

Republic of the Philippines
House of Representatives
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 520

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Introduced by Congresswoman Darlene R. Antonino-Custodio

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EXPLANATORY NOTE

This bill seeks to provide penalties for prostitution, at the same time providing support services for its victims.

Prostitutes and prostitution are viewed as one and the same, the common understanding being that prostitution involves the sale of sexual services by women and children. Unfortunately, this view reveals no understanding of prostitution as a system and of prostitutes as individuals caught up in that system. When prostitution is mentioned, the focus is right away only on the women and children who personally provide the sexual services.

Oftentimes, the prostitute is the victim, because not all who engage in prostitution do so willfully.

Yet on this point, society has a set of bias. It will easily see the victimization of children and quickly condemn those who victimize them. Society will remain treating adult women as free and autonomous persons who have entered into individual and private transactions with their customers. It will automatically assume that an adult woman is on equal footing with the other party involved in the transaction and therefore free to set the conditions of that transaction. The unfortunate error with this view is that it detaches prostitution from the context of capitalist economic relations and the prevailing patriarchal ideology. Both would have women's bodies and their sexuality obtainable by any means, buyable at a price and given to abuse with or without the use of force.

Prostitution is a system where the major players are not the prostitutes themselves, but those who make prostitution available, and where women and children assume the functional role of delivering sexual services and the intended profits.

The end result, however, is still that men are allowed to escape responsibility for using women in prostitution.

As it stands, Philippine law plays a key role in the maintenance of prostitution. Note that the law does not define "prostitution" but is explicit in defining "prostitutes" and in identifying them as women under Article 22, paragraph 5, Revised Penal Code. In reality, it is difficult to prosecute any woman for being a prostitute because under the law the following elements must be proven: 1 engaging in sexual intercourse or lascivious conduct, 2 habituality of the conduct, and 3 payment of money or profit.

Law enforcers have therefore turned to using other laws to arrest and prosecute women in prostitution. These include the laws penalizing vagrants under Article 22, paragraph 1-4, Revised Penal Code and obscene publications and lewd shows.

It is evident that the law considers indecent and immoral, the sale of sex by women and thus deserving of criminal sanction. Sex for hire is indecent because women are not supposed to sell sex. Yet the same norms do not hold true for men. Society holds that men are biologically more sexually active than women and even naturally polygamous. It is, in fact, considered natural, or practically necessary, for men to satisfy their sexual needs and to do so by employing the sexual services of women.

So while society penalizes, stigmatizes and ostracizes women in prostitution, it never even questions why men demand and pay for sex. All of which explains why the law did not penalize men paying for sexual services. In addition, the criminal liability of individuals engaged in the business of prostitution under Article 341 of the Revised Penal Code is hardly enforced. Businesses related to prostitution continue to thrive.

To correct this injustice, this inequality, Section 4 of this bill proposes to punish "any person who gives, conveys or delivers money or any consideration in exchange for another's sexual services" x x x. Thus, we may see the day when the man - (presumably it's a male who pays for the sexual service, and thus, truly the guilty party), is not set free from his "peccadillos".

Prostitution must be approached in its entirety, interrogating both the structural mechanisms and the ideological justifications which uphold it. In addressing prostitution, the government must address the contradictions in policies which in effect, reinforce the system of prostitution. The adult-child divide must be removed,and women and children in prostitution must be decriminalized alike. The goal of minimizing, if not totally eradicating prostitution, must be directed against establishments and customers who control and profit from the business of prostitution. Policies and programs must be developed that will address the problems

of women in prostitution, provide them protection, penalize those who control, perpetuate, and benefit from, the business of prostitution, and serve to eradicate prostitutions in the long term.

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

DARLENE R. ANTONINO-CUSTODIO

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AN ACT
PENALIZING PROSTITUTION, DEFINING THE PERSONS LIABLE THEREFOR, PROVIDING MEASURES AND SUPPORT SERVICES FOR ITS VICTIMS, AMENDING FOR THE PURPOSE THE REVISED PENAL CODE, AND FOR OTHER PURPOSES.

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

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

SEC. 2. *Declaration of Policies.* **- It is the declared policy of the state to value the dignity of every human person and guarantees full respect for human rights. Toward this end,** the State:

(a) declares its commitment to end the continuing sexual exploitation of women and children and all forms of gender-based violence;

(b) recognizes prostitution as a human rights violation which calls for coordinated and sustained response from all agencies of government;

(c) recognizes that women and children are systematically victimized by and in the system of prostitution and must, therefore, be given protection and support by the State, instead of being treated as criminals; and

(d) recognizes that addressing prostitution is essential for women and children to genuinely and meaningfully participate in nation-building;

(e) recognizes international commitments on the eradication of sexual exploitation in all forms of gender-based violence.

SEC. 3. Definition of Terms. - The following terms are defined for purposes of this Act:

(a) Prostitution - any act, transaction, scheme or design involving the use of a person, whether woman, man or child, for the sexual gratification, exploitation or pleasure of another in exchange for **money**, profit or other consideration, or any act which promotes or facilitates the accomplishment of the said act, transaction, scheme or design, as specifically defined in Section 4 of this Act.

(b) Person Exploited In Prostitution - refers to a woman, man or child used or employed for another person's sexual gratification, exploitation or pleasure and for the monetary gain or profit of others, as defined in Section 4 (a) of this Act.

(c) Child - refers to a person below eighteen (18) years of age or over but is unable to fully take care of herself/himself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

(d) Establishment - refers to any business enterprise or establishment, including, but not limited to, sauna bath, massage parlor, discotheque, bar, restaurant, resort, lodging house, motel, ship vessel, or any dwelling, house, structure or building, or any group, association or organization, serving as a cover or venue for, or which engages in, prostitution activities as defined in Section 4 of this Act.

SEC. 4. *Punishable Acts.* - Prostitution is a crime committed by:

(a) any person who gives, conveys or delivers money or any consideration in exchange for another's sexual services, whether or not such services are actually rendered or performed. For purposes of this Section, sexual services shall include having sexual intercourse or performing or demonstrating any form of lascivious or sexual act before the person giving, conveying or delivering money or consideration, or a third person or persons;

(b) any person who recruits, induces, persuades, entices, compels, kidnaps, or in any manner procures a person for the purpose of exploiting the person in prostitution;

(c) any person who recruits another person purportedly for lawful employment but actually for the purpose of exploiting the person in prostitution;

(d) any person who recruits, induces, persuades, entices, compels or in any manner procures or causes a person to work in an establishment knowing that the same is involved in activities defined in paragraph (a) of this Section or when he/she has reasonable ground to believe that such establishment is involved in the said activities;

(e) any person who transports a person or persons from one place to another for the purpose of exploiting the person or persons in prostitution;

(f) any person who receives or gives or agrees to receive or give money or anything of value or any consideration in exchange for, or for the purpose of procuring or recruiting, in any manner, a person or person to be exploited in prostitution;

(g) any person who organizes or arranges travel, tours and tourism - related activities which involve utilizing the sexual services of any person who is expected to perform the sexual services defined in paragraph(a) in this Section;

(h) any person who in any manner or under any pretext advertises, organizes, arranges, manages, promotes or facilitates the commission of any acts defined in this Section;

(i) any person who uses information technology such as cyberspace, satellite, television, or any form of media to promote any of the acts defined in this Section;

(j) any person who gains profit or advantage from any of the acts defined in this Section as owner, operator, manager, head, director, officer, or agent of the establishment where any prostitution activity defined in this Section takes place or is about to take place, or of the establishment serving as a cover or venue for, or which engages in any prostitution activity, or of the establishment aiding another establishment or person involved in any prostitution activity;

(k) any member of the military or police establishment, or any government official or employee, or any person in authority, who promotes, facilitates, allows, or causes the commission of any of the acts defined in this Section, or who, in any manner, provides protection to the perpetrators of the said acts;

(l) any person who leases, subleases, or in any other manner allows the use of any dwelling, house, structure or building knowing that the leasee/subleasee intends to use or uses it for prostitution activities as defined in this Section, or continues with the lease, sublease or any other arrangement for its use knowing that the place is being used for prostitution. For the purpose of this paragraph, the owner of the dwelling, house, structure or building used for prostitution and his/her agent shall be presumed to have knowledge that the place is being used or intended to be used for prostitution unless he/she disproves it.

SEC. 5. *Attempt to Commit Child Prostitution.* - An attempt to commit prostitution of a child under Section 4 (a) of this Act is committed by:

(a) any person who, not being a grandparent, parent, guardian or blood relative of a child, is found alone with the said child inside a room or cubicle of a house, inn, hotel, motel, pension house, apartelle, or any similar establishment, vessel, vehicle or any hidden or secluded area, or under circumstances which would lead a reasonable person to believe that the child is about to be prostituted;

(b) any establishment providing entertainment or relaxation to the public, including, but not limited to sauna bath, massage parlor, discotheque, bar, resort, lodging house, motel and hotel, which employs a child;

(c) any person receiving services from a child in a sauna parlor or bath, massage clinic, health club and any other similar establishment.

SEC 6. *Consent of Victim Immaterial.* - The consent of the person exploited in prostitution to the commission of any of the acts defined in Section 4 of this Act shall not in any way exempt the offender from, or mitigate his/her, criminal liability.

SEC 7. *Penalties and Sanctions.* -

(a) any person found guilty of the acts defined in Section 4, paragraph (a) who is a first time offender shall suffer the penalty of prision correccional in its medium period, unless the person exploited in prostitution is a minor, in which case the penalty shall be prision mayor in its maximum period.

The penalty of reclusion temporal in its minimum period shall be imposed if the offended under Section 4, paragraph (a) has been previously convicted under the same provision.

(b) the penalty of reclusion temporal in its maximum period shall be imposed when the offender is an ascendant, parent, guardian, stepparent, or collateral relative within the fourth degree of consanguinity or affinity of the person exploited in prostitution, or exercises parental authority or moral ascendancy over the person exploited in prostitution.

(c) The penalty of reclusion perpetua and a fine of five hundred thousand pesos (P500,000.00) shall be imposed when the offender is a member of the police or military establishment, or a government official or employee. In addition, the offender shall perpetually disqualified from holding any appointive position or from running for any elective position in government.

(d) The owner and operator or manager, or the directors and officers, of the establishment, corporation, partnership or association found to be engaged in any of the acts defined in Section 4 shall suffer the penalty of reclusion temporal in its maximum period. In addition, the establishment, corporation, partnership or association shall be immediately closed and its registration and/or license to operate shall be revoked, without prejudice to the filing of other charges under other applicable laws. A sign with the words "off limits" shall be conspicuously displayed outside the establishment by the Department of Social Welfare and Development for such period as the Department may determine, which shall not be less than one (1) year. The unauthorized removal of such sign shall be punishable by arresto mayor in its maximum period.

(e) Any other person found guilty of any of the acts defined in Section 4 shall suffer the penalty of reclusion temporal in its minimum period and a fine of three hundred pesos (P300,000.00). Provided, however, that if the person exploitation in prostitution is a child, the penalty shall be reclusion temporal in its maximum period and a fine of Five Hundred Thousand Pesos (500,000.00), Provided, further, that if the offender is a woman who is also exploited or has been exploited in prostitution, she shall suffer the penalty of prision correccional in its maximum period.

(f) When the offender is a foreigner, he shall be deported immediately after service of sentence and permanently barred from entry into the country.

(g) Any person found guilty of an attempt to commit child prostitution shall suffer the penalty of prision correccional in its minimum period, without prejudice to the filing of other criminal charges under other applicable laws: Provided, however, in cases falling under Section 5, paragraph (b), the owner and operator or manager, or the directors and officers of the establishment shall suffer the penalty prescribed.

(h) Persons exploited in prostitution shall not suffer any criminal liability under this Act.

SEC. 8. *Applicability of Republic Act no. 7309 and Republic Act No. 6981.* - Persons exploited in prostitution shall be covered by the Witness Protection Security and Benefit Act, or Republic Act No. 6981. They may also file claims under Republic Act No. 7309, persons exploited in prostitution shall be deemed victims of violent crimes under Section 3, paragraph (d) thereof.

SEC 9. *Responsibility of the Local Government Units in Anti-Prostitution Efforts.* - Local Government Units shall exercise their powers to curb prostitution within their respective jurisdictions. Their responsibility shall include conducting public information campaign against prostitution.

Local Government Units may employ elements of the National Bureau of Investigation or the Philippine National Police as provided for under Republic Act No. 6975, as amended by Republic Act No. 8551.

The National Government Units shall ensure local government units conscientiously engaged in anti-prostitution activities, provide support for the same, and intervene when necessary.

The NBI and the PNP shall continuously conduct surveillance and monitor establishments to prevent prostitution. They shall promptly investigate any establishment suspected to be engaged in activities constituting prostitution under section 4 of this Act and shall take appropriate measures, in coordination with the local government agencies, for the speedy prosecution of the offenders.

The Department of Tourism (DOT) shall undertake corrective and enforcement measures to stop activities in tourism constituting, promoting or facilitating prostitution.

SEC 10. *Liability of Officials and employees of the Local Government Units.* -The officials and employees of the local government units shall be liable for damages to persons exploited in prostitution when it is proven that the responsible authorities had knowledge or were informed of the activities constituting prostitution but did not take proper action within a reasonable period of time.

The responsible authorities shall be deemed to have knowledge of the prostitution activities when the same are common knowledge in the community.

SEC 11. *Entrapment Prohibited.* - Law enforcers shall not use entrapment as a method in law enforcement activities when the same will involve the use of the sexual services of any victim of prostitution. A law enforcement officer who resorts to this method shall be punished under Section 4(a) of this Act.

SEC 12. *Social Services and Programs.* - A National Anti-Prostitution Task force composed of the Department of Social Welfare and Development as lead agency, the National Commission on the Role of Filipino Women, the Department of Labor and Employment, the TESDA, the Department of Health, the Department of the Interior and Local Government, the Department of Justice, **the Department of Education Culture and**

Sports, the Department of Tourism, the National Bureau of Investigation, the Philippine National Police, and a non-government organization (NGO) selected by NGOs providing support services to victims of prostitution, shall perform the following functions:

(a) develop a program addressing prostitution and the needs of persons exploited in prostitution and those vulnerable to be exploited in prostitution. The program shall include public information and education campaign against prostitution, crisis intervention services and socio-economic assistance, such as sustainable livelihood skills training and financial support for small-scale business, among others;

(b) identify and, if necessary, create centers in strategic places all over the Philippines that will provide health services, including counseling and therapy, temporary shelter and other crisis intervention services to persons exploited in prostitution. The rape crisis centers established under Republic Act No. 8505 and the hospital-based protection units for women and children may also serve as centers servicing persons exploited in prostitution. Each center shall establish a network of health care and other service providers to address the needs of persons exploited in prostitution;

(c) ensure that units are created or identified within relevant government agencies, particularly those composing the Task Force, that shall focus on addressing prostitution and the needs of persons exploited in prostitution. This shall include units within the National Prosecution Service Offices in local government units that shall specifically focus on the prosecution of offenders under this Act;

(d) ensure that relevant government agencies work in close coordination with each other in addressing prostitution and the needs of persons exploited in prostitution;

(e) develop and implement a training program for law enforcers, public prosecutors, judges, government lawyers, government health care providers, social workers and barangay officials that aims to increase their understanding of prostitution as a system, and equip them with the perspective and skills to appropriately address the needs of persons

exploited in prostitution, respect, protect and promote their human rights, and pursue the prosecution of offenders;

(f) ensure that local counterparts of the Task Force are created in every municipality, city and province; and

(g) promulgate, when necessary, rules and regulations for the effective implementation and enforcement of this Act.

SEC 13. *Appropriations.* - The amount necessary to carry out the provisions of this Act is hereby authorized to be appropriated in the General Appropriations Act of the year following the enactment of this law and every year thereafter.

SEC 14. *Repealing Clause.* - Article 202 and 341 of the Revised Penal Code are hereby repealed. Article III, Section 5 and 6 of Republic Act No. 7610 and all other laws, decrees, ordinances and rules inconsistent with the provisions of this act are hereby modified or repealed accordingly.

SEC 15. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby, shall continue in full force and effect.

SEC 16. *Effectivity Clause.* - This Act shall take effect upon completion of its publication in at least two (2) national newspapers of general circulation.

Approved