

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 9446



Introduced by Representative KAREN HOPE F. GARCIA

EXPLANATORY NOTE

It is the declared policy of the State to value the dignity of every human person, guarantee full respect for human rights, and ensure the protection of its citizens, especially women and children, from all forms of violence and sexual exploitation. While the Philippines has made significant strides through landmark legislation, notably the Anti-Rape Law of 1997 (Republic Act No. 8353) and the subsequent increase in the age of statutory rape through Republic Act No. 11648 (2022), interpretive gaps and outdated provisions in the Revised Penal Code (RPC) and related statutes continue to undermine the effective prosecution of sexual offenses. This measure is urgently needed to address these deficiencies by placing the victim's right to bodily autonomy and consent at the core of the law.

The primary challenge lies in the prevailing definition of rape under Article 266-A of the RPC, which, despite R.A. No. 8353, still largely focuses on the presence of force, threat, or intimidation, rather than the absence of freely given, conscious, and voluntary consent. As noted by organizations like the Philippine Commission on Women¹, this force-centric approach often creates an undue burden on victims to prove resistance, which may be physiologically impossible due to "tonic immobility" or psychological trauma.

Beyond the principle of consent, this bill addresses two critical structural deficiencies: the lack of clarity on the consummation threshold and the need for legal harmonization.

A key issue in rape prosecution is the precise point at which the crime is consummated, distinguishing it from the lesser crime of attempted rape. The Supreme Court addressed this critical ambiguity in the landmark case *People v. Efren Agao y Añonuevo*². The Court definitively clarified the minimum anatomical requirement, establishing that rape through penile penetration

¹Philippine Commission on Women. "Amending the Anti-Rape Law." Philippine Commission on Women, 18 March 2020, <https://pcw.gov.ph/amending-the-anti-rape-law/>.

² Supreme Court of the Philippines. "PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN AGAO Y AÑONUEVO, ACCUSED-APPELLANT." G.R. No. 248049, October 4, 2022, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68651>.

is consummated as soon as the penis "penetrates the cleft of the labia majora... in even the slightest degree." This "slight penetration" rule ensures that minimal contact, which may not cause severe injury but nonetheless constitutes an invasion of bodily integrity, is sufficient to constitute the more serious crime of consummated rape, thereby preventing the under-punishment of offenders. This measure specifically codifies this slight penetration rule into Article 266-A to ensure that the legal standard is explicit, clear, and uniformly applied by courts, thereby resolving ambiguities between consummated and attempted acts and rationalizing their respective penalties. It also codifies a statutory presumption of lack of consent, rationalizes penalties for consummated and attempted rape, and provides for gender-neutral application.

Furthermore, the law on sexual harassment has evolved through Republic Act No. 7877 (1995) and the comprehensive Safe Spaces Act (Republic Act No. 11313, 2019), which covers streets, public spaces, and the online sphere. To maintain a cohesive legal structure, the complementary offense of Acts of Lasciviousness, Article 336 of the Revised Penal Code must also be modernized. This bill amends Article 336 to align its application with the principle of lack of consent and ensures a gender-neutral application across all relevant provisions, reflecting the reality that sexual violence affects all persons, regardless of gender identity or sexual orientation.

In light of these persistent gaps and in compliance with the State's declared policy to guarantee full respect for human rights, this bill seeks to modernize Articles 266-A to 266-D of the Revised Penal Code and amend Article 336. By centering the definition of rape on consent and rationalizing the related penalties and provisions, this measure establishes a more robust, clear, and rights-based legal framework for prosecuting sexual violence in the Philippines.



Rep. KAREN HOPE F. GARCIA
3rd District, Province of Cebu

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AN ACT
MODERNIZING THE DEFINITION OF RAPE, STRENGTHENING PROTECTION
AGAINST SEXUAL VIOLENCE, AND RATIONALIZING PENALTIES

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

CHAPTER I
GENERAL PROVISIONS

Section 1. *Short Title.* - This Act shall be known as the "Revised Anti-Rape and Sexual Violence Act.".

Section 2. *Declaration of Policy.* It is hereby declared the policy of the State to value the dignity of every human person and guarantee full respect for human rights. The State shall protect every person from all forms of sexual violence, ensure that consent is recognized as the central element in determining criminal liability, and promote the fair and humane treatment of both victims and accused persons.

Section 3. *Amendment of Article 266-A of Act No. 3815, as Amended.* Article 266-A of the Revised Penal Code is hereby amended to read as follows:

"Article 266-A. Rape; When and How Committed. —

Rape is committed by any person against any person when any of the following acts is done **without the freely given, conscious, and voluntary consent of the offended party:**

- (a) Having sexual intercourse with another person without such person's consent;
- (b) Inserting or causing the insertion of a person's penis into another person's inner or outer vaginal labia, anal orifice, or mouth;
- (c) Inserting or causing the insertion of a finger, instrument, or object into another person's inner or outer vaginal labia or anal orifice;
- (d) Placing, rubbing, or causing the placement or rubbing of a person's penis on the breasts of another person; or
- (e) Causing another person to perform any of the foregoing acts, even if the offender does not personally participate therein.

For purposes of this Article, lack of consent is presumed in accordance with Article 266-B. The absence of physical resistance shall not be construed as consent.

Rape shall be deemed consummated when any of the acts defined in this Article result in the touching of the victim's genital, anal, or oral orifice by the sexual organ, any part of the body, or any object used to commit rape.

In cases involving penile penetration, rape shall likewise be deemed consummated upon the slightest penetration of the external genitalia, including the labia majora, by a penis capable of penetration, even if the hymen remains intact."

Section 4. *Insertion of Article 266-AA — Attempted Rape.* A new Article 266-AA is hereby inserted to read as follows:

"Article 266-AA. Attempted Rape. — There is attempted rape when the offender commences the commission of any of the acts enumerated under Article 266-A, but the sexual act or penetration is not consummated due to causes independent of the offender's will.

The penalty of reclusion temporal shall be imposed upon the offender."

Section 5. *Amendment of Article 266-B – Penalties.* Article 266-B of the Revised Penal Code is hereby amended to read as follows:

"Article 266-B. Penalties and Presumption of Lack of Consent. —

- (a) Any person found guilty of rape under Article 266-A shall suffer the penalty of reclusion perpetua.

(b) Any person found guilty of attempted rape under Article 266-AA shall suffer the penalty of **reclusion temporal**.

(c) The following circumstances shall qualify the crime of rape and increase the penalty to **reclusion perpetua to death** when proven:

1. When the victim is under twelve (12) years of age or is demented;
2. When the offender is a parent, ascendant, descendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;
3. When the offender is a member of the police or military, or holds public or moral authority;
4. When the victim sustained physical injury so grave as to cause insanity or permanent deformity;
5. When the offender knew that the victim was pregnant, or suffering from a physical, psychological, or mental disability at the time of the commission of the rape; or
6. When the offender transmitted HIV or any other serious sexually transmitted infection to the victim.

(d) **Presumption of Lack of Consent. —**

In all cases of rape, lack of consent is presumed. The absence or lack of a physical overt act of resistance or the silence of the victim shall not be construed as consent.”

Section 6. Amendment of Articles 266-C and 266-D. Articles 266-C and 266-D of the Revised Penal Code are hereby amended to read as follows:

“Article 266-C. Effect of Pardon and Marriage. — The subsequent marriage of the offender and the offended party shall not extinguish criminal liability nor affect the execution of any judgment already rendered.”

“Article 266-D. Gender-Neutral Application. — All references to ‘woman’ or ‘man’ in this Chapter shall be understood to include any person, regardless of gender, gender identity, or sexual orientation.”

Section 7. Amendment of Article 366 – Acts of Lasciviousness. Article 366 of the Revised Penal Code is hereby amended to read as follows:

“Article 336. Acts of Lasciviousness. — Any person who shall commit any act of lasciviousness **without the consent of another person**, under any of the circumstances mentioned in the preceding article, shall be punished by prisión correccional.”

Section 8. *Implementing Rules and Regulations.* Within ninety (90) days from the effectivity of this Act, the Department of Justice, in consultation with the Philippine Commission on Women, the Commission on Human Rights, and relevant civil society organizations, shall promulgate the necessary implementing rules and regulations to ensure the effective enforcement of this Act.

Section 9. *Separability Clause.* If any provision of this Act is declared unconstitutional or invalid, the remaining provisions shall continue to be in full force and effect.

Section 10. *Repealing Clause.* All laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 11. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,