overt act manifesting resistance against the act of rape in any~~
5 ~~degree from the offended party, or where the offended party is so situated as to~~
6 ~~render her/him incapable of giving valid consent, may be accepted as evidence in the~~
7 ~~prosecution of the acts punished under Article 266-A."]~~

8 *Sec. 4. Separability Clause.* - If any part, section or provision of this Act is held
9 invalid or unconstitutional, other provisions not affected thereby shall remain in full
10 force and effect.

11 *Sec. 5. Repealing Clause.* - Article 266-C of the Revised Penal Code is hereby
12 repealed in its entirety. All other laws, decrees, orders, issuances and rules and
13 regulations or parts thereof inconsistent with the provisions of this Act are hereby
14 repealed or modified accordingly.

15 *Sec. 6. Effectivity.* - This Act shall take effect fifteen (15) days after its
16 publication in the Official Gazette or in a newspaper of general circulation.

Approved,