

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

FIFTEENTH CONGRESS

House Bill No. 681

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Introduced by Honorable Maria Isabelle G. Climaco

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**EXPLANATORY NOTE**

One of the pressing social issues our country faces today is the sexual exploitation of children, including child prostitution. Because of their mental, physical and emotional immaturity, children are most especially vulnerable to exploitation, abuse and coercion. Underlying social malaise, such as poverty, only serve to exacerbate the situation that lead to the sexual exploitation of children.

Article 34 of the Convention of the Rights of the Child provides that:

“State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement of coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.”

A child, under the Convention, is defined as “every human being below the age of eighteen years”.

Under the constitutional law doctrine of *parens patriae*, the State must afford special protection to children from abuse, exploitation and other conditions prejudicial to their development. It is mandated to provide protection to those of tender years.

In order to afford ample protection to our children from predators who wish to take advantage of their vulnerability innocence, and effectively battle the sexual exploitation of our children, there is an urgent need to adjust the minimum age of sexual consent and align the same with the internationally-acceptable level.

In view of the foregoing, there is a pressing and immediate need to amend Article 266-A of the Revised Penal Code (Act No. 3815) defining the crime of Rape, in order to raise the age of statutory rape from the present twelve (12) years old to sixteen (16) years old, in order to align our laws with the internationally-accepted standard age of consent, as well as the imposable penalties to levels commensurate with the crime committed as provided in Article 266-B for child victims.

The support of my colleagues to this bill will send a strong message to our people and to the International Community, that we will not sit idly while the sexual exploitation of our children continue unabatedly.

  
HON. MARIA ISABELLE G. CLIMACO

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**AN ACT**  
**MODIFYING THE DEFINITION OF THE CRIME OF RAPE INVOLVING**  
**MINOR CHILDREN AND RATIONALIZING THE PENALTIES THEREFOR,**  
**AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE**  
**KNOWN AS 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-Child Exploitation Law of 2010.”

**Section 2.** The age of the offended female person in the crime of statutory rape provided under Article 266-A paragraph 1(d) of Act No. 3815, as amended, otherwise known as the Revised Penal Code, shall be accordingly modified and increased and the penalties to be imposed on the offender shall be rationalized depending on the actual age of the offended party/rape victim. Accordingly, Chapter Three, Title Eight, Article 266-A of the said Code as hereby amended shall read as follows:

“Chapter Three  
“Rape

“Article 266-A. Rape: *When and How Committed.* Rape is committed:

“1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

“a) Through force, threat, or intimidation;

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

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

“d) When the offended party is under sixteen (16) [twelve (12)] years of age or is demented, even though none of the circumstances mentioned above be present.

**No rape is committed if the man who shall have carnal knowledge with a woman under sixteen (16) years of age is himself below eighteen (18) years of age, unless any of the other circumstances mentioned above is present.**

**No rape is committed if the man is a Muslim who shall have carnal knowledge with a Muslim woman with whom he has contracted a valid marriage under the provisions of Presidential Decree 1083.**

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

“Article 266-B. *Penalty.* – Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

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

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

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

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

“The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances.

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

“2) When the victim under the custody of the police or military authorities or any law enforcement or penal institution;

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

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

"5) When the victim is a child below **twelve (12)** [seven (7)] years old;

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

"7) When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime;

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

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

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

"Rape under paragraph 2 of the next preceding article shall be punished by prision mayor

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

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

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

"When the rape is attempted and a homicide is committed by reason or on the occasion therefore, the penalty shall be reclusion temporal to reclusion perpetua.

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

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

**Section 3.** To ensure harmony with the foregoing amendments, Chapter Three, Title Eleven, Articles 337 and 338 of Act 3815, as amended, are hereby amended to read as follows:

"Chapter Three  
"Seduction, Corruption of Minors, and White Slave Trade

"Article 337. Qualified Seduction. – The seduction of a female person of at least sixteen (16) but (virgin over twelve years and) under eighteen years of age, committed by any person in public authority, priest, home-servant, domestic, guardian, teacher, or any person who, in any capacity, shall be entrusted with the education or custody of the woman seduced, shall be punished by prision mayor (prision correctional) in its minimum and medium periods.

The Penalty next higher in degree shall be imposed upon any person who shall seduce his sister or descendant (whether or not she is a virgin or over eighteen years of age).

Under the provisions of this Chapter, seduction is committed when the offender has carnal knowledge of any of the persons and under the circumstances described herein.

Article 338. Simple Seduction. – The seduction of a female person (woman who is single or a widow of good reputation), **at least sixteen (16)** (over twelve) but under eighteen years of age, committed by means of deceit, shall be punished by prision correctional (arresto mayor)."

**Section 4. Separability Clause.**– If any part or provision of this Act is declared invalid or unconstitutional, the other parts thereof not affected thereby shall remain valid.

**Section 5. Repealing Clause.** – Articles 226-A, 266-B, 337, and 338 of Act No. 3815, as amended, and all laws, acts presidential decrees, executive orders, administrative orders, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly.

**Section 6. Effectivity.** – This Act shall take effect fifteen (15) days after completion of its publication in two (2) newspapers of general circulation.

Approved: \_\_\_\_\_