

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

15TH CONGRESS
First Regular Session

HOUSE BILL NO. 3049

Introduced by **REP. SALVADOR H. ESCUDERO III**

EXPLANATORY NOTE

Pursuant to the obligation of the Philippines under the Convention on the Rights of the Child, this bill amends the provision of the Penal Code by raising the minimum age of consent to determine statutory rape to below 16 years of age. In this regard, it amends or repeals the other provisions of the Penal Code, as well as special laws with the attempt to address the disparity in the treatment of those persons who are below twelve (12) years old and those twelve (12) years but below 18 years of age.

A comparative observation of other countries' laws around the world shows that the Philippines has one of the lowest minimum age for determining statutory rape.

This bill also seeks to rationalize the penalties for rape, qualified seduction and simple seduction.


SALVADOR H. ESCUDERO III
Representative
1st District, Sorsogon

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HOUSE BILL NO. 3049

Introduced by **REP. SALVADOR H. ESCUDERO III**

AN ACT
MODIFYING THE DEFINITION OF THE CRIMES OF RAPE, QUALIFIED SEDUCTION AND SIMPLE SEDUCTION INVOLVING MINOR CHILDREN AND RATIONALIZING THE PENALTIES THEREFOR, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE

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 Law on Rape, Qualified Seduction and Simple Seduction of 2009."*

SEC. 2. Article 266-A of Act No. 3815, otherwise known as the Revised Penal Code, as amended, is hereby amended to read as follows:

"ART. 266-A. Rape, When and how Committed. -- Rape is committed

1. By a **MALE PERSON** [man] who shall have carnal knowledge of a **FEMALE PERSON** [woman] under any of the following circumstances:

- a. Through force, threat or intimidation;
- b. When the offended party is deprived of reason or is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority; and
- d. When the offended party is under [twelve (12)] **OR SIXTEEN (16)** years of age or is demented, even though none of the circumstances mentioned above be present.

NO RAPE IS COMMITTED IF THE MALE PERSON WHO SHALL HAVE CARNAL KNOWLEDGE OF A FEMALE PERSON UNDER OR SIXTEEN (16) YEARS OF AGE IS HIMSELF BELOW EIGHTEEN (18) YEARS OF AGE, UNLESS ANY OF THE OTHER CIRCUMSTANCES MENTIONED ABOVE IS PRESENT; PROVIDED, THAT THIS PROVISION IS WITHOUT PREJUDICE TO THE OPERATION OF SECTION 6 OF REPUBLIC ACT NO. 9344.

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."

SEC. 3. Article 266-B of Act No. 3815, otherwise known as the Revised Penal Code, as amended, is hereby amended to read as follows:

"ART. 266-B. Penalties. -- 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 is 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 [seven (7)] **TWELVE (12)** 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 of 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 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 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 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 by any of the ten aggravating/qualifying circumstances mentioned in this article."

SEC. 4. Article 337 of Act No. 3815, otherwise known as the Revised Penal Code, as amended, is hereby amended to read as follows:

“ART. 337. Qualified Seduction. - The seduction of a **FEMALE PERSON WHO IS A** virgin over [twelve] **SIXTEEN** 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 **FEMALE PERSON** [woman] seduced, shall be punished by [prison correccional] **PRISION MAYOR** in its minimum and medium periods.

The penalty next higher in degree shall be imposed upon any person who shall seduce his sister or **FEMALE** descendant whether or not she be 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.”

SEC. 5. Article 338 of Act No. 3815 otherwise known as the Revised Penal Code, as amended, is hereby amended to read as follows:

“ART. 338. *Simple Seduction.* -- The seduction of a **FEMALE PERSON** [woman] who is single or a widow of good reputation, over [twelve (12)] **SIXTEEN (16)** but under eighteen years of age, committed by means of deceit, shall be punished by [*arresto mayor*] **PRISION CORRECCIONAL.**”

SEC. 6. *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.

SEC. 7. *Repealing Clause.* -Articles 266-A, 266-B, 337, and 338 of Act No. 3815, otherwise known as the Revised Penal Code as amended; Section 5(b) and Section 10, penultimate paragraph of Republic Act No. 7610 otherwise known as the Special Protection of Children Against Abuse, Exploitation and Discrimination Act; 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.

SEC. 8. *Effectivity.* - This Act shall take effect fifteen (15) days after completion of its publication in the Official Gazette or at least in two (2) newspapers of general circulation.

Approved,