

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session



HOUSE OF REPRESENTATIVES
H.B. No. **5943**

Introduced by Representative H. Harry L. Roque Jr.

AN ACT
TO PROVIDE FOR THE ANALYSIS OF THE INCIDENCE AND EFFECTS OF
SEXUAL ABUSE IN DETENTION AND TO PROVIDE INFORMATION,
RESOURCES, RECOMMENDATIONS, FUNDING, AND PUNISHMENT TO
PROTECT INDIVIDUALS FROM SEXUAL ABUSE IN DETENTION

EXPLANATORY NOTE

The Constitution, Article 2, Section 11, provides that:

The State values the dignity of every human person and
guarantees full respect for human rights.

Men and women are raped and sexually brutalized in prisons throughout the country. Once subjected to sexual abuse, through violence or intimidation, a prisoner is easily trapped into a sexually subordinate role. Prisoners refer to the initial rape as "turning out" the victim, and the suggestion of transformation is telling. Through the act of rape, the victim is redefined as an object of sexual abuse. A prisoner has been proven weak and vulnerable in the eyes of other inmates.

Prisoners who are unable to escape a situation of sexual abuse may find themselves becoming another inmate's "property." Victims of sexual abuse, in the

most extreme cases, are literally the slaves of the perpetrators. Forced to satisfy another person's sexual appetites whenever demanded of the victim, the victim may also be responsible for washing clothes, giving massages, cooking food, cleaning cells, and other chores. The victims are frequently "rented out" for sex, sold, or even auctioned off to other inmates, replicating the financial aspects of traditional slavery.

Sexual abuse is a serious human rights abuse that derails justice and destroys human dignity. This bill seeks to provide for the analysis of the incidence and effects of Sexual abuse and to provide information, resources, recommendations, and punishment to protect individuals from sexual abuse.¹



H. HARRY L. ROQUE JR.

¹ This bill was originally filed by Senator Miriam Defensor Santiago during the Sixteenth Congress, Third Regular Session.

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

1 SECTION 1. *Short Title.* - This Act shall be known as the "Sexual Abuse in
2 Detention Elimination Act."

3 SECTION 2. *Declaration of Policy.* - It is the policy of state to value the
4 dignity of every human person and guarantee full respect for human rights.

5 SECTION 3. *Definition of Terms.* - As used in this Act, the term:

6 (A) "Inmate" or "prisoner" means any person incarcerated or detained in any
7 facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for,
8 violations of criminal law or the terms and conditions of parole, probation, pretrial
9 release, or diversionary program.

10 (B) "Jail" means a confinement facility of national, city, provincial, and
11 municipal, or local law enforcement agency to hold -

1 (1) persons pending adjudication of criminal charges; or

2 (2) persons committed to confinement after adjudication of criminal
3 charges for sentences of one (1) year or less.

4 (F) "Office" refers to the National Statistics Office

5 (G) "Panel" refers to the Review Panel on Sexual Abuse in Detention

6 (C) "Police lockup" means a temporary holding facility of national, city,
7 provincial, and municipal, or local law enforcement agency to hold -

8 (1) inmates pending bail or transport to jail;

9 (2) inebriates until ready for release; or

10 (3) juveniles pending parental custody.

11 (D) "Prison" means any national, city, provincial or municipal confinement
12 facility, whether administered by such government or by a private organization on
13 behalf of such government, and includes -

14 (1) any local jail or police lockup; and

15 (2) any juvenile facility used for the custody or care of juvenile inmates.

16 (E) "Prosecutor" refers to the Chief State Prosecutor

17 (F) "Sexual Abuse in Detention" refers to the rape, as defined in Article 266-A
18 of the Revised Penal Code and acts of lasciviousness, as defined in Article 336 of the
19 Revised Penal Code, of an inmate in the actual or constructive control of prison
20 officials.

21 SECTION 4. *Purposes.* - The purposes of this Act are as follows:

22 (A) To establish a zero-tolerance standard for the incidence of Sexual Abuse in
23 Detention in prisons in the Philippines;

1 (B) To make the prevention of Sexual Abuse in Detention a top priority in each
2 prison system;

3 (C) To develop and implement national standards for the detection, prevention,
4 reduction, and punishment of Sexual Abuse in Detention;

5 (D) To increase the available data and information on the incidence of Sexual
6 Abuse in Detention, consequently improving the management and administration of
7 correctional facilities;

8 (E) To standardize the definitions used for collecting data on the incidence of
9 Sexual Abuse in Detention;

10 (F) To increase the accountability of prison officials who fail to detect, prevent,
11 reduce, or punish Sexual Abuse in Detention.

12 SECTION 5. *Annual Comprehensive Statistical Review.* -

13 (A) IN GENERAL. - The National Statistics Office shall carry out, for each
14 calendar year, a comprehensive statistical review and analysis of the incidence and
15 effects of Sexual Abuse in Detention. The statistical review and analysis shall include,
16 but shall not be limited to the identification of the common characteristics of -

17 (1) both victims and perpetrators of Sexual Abuse in Detention; and

18 (2) prisons and prison systems with a high incidence of Sexual Abuse in
19 Detention.

20 (B) CONSIDERATIONS. - In carrying out paragraph (A), the Office shall
21 consider-

22 (1) how the Office should collect information about staff-on-inmate
23 sexual assault;

- (2) how the Office should collect information beyond inmate self - reports of Sexual Abuse in Detention;
- (3) how the Office should adjust the data in order to account for differences among prisons;
- (4) the categorization of prisons;
- (5) whether a preliminary study of Sexual Abuse in Detention should be conducted to inform the methodology of the comprehensive statistical review.

(C) SOLICITATION OF VIEWS. - The Office shall solicit views from representatives of the following: Bureau of Correction, National Bilibid Prisons, Women's Correctional, and Municipal jails; the Bureau of Jail Management and Penology; Department of Social Welfare and Development; former inmates; victim advocates; researchers; and other experts in the area of sexual assault.

(D) SAMPLING TECHNIQUES. - The review and analysis under paragraph (A) shall be based on a random sample, or other scientifically appropriate sample, of not less than ten percent (10%) of National Bilibid Prisons, Women's Correctional, City jails, provincial and municipal prisons, and juvenile facilities. The selection shall include at least one prison from each city or province. The selection of facilities for sampling shall be made at the latest practicable date prior to conducting the surveys and shall not be disclosed to any facility or prison system official prior to the time period studied in the survey. Selection of a facility for sampling during any year shall not preclude its selection for sampling in any subsequent year.

1 (E) SURVEYS. - In carrying out the review and analysis under paragraph (A),
2 the
3 Office shall, in addition to such other methods as the Office considers appropriate, use
4 surveys and other statistical studies of current and former inmates from a sample of
5 national, provincial and municipal prisons, city jails and juvenile facilities. The Office
6 shall ensure the confidentiality of each survey participant.

7 (F) PARTICIPATION IN SURVEYS.—National, provincial, municipal and
8 city officials or facility administrators who receive a request from the Office under
9 paragraph (D) or (E) will be required to participate in the national survey and to
10 provide access to any inmate in their custody.

11 SECTION 6. *Review Panel on Sexual Abuse in Detention.* -

12 (A) ESTABLISHMENT. - There will be a Panel, established within the
13 Department of Justice, to assist the Office in carrying out the review and analysis
14 under Section 5 paragraph A.

15 (B) MEMBERSHIP. -

16 (1) Composition. - The Panel shall be composed of three members, each
17 of whom shall be appointed by the Secretary of Justice, in consultation
18 with the Secretary of Health and the Secretary of Social Welfare and
19 Development.

20 (2) Qualifications. - Members of the Panel shall be selected from among
21 individuals with knowledge or expertise in matters to be studied by the
22 Panel.

23 (C) PUBLIC HEARINGS. -

1 (1) IN GENERAL. - The duty of the Panel shall be to carry out, for each
2 calendar year, public hearings concerning the operation of the three
3 national, provincial and municipal prisons with the highest incidence of
4 Sexual Abuse in Detention and the two prisons with the lowest
5 incidence of Sexual Abuse in Detention. The Panel shall hold a separate
6 hearing regarding the three jails, police lockups and juvenile facilities
7 with the highest incidence of Sexual Abuse in Detention. The purpose of
8 these hearings shall be to collect evidence to aid in the identification of
9 common characteristics of both victims and perpetrators of Sexual
10 Abuse in Detention, and the identification of common characteristics of
11 prisons and prison systems with a high incidence of Sexual Abuse in
12 Detention, and the identification of common characteristics of prisons
13 and prison systems that appear to have been successful in deterring
14 Sexual Abuse in Detention.

15 (2) Testimony at hearings. -

16 (a) Public officials. - In carrying out the hearings required under
17 subparagraph (C), the Panel shall request the public testimony of
18 national, city, provincial and local officials, including the warden
19 or director of each prison, who bears responsibility for the
20 prevention, detection, and punishment of Sexual Abuse in
21 Detention at each entity, and the head of the prison system
22 encompassing such prison.

1 (b) Victims. - The Panel may request the testimony of Sexual
2 Abuse in Detention victims, organizations representing such
3 victims, and other appropriate individuals and organizations.

4 (3) Subpoenas. -

5 (a) Issuance. - The Panel may issue subpoenas for the attendance
6 of witnesses and the production of documents or other matters.

7 (b) Enforcement. - In the case of contumacy or refusal to obey a
8 subpoena, the Secretary of Justice may in a court of appropriate
9 jurisdiction obtain an appropriate order to enforce the subpoena.

10 (D) REPORTS.-

11 (1) Deadline. - Not later than June 30 of each year, the Secretary of
12 Justice shall submit a report on the activities of the Office and the Panel,
13 with respect to Sexual Abuse in Detention, for the preceding calendar
14 year to -

15 (a) Congress;

16 (b) Secretary of Health and

17 (c) Secretary of Social Welfare and Development

18 (2) Contents.--The report required under paragraph (A) shall include-

19 (a) with respect to the effects of Sexual Abuse in Detention,
20 statistical, sociological, and psychological data;

21 (b) with respect to the incidence of Sexual Abuse in Detention-

1 (i) statistical data aggregated for the national, city,
2 provincial, municipal and juvenile prison systems, and the
3 levels of sexual abuse at individual prisons;
4 (ii) a listing of those institutions in the representative
5 sample, separated into each category identified under
6 paragraph (F) and ranked according to the incidence of
7 Sexual Abuse in Detention in each institution; and
8 (iii) an identification of those institutions in the
9 representative sample that appear to have been successful
10 in deterring Sexual Abuse in Detention; and
11 (iv) a listing of any prisons in the representative sample
12 that did not cooperate with the survey conducted pursuant
13 to Section 5.

14 (E) DATA ADJUSTMENTS. - In preparing the information specified in
15 paragraph (D), the Office shall use established statistical methods to adjust the data as
16 necessary to account for differences among institutions in the representative sample,
17 which are not related to the detection, prevention, reduction and punishment of Sexual
18 Abuse in Detention, or which are outside the control of the jurisdiction, prison, or
19 prison system, in order to provide an accurate comparison among prisons. Such
20 differences may include the mission, security level, size, and jurisdiction under which
21 the prison operates. For each such adjustment made, the Attorney General shall
22 identify and explain such adjustment in the report.

1 (F) CATEGORIZATION OF PRISONS. - The report shall divide the prisons
2 surveyed into three categories. One category shall be composed of all national and
3 local prisons. The other two categories shall be defined by the Prosecutor in order to
4 compare similar institutions.

5 (G) Contracts and Grants.--In carrying out its duties under this section, the
6 Prosecutor may--

- 7 (a) provide grants for research through the Department of Justice;
8 (b) contract with or provide grants to any other entity the Prosecutor
9 deems appropriate.

10 SECTION 7. *Sexual Abuse in Detention Prevention and Prosecution* -

11 (A) INFORMATION AND ASSISTANCE. -

12 (1) National clearinghouse. - There will be a National Clearinghouse
13 established within the National Bilibid Prisons and Women's
14 Correctional for the provision of information and assistance to local
15 authorities responsible for the prevention, investigation, and punishment
16 of instances of Sexual Abuse in Detention.

17 (2) Training and education. - The National Bilibid Prisons and Women's
18 Correctional shall conduct periodic training and education programs for
19 national, city, provincial and local authorities responsible for the
20 prevention, investigation, and punishment of instances of Sexual Abuse
21 in Detention.

22 (B) REPORTS. -

1 (1) IN GENERAL. -Not later than September 30 of each year, the
2 National Bilibid Prisons and Women's Correctional shall submit a
3 report to Congress and the Secretary of Health. This report shall be
4 available to the Director of the Office.

5 (2) CONTENTS. - The report required under paragraph (A) shall
6 summarize the activities of the Department of Justice regarding Sexual
7 Abuse in Detention abatement for the preceding calendar year.

8 (C) PENALTY. - The sentence imposed upon convicted offenders of Sexual
9 Abuse in Detention shall be one degree higher than those prescribed under the
10 Revised Penal Code for rape or acts of lasciviousness, as applicable.

11 SECTION 8. *Grants to Protect Inmates and Safeguard Communities* -

12 (A) GRANTS AUTHORIZED. - From amounts made available for grants
13 under this section, the Prosecutor shall make grants to assist national, city, provincial,
14 and municipal authorities in ensuring that budgetary circumstances (such as reduced
15 national and local spending on prisons) do not compromise efforts to protect inmates
16 (particularly from Sexual Abuse in Detention) and to safeguard the communities to
17 which inmates return. The purpose of grants under this section shall be to provide
18 funds for personnel, training, technical assistance, data collection, and equipment to
19 prevent and prosecute prisoner rape.

20 (B) USE OF GRANT AMOUNTS. - Amounts received by a grantee under this
21 section may be used by the grantee, directly or through sub-grants, only for one or
22 more of the following activities:

23 (1) Protecting inmates.--Protecting inmates by-

1 (a) undertaking efforts to more effectively prevent Sexual Abuse
2 in Detention;

3 (b) investigating incidents of Sexual Abuse in Detention; or

4 (c) prosecuting incidents of Sexual Abuse in Detention.

5 (2) Safeguarding communities.--Safeguarding communities by-

6 (a) making available, to officials of national and local
7 governments who are considering reductions to prison budgets,
8 training and technical assistance in successful methods for
9 moderating the growth of prison populations without
10 compromising public safety, including successful methods used
11 by other jurisdictions;

12 (b) developing and utilizing analyses of prison populations and
13 risk assessment instruments that will improve national and local
14 governments' understanding of risks to the community regarding
15 release of inmates in the prison population;

16 (c) preparing maps demonstrating the concentration, on a
17 community-by community basis, of inmates who have been
18 released, to facilitate the efficient and effective -

19 (i) deployment of law enforcement resources (including
20 probation and parole resources); and

21 (ii) delivery of services (such as job training and substance
22 abuse treatment) to those released inmates;

1 (d) promoting collaborative efforts, among officials of national
2 and local governments and leaders of appropriate communities,
3 to understand and address the effects on a community of the
4 presence of a disproportionate number of released inmates in that
5 community; or

6 (e) developing policies and programs that reduce spending on
7 prisons by effectively reducing rates of parole and probation
8 revocation without compromising public safety.

9 (C) GRANT REQUIREMENTS. -

10 (1) Period. - A grant under this section shall be made for a period of not
11 more than two years.

12 (2) Amount. - The amount of a grant under this Section shall be
13 appropriated from the National Treasury.

14 (3) Matching. - The National share of a grant under this section should
15 not exceed fifty percent (50%) of the total costs of the project described
16 in the application submitted under paragraph (D) for the fiscal year for
17 which the grant was made under this section.

18 (D) APPLICATIONS. -

19 (1) IN GENERAL. - To request a grant under this section, the chief
20 executive of a national, city, provincial, or municipal government
21 agency shall submit an application to the Prosecutor at such time, in
22 such manner, and accompanied by such information as the Prosecutor
23 may require.

1 (2) CONTENTS. - Each application required by paragraph (A) shall-

2 (a) include the certification of the chief executive that the
3 jurisdiction receiving such grant-

4 (i) has adopted all national Sexual Abuse in Detention
5 standards that, as of the date on which the application was
6 submitted, have been promulgated under this Act; and

7 (ii) will consider adopting all national Sexual Abuse in
8 Detention standards that are promulgated under this Act
9 after such date;

10 (b) specify with particularity the preventative, prosecutorial, or
11 administrative activities to be undertaken by the jurisdiction with
12 the amounts received under the grant; and

13 (c) in the case of an application for a grant for one or more
14 activities specified in subsection (2) of paragraph (B), review the
15 extent of the budgetary circumstances affecting the jurisdiction
16 generally; describe the rate of growth of the national, city,
17 provincial, or municipal prison population over the preceding 10
18 years and explain why the jurisdiction may have difficulty
19 sustaining that rate of growth; and explain the extent to which
20 officials (including law enforcement officials) of national and
21 local governments and victims of crime will be consulted
22 regarding decisions whether, or how, to moderate the growth of
23 the national, city, provincial or municipal prison population.

1 (E) REPORTS BY GRANTEE. -

2 (1) IN GENERAL. - The Prosecutor shall require each grantee to
3 submit, not later than ninety (90) days after the end of the period for
4 which the grant was made under this Section, a report on the activities
5 carried out under the grant. The report shall identify and describe those
6 activities and shall contain an evaluation of the effect of those activities
7 on-

8 (a) the number of incidents of Sexual Abuse in Detention, and the
9 grantee's response to such incidents; and

10 (b) the safety of the prisons, and the safety of the communities in
11 which released inmates are present.

12 (2) Dissemination. - The Prosecutor shall ensure that each report
13 submitted under paragraph (1) is made available under the national
14 clearinghouse established under Section 7.

15 SECTION 9. *National Sexual Abuse in Detention Elimination Commission*

16 (A) ESTABLISHMENT.—There is established a commission to be known as
17 the National Sexual Abuse in Detention Elimination Commission (in this section
18 referred to as the “Commission”).

19 (B) MEMBERS.—

20 (1) IN GENERAL.—The Commission shall be composed of nine
21 members, of whom—

22 (a) three shall be appointed by the President;

1 (b) two shall be appointed by the Speaker of the House of
2 Representatives, unless the Speaker is of the same party as the
3 President, in which case 1 shall be appointed by the Speaker of
4 the House of Representatives and 1 shall be appointed by the
5 minority leader of the House of Representatives;

6 (c) one shall be appointed by the minority leader of the House of
7 Representatives (in addition to any appointment made under
8 subparagraph (B));

9 (d) two shall be appointed by the majority leader of the Senate,
10 unless the majority leader is of the same party as the President, in
11 which case one shall be appointed by the majority leader of the
12 Senate and one shall be appointed by the minority leader of the
13 Senate; and

14 (e) one member appointed by the minority leader of the Senate
15 (in addition to any appointment made under subparagraph (D)).

16 (2) PERSONS ELIGIBLE.—Each member of the Commission shall be
17 an individual who has knowledge or expertise in matters to be studied
18 by the Commission.

19 (3) CONSULTATION REQUIRED.—The President, the Speaker and
20 minority leader of the House of Representatives, and the majority leader
21 and minority leader of the Senate shall consult with one another prior to
22 the appointment of the members of the Commission to achieve, to the
23 maximum extent possible, fair and equitable representation of various

1 points of view with respect to the matters to be studied by the
2 Commission.

3 (4) TERM.—Each member shall be appointed for the life of the
4 Commission.

5 (5) TIME FOR INITIAL APPOINTMENTS.—The appointment of the
6 members shall be made not later than 60 days after the date of
7 enactment of this Act.

8 (6) VACANCIES.—A vacancy in the Commission shall be filled in the
9 manner in which the original appointment was made, and shall be made
10 not later than 60 days after the date on which the vacancy occurred.

11 (C) OPERATION.—

12 (1) CHAIRPERSON.—Not later than 15 days after appointments of all
13 the members are made, the President shall appoint a chairperson for the
14 Commission from among its members.

15 (2) MEETINGS.—The Commission shall meet at the call of the
16 chairperson. The initial meeting of the Commission shall take place not
17 later than 30 days after the initial appointment of the members is
18 completed.

19 (3) QUORUM.—A majority of the members of the Commission shall
20 constitute a quorum to conduct business, but the Commission may
21 establish a lesser quorum for conducting hearings scheduled by the
22 Commission.

1 (4) RULES.—The Commission may establish by majority vote any
2 other rules for the conduct of Commission business, if such rules are not
3 inconsistent with this Act or other applicable law.

4 (D) COMPREHENSIVE STUDY OF THE IMPACTS OF SEXUAL ABUSE
5 IN DETENTION.—

6 (1) IN GENERAL.—The Commission shall carry out a comprehensive
7 legal and factual study of the penalogical, physical, mental, medical,
8 social, and economic impacts of Sexual Abuse in Detention in the
9 Philippines on—

10 (a) National, provincial and local governments; and

11 (b) communities and social institutions generally, including
12 individuals, families, and businesses within such communities
13 and social institutions.

14 (2) MATTERS INCLUDED.—The study under paragraph (1) shall
15 include—

16 (a) a review of existing national, provincial and local government
17 policies and practices with respect to the prevention, detection,
18 and punishment of Sexual Abuse in Detention;

19 (b) an assessment of the relationship between Sexual Abuse in
20 Detention and prison conditions, and of existing monitoring,
21 regulatory, and enforcement practices that are intended to address
22 any such relationship;

1 (c) an assessment of pathological or social causes of Sexual
2 Abuse in Detention;

3 (d) an assessment of the extent to which the incidence of Sexual
4 Abuse in Detention contributes to the spread of sexually
5 transmitted diseases and to the transmission of HIV;

6 (e) an assessment of the characteristics of inmates most likely to
7 commit Sexual Abuse in Detention and the effectiveness of
8 various types of treatment or programs to reduce such likelihood;

9 (f) an assessment of the characteristics of inmates most likely to
10 be victims of Sexual Abuse in Detention and the effectiveness of
11 various types of treatment or programs to reduce such likelihood;

12 (g) an assessment of the impacts of Sexual Abuse in Detention on
13 individuals, families, social institutions and the economy
14 generally, including an assessment of the extent to which the
15 incidence of Sexual Abuse in Detention contributes to recidivism
16 and to increased incidence of sexual assault;

17 (h) an examination of the feasibility and cost of conducting
18 surveillance, undercover activities, or both, to reduce the
19 incidence of Sexual Abuse in Detention;

20 (i) an assessment of the safety and security of prison facilities and
21 the relationship of prison facility construction and design to the
22 incidence of Sexual Abuse in Detention;

1 (j) an assessment of the feasibility and cost of any particular
2 proposals for prison reform;

3 (k) an identification of the need for additional scientific and
4 social science research on the prevalence of Sexual Abuse in
5 Detention in national, provincial, and local prisons;

6 (l) an assessment of the general relationship between Sexual
7 Abuse in Detention and prison violence;

8 (m) an assessment of the relationship between Sexual Abuse in
9 Detention and levels of training, supervision, and discipline of
10 prison staff; and

11 (n) an assessment of existing national and provincial systems for
12 reporting incidents of Sexual Abuse in Detention, including an
13 assessment of whether existing systems provide an adequate
14 assurance of confidentiality, impartiality and the absence of
15 reprisal.

16 (3) REPORT.—

17 (a) DISTRIBUTION.—Not later than one year after the date of
18 the initial meeting of the Commission, the Commission shall
19 submit a report on the study carried out under this subsection
20 to—

21 (i) the President;

22 (ii) the Congress;

23 (iii) the Secretary of Justice;

- 1 (iv) the Health Secretary;
- 2 (v) the Director of the Bureau of Corrections;
- 3 (vi) the Director of the Bureau of Jail Management and
- 4 Penology;
- 5 (vii) the Department of Social Welfare and Development;
- 6 (viii) the Governor of each province; and
- 7 (ix) the Director of the Jail Division of each province.

8 (b) CONTENTS.—The report under subparagraph (A) shall include—

- 9 (i) the findings and conclusions of the Commission;
- 10 (ii) recommended national standards for reducing Sexual
- 11 Abuse in Detention;
- 12 (iii) recommended protocols for preserving evidence and
- 13 treating victims of Sexual Abuse in Detention; and
- 14 (iv) a summary of the materials relied on by the
- 15 Commission in the preparation of the report.

16 (E) RECOMMENDATIONS.—

17 (1) IN GENERAL.—In conjunction with the report submitted under

18 subsection (d)(3), the Commission shall provide the Director of Justice

19 and the Health Secretary with national standards for enhancing the

20 detection, prevention, reduction, and punishment of Sexual Abuse in

21 Detention.

1 (2) MATTERS INCLUDED.—The information provided under
2 paragraph (1) shall include recommended national standards relating
3 to—

4 (a) the classification and assignment of prisoners, using proven
5 standardized instruments and protocols, in a manner that limits
6 the occurrence of Sexual Abuse in Detention;

7 (b) the investigation and resolution of rape complaints by
8 responsible prison authorities, the Philippine National Police, and
9 national and provincial prosecution authorities;

10 (c) the preservation of physical and testimonial evidence for use
11 in an investigation of the circumstances relating to the rape;

12 (d) acute-term trauma care for rape victims, including standards
13 relating to—

14 (i) the manner and extent of physical examination and
15 treatment to be provided to any rape victim; and

16 (ii) the manner and extent of any psychological
17 examination, psychiatric care, medication, and mental health
18 counseling to be provided to any rape victim;

19 (e) referrals for long-term continuity of care for rape victims;

20 (f) educational and medical testing measures for reducing the
21 incidence of HIV transmission due to Sexual Abuse in Detention;

22 (g) post-rape prophylactic medical measures for reducing the
23 incidence of transmission of sexual diseases;

1 (h) the training of correctional staff sufficient to ensure that they
2 understand and appreciate the significance of Sexual Abuse in
3 Detention and the necessity of its eradication;
4 (i) the timely and comprehensive investigation of staff sexual
5 misconduct involving rape or other sexual assault on inmates;
6 (j) ensuring the confidentiality of Sexual Abuse in Detention
7 complaints and protecting inmates who make complaints of
8 Sexual Abuse in Detention;
9 (k) creating a system for reporting incidents of Sexual Abuse in
10 Detention that will ensure the confidentiality of Sexual Abuse in
11 Detention complaints, protect inmates who make Sexual Abuse
12 in Detention complaints from retaliation, and assure the impartial
13 resolution of Sexual Abuse in Detention complaints;
14 (l) data collection and reporting of—
15 (i) Sexual Abuse in Detention;
16 (ii) prison staff sexual misconduct; and
17 (iii) the resolution of Sexual Abuse in Detention
18 complaints by prison officials and national, provincial and
19 local investigation and prosecution authorities; and
20 (m) such other matters as may reasonably be related to the
21 detection, prevention, reduction, and punishment of Sexual
22 Abuse in Detention.

1 (F) CONSULTATION WITH RELATED ORGANIZATIONS.—In
2 developing recommended national standards for enhancing the detection, prevention,
3 reduction, and punishment of Sexual Abuse in Detention, the Commission shall
4 consider any standards that have already been developed, or are being developed
5 simultaneously to the deliberations of the Commission.

6 (G) HEARINGS.—

7 (1) IN GENERAL.—The Commission shall hold public hearings. The
8 Commission may hold such hearings, sit and act at such times and
9 places, take such testimony, and receive such evidence as the
10 Commission considers advisable to carry out its duties under this
11 section.

12 (2) WITNESS EXPENSES.—Witnesses requested to appear before the
13 Commission shall be paid an appropriate fee, to be paid from funds
14 appropriated to the Commission.

15 (H) INFORMATION FROM NATIONAL AGENCIES.—The Commission
16 may secure directly from any national government department or agency such
17 information as the Commission considers necessary to carry out its duties under this
18 section. The Commission may request the head of any provincial or local department
19 or agency to furnish such information to the Commission.

20 (I) PERSONNEL MATTERS.—

21 (1) TRAVEL EXPENSES.—The members of the Commission shall be
22 allowed reasonable travel expenses.

23 (K) SUBPOENAS.—

1 (1) ISSUANCE.—The Commission may issue subpoenas for the
2 attendance of witnesses and the production of written or other matter.

3 (2) ENFORCEMENT.—In the case of contumacy or refusal to obey a
4 subpoena, the Secretary of Justice may obtain an appropriate order to
5 enforce the subpoena.

6 (3) CONFIDENTIALITY OF DOCUMENTARY EVIDENCE.—
7 Documents provided to the Commission pursuant to a subpoena issued
8 under this subsection shall not be released publicly without the
9 affirmative vote of 2/3 of the Commission.

10 (L) AUTHORIZATION OF APPROPRIATIONS.—There are
11 authorized to be appropriated such sums as may be necessary to carry out this section.

12 (M) TERMINATION.—The Commission shall terminate on the date that is 60
13 days after the date on which the Commission submits the reports required by this
14 section.

15 (O) IMPLEMENTATION.—The Secretary of Justice shall establish
16 procedures and a timeline for the implementation of this subsection.

17
18 SECTION 10: *SADEA Independent Oversight Agency*
19

20 (A) ESTABLISHMENT. – The Commission on Human Rights of the
21 Philippines (CHR) will establish, designate or maintain an independent oversight
22 agency (IOA) to oversee the implementation of SADEA, including by auditing and
23 measuring compliance with the SADEA standards developed by the Commission,
24 pursuant to Section 9, paragraph E.

1 (1) The IOA and the IOA personnel shall be wholly independent from
2 the Department of Justice, the Philippine National Police, the
3 Department of Social Welfare and Development, and the Bureau of Jail
4 Management and Penology.

5 (2) The CHR shall take necessary measures to ensure that the members
6 of the IOA have the required capabilities and professional knowledge to
7 serve the IOA effectively and efficiently.

8 (3) The IOA shall carry out its oversight and monitoring functions in
9 accordance with international treaties to which the Philippines is a state
10 party.

11 (B) POWERS OF THE IOA. – At a minimum, the IOA shall be authorized:

12 (1) to visit all facilities, as defined in Section 3, paragraphs A-C, at any
13 time without notification.

14 (2) to have private interviews with inmates without witnesses, either
15 personally or with a translator if deemed necessary, as well as with any
16 other person who the IOA believes may supply relevant information.

17 (3) to receive confidential communications from any interested
18 stakeholder, including inmates, their relatives, corrections staff, and
19 advocates.

20 (4) to exercise the powers granted to the CHR under Section 18 of the
21 Constitution and Section 3 of Executive Order No. 163, except the
22 power to grant immunity from prosecution.

23 (C) DUTIES OF THE IOA.

1 (1) The IOA shall monitor implementation of SADEA at the national,
2 provincial, and municipal levels by:

3 (a) gathering the views and concerns of SADEA stakeholders,
4 including provincial, municipal and national departments of
5 corrections, professional organizations, prisoners' rights
6 advocates, former and current prisoners, and other organizations
7 and individuals with expertise and experience regarding Sexual
8 Abuse in Detention and policies and practices to eliminate it;

9 (b) reviewing statistical studies, academic and other analyses,
10 litigation addressing Sexual Abuse in Detention, and Sexual
11 Abuse in Detention criminal prosecutions;

12 (c) consulting with the National Statistics Office, the National
13 Clearinghouse, the Sexual Abuse in Detention Elimination
14 Commission, the Review Panel on Sexual Abuse in Detention,
15 and the Chief State Prosecutor.

16 (2) The IOA shall audit each facility, in accordance with Section D, to
17 measure compliance with the SADEA standards.

18 (3) The IOA shall publish reports of its findings, in accordance with

19 Section G.

20 (D) FACILITY AUDITS

21 (1) Effective one year after the release of the national standards, as
22 established in Section 9, the IOA shall audit each prison, jail, and police
23 lock-up to measure its compliance with the standards. These audits will

1 occur on a rotating basis, such that one-third of all facilities are audited
2 each year, and every facility has been audited within a three year period.

3 (2) As part of each audit, the IOA shall visit and examine facilities as
4 defined in Section 3, paragraphs A-C, and to examine the treatment of
5 inmates as defined in Section 3, paragraph E, to assess compliance with
6 the national standards.

7 (3) When conducting audits, the IOA must (a) identify and gather data
8 to be analyzed, (b) employ proper professional judgment when
9 analyzing data, and (c) work effectively with the appropriate authorities
10 in planning audits.

11 (E) ACCESS TO INFORMATION -- In order to enable the IOA to fulfill its
12 duties, the Department of Justice undertakes to grant it:

13 (1) Access to all information concerning the number of inmates, as well
14 as the number of places of detention and their location;

15 (2) Access to all information referring to the treatment of inmates as
16 well as their conditions of detention;

17 (3) Access to all places of detention and their installations and facilities;

18 (4) The opportunity to have private interviews with any inmate without
19 witnesses, either personally or with a translator if deemed necessary, as
20 well as with any other person who the IOA believes may supply relevant
21 information;

22 (5) The liberty to choose places to visit and the persons to interview;

23 (F) PROTECTION OF INFORMATION

1 (1) No authority or official shall order, apply, permit or tolerate any
2 sanction against any person or organization for having communicated to
3 the IOA any information, whether true or false, and no such person or
4 organization shall be otherwise prejudiced in any way.

5 (2) Confidential information collected by the IOA shall be privileged.
6 No personal data shall be published without the express consent of the
7 person concerned.

8 (G) REPORTS

9 (1) The IOA shall submit an annual report to Congress, the Secretary of
10 Justice, the Secretary of Health, the Secretary of Social Welfare and
11 Development, and the National Clearinghouse established under
12 Section 7 that includes:

- 13 (a) an assessment of national SADEA implementation;
- 14 (b) identified gaps in the progress of SADEA-related efforts;
- 15 (c) inconsistencies between SADEA and other laws and policies;
- 16 and
- 17 (d) recommendations for further action.

18 (2) At the conclusion of each facility audit, the IOA shall publish a
19 report measuring the level of compliance with the national standards.
20 In addition to identifying with which standards the facility is not in
21 compliance, the report will discuss the level of cooperation afforded by
22 facility officials and administration, the extent of changes made

1 throughout the audit process, and recommendations for further
2 improvements.

3 (3) Facility audit reports shall be provided to the chief executive with
4 jurisdiction over that facility, the warden of the facility audited, the
5 Review Panel on Sexual Abuse in Detention, and the National
6 Clearinghouse.

7 (4) All reports shall be made publicly available on the CHR website and
8 under the National Clearinghouse established under Section 7.

9 SECTION 11. *Appropriations.* - To carry out the provisions of this Act, such
10 amount as may be necessary is hereby authorized to be appropriated from the National
11 Treasury.

12 SECTION 12. *Separability Clause.* - If any provision or part hereof, is held
13 invalid or unconstitutional, the remainder of the Act or the provision not otherwise
14 affected shall remain valid and subsisting.

15 SECTION 13. *Repealing Clause.* - Any law, presidential decree or issuance,
16 executive order, letter of instruction, administrative order, rule or regulation contrary
17 to, or inconsistent with the provisions of this Act is hereby repealed, modified or
18 amended accordingly.

19 SECTION 14. *Effectivity Clause.* - This Act shall take effect fifteen (15) days
20 after its publication in at least two (2) newspapers of general circulation.

Approved,