

THE LAW TO SUPPRESS SEXUAL TRANSACTIONS INVOLVING CHILDREN AND JUVENILES

Promulgated by the President of the Republic of China (Taiwan)
on August 11, 1995

Chapter One : Principles

Article 1.

The purpose of this law is to prevent and eliminate the incidence of sexual transactions involving children and juvenile.

Article 2.

The term "sexual transactions" under this Law refers to sexual intercourse or indecent acts committed with consideration.

Article 3.

The term "competent authority" under this Law refers to the Ministry of Interior at the Central Government level, the Social Department (Bureau) at the Provincial (Municipal) administrative level, and the local governments at the County administrative level. The competent authorities of all levels should allocate independent budget and appoint professional personnel to handle the affairs concerning sexual transactions involving children and juvenile.

The administrative authorities responsible for justice administration, education, hygiene, national defense, information, economics, and public transportation are referred to under this Law as the "relevant authorities", who should act cooperatively with the competent authorities to deal with the affairs concerning sexual transactions involving children and juvenile. Within six months after this law becomes effective, all the above relevant authorities should enact administrative laws governing preventive school and social education.

Within six months after this law becomes effective, the competent authorities should contact all the relevant authorities to establish an "Information Control Centre for the Prevention of Sexual Transactions Involving Children and Juveniles", whose function is to conduct periodical announcement and review of

the implementation results of school and social education, rescue, punishment against the perpetrators, and settlement and protection (of the victims).

Article 4.

The contents of the courses and social educational programmes concerning sexual transactions involving children and juvenile include:

1. to cultivate appropriate sexual psychology.
2. to cultivate respect for the sexual liberty of others.
3. to correct improper sexual conception.
4. to make believe that sex must not become an objection for commercial transactions.
5. to make know the miserable lives of those children and juveniles who are involved in sexual transactions.
6. other matters concerning the prevention of sexual transactions involving children and juvenile.

Article 5.

This Law is a piece of legislation specifically made for the issue of sexual transaction involving children and juveniles and thus its application is superior to other laws. Other laws shall govern when relevant matters are not regulated under this Law.

Chapter Two : Rescue

Article 6.

Within six months after this law becomes effective, the Ministry of Justice Administration and the Ministry of Interior shall establish specialised duty squads to take the responsibilities of crime detection nationally according to this Law.

Article 7.

After the establishment of the specialised duty squads as provided in the preceding Article, the authorities shall set up or authorise voluntary organisations to set up national hot lines for rescue.

Article 8.

Within six months after this law becomes effective, the Ministry of Justice Administration and the Ministry of Interior shall make regulations on

punishments and rewards in order to promote the police work of rescue and detection.

Article 9.

This Law mandates that any medical doctors, pharmacists, nurses, social workers, clinical psychiatrists, education professionals, policeman/women, judicial personnel or other professionals working on child or juvenile welfare who have the knowledge of a person under eighteen involved or at the risk of involved in sexual transactions or a person who is suspected to have committed any crime specified in Chapter Four of this Law, immediately report to the local authority or any of the specialised duty squads provided in Article 6.

The personal data of an informer who reports a case according to this Law shall be kept confidential.

Article 10.

During the courses of investigation and court hearings on crimes specified in Chapter Four of this Law, the authority shall appoint social workers to accompany the involved children or juvenile and to express their opinion on the case.

During the course of investigation and court hearings as provided in the preceding section of this Article, the involved children or juveniles shall not be summoned after the essential legal interrogations have completed.

Chapter Three : Settlement and Protection

Article 11.

When a primary school or junior high school student is found to be absent from school for three or more days without noticing the school authority, or such student who is supposed to transfer from one school to another but fails to report to the new school in due course, the latter school authority shall immediately report the case to the competent or education authorities. The competent authority shall immediately appoint social workers to investigate the case and take necessary measures.

Within six months after this law becomes effective, the Ministry of Education shall promulgate regulations to govern the report of those cases specified in the preceding section of this Article..

Article 12.

In order to prevent run-away children or juvenile under eighteen to be involved in lust business settings, the competent authority shall, within six

months after this law becomes effective, establish or authorise voluntary organisations to establish care centres which will provide for emergency protection and shelter, as well as consultation, communication and other necessary measures.

Article 13.

The competent authorities at the Municipal and County levels shall, within six months after this law becomes effective, establish emergency settlement or short-term placement centres to accommodate those children or juvenile who are involved in or at the risk of being involved in sexual transactions.

The emergency settlement or short-term placement centres specified in the preceding section of this Article shall appoint specialised professionals to deal with matters concerning observation, consultation and medical treatment.

Article 14.

The Ministry of Education shall, within one year after this law becomes effective, coordinate the competent authorities at the Provincial and the Municipal Levels to establish specialised mid-way schools for the continuing education of those children or juveniles who were involved in sexual transactions.

The mid-way schools shall appoint professionals specialised in social work, psychiatry, and special education to provide for special education.

The registration/enrollment records of the mid-way school students shall reside with normal/general schools. When such students graduate, they shall be given certificate awarded by normal/general schools.

Article 15.

Judges, procurators, juris-police, units of inspectors, or the specified squads as specified in Article 6, when locate or rescue children or juvenile who are involved or at the risk of involving in sexual transactions, shall immediately inform the competent authority to appoint social workers to accompany the children or juveniles to take part in the identification of criminal suspects and in essential interrogation, and shall refer the involved children or juvenile to the emergency settlement centers established by the Provincial, Municipal or County authorities.

The competent authority shall temporarily locate the children or juveniles who are found or reported to have involved or be at the risk of being involved in sexual interactions at the emergency settlement centre established by the authority.

The competent authority shall render necessary protection, settlement or other assistance to the child or juvenile who is engaged in or at the risk of engaged in sexual transaction while asking for help.

Article 16.

The emergency settlement centres established by the Municipal or County authorities shall, within seventy-two hours after settlement, submit a report to the Law Court applying for an order.

The Court, after receiving the aforementioned application, should make an order for the competent authority to settle the involved child/juvenile at the short-term placement centre except the following situations:

1. It is clear that the child/juvenile has not been engaged in, nor at the risk of being engaged in sexual transactions. The Court should make an order to return the child/juvenile to his/her legal agent, head of the household, nearest relative or other pertinent persons.

2. There are other reasons that make the short-term placement centre inappropriate. The Court should then make an order for the competent authority to allocate the child/juvenile at an appropriate place.

Article 17.

The competent authority, when settling a child/juvenile according to Article 16, should submit an observation report with recommendation for further treatment to the Court and apply for an order within between two weeks to one month after the settlement.

The Court should render its order within two weeks after receiving the aforementioned application. If the report is incomplete, the Court should require the competent authority to submit required supplementary materials within 1 week. The Court should then make its final order within two weeks after the supplementary materials are submitted.

Article 18.

After examining the case, if it is clear that the child/juvenile has not been engaged, nor at the risk of being engaged in sexual transactions, the Court should make an order to return the child/juvenile to his/her legal agent, the head of the household, the nearest relative or other pertinent persons.

If the Court found that the child/juvenile has been engaged in sexual transactions, it should render an order to settle the child/juvenile at the mid-way

school for two-year special education except the following situations when the child/juvenile is:

1. infected with AIDS.
2. pregnant.
3. of a foreign nationality.
4. from Mainland China.
5. mentally retarded.
6. proved to be better-off under the custody of parent(s).
7. proved to be better-off in another situation rather than placing at an unsuitable mid-way school.

If the Court considers it inappropriate to refer the child/juvenile to the mid-way school according to the preceding Article, it should make an order to place the child/juvenile, as it considers appropriate, at a child/juvenile welfare institution, a foster family, or any other pertinent medical or education institutions appointed by the competent authority, or make an order for the child/juvenile to deport and return to his/her own country, or to return to his/her parent(s), or to make other appropriate decisions and notify the competent authority to provide continuous counseling and assistance for the child/juvenile.

If a child/juvenile completes his/her age of eighteen during the term of special education, the mid-way school may continue the special education until the two-year specified term is completed.

After the special education has completed its first year, the competent authority may apply to the Court not to discharge the special education.

After the two-year special education is completed, the competent authority may apply to the Court to prolong the term of special education till the child/juvenile reach the age of twenty.

Article 19.

A child or a juvenile who is engaged in or is at the risk of being engaged in sexual transactions without committing other crimes should not be treated under the Law Governing the Disposition of Juvenile Cases or Social Order Maintenance Law.

If a child or a juvenile is engaged in or is at the risk of engaged in sexual transactions as well as commits a crime, the case should first be decided according to Articles 16 to 18 of this Law before the Law Governing the Disposition of Juvenile Cases applies.

Article 20.

The competent authority or the Ministry of Education, when settle, counsel, or protect a child/juvenile according to Articles 15 to 18 of this Law, shall exercise parental or custodian rights by proxy.

If a parent, adoptive parent or custodian commits one of the crimes specified in Articles 23 to 28 of this Law against a child or juvenile under the age of eighteen, a procurator, the nearest ascendant of the child/juvenile, the competent authority, a child/juvenile welfare institution, or any other interested person may apply to the Court to suspend the parental/custodian rights and appoint a new custodian. An application may also be made against an adoptive parent to terminate the adoptive relationship.

The Court, when appointing the custodian according to the preceding Section, shall not be restricted by Article 1094 of the Civil Code. The Court may appoint a person who is in charge of the competent authority or a child/juvenile welfare institution, or any other pertinent person to be the custodian of the involved child/juvenile. The Court may also order custody rules and require the parent(s) or adoptive parent(s) to pay expenses to the appointed custodian.

Article 21.

A person of the age of eighteen or over who is forced by coercion, threat, enticement, trafficking or any other illegal ways to be involved in sexual transactions may require for settlement and protection according to this Law.

Chapter Four : Punishment

Article 22.

Those who conduct sexual transactions with a person under the age of sixteen shall be punished with imprisonment of not more than three years, alternatively coupled with a fine of not more than one hundred thousand N.T. dollars (U.S.\$4,000).

Those who conduct sexual transactions with a person aged between sixteen and eighteen shall be imposed on a fine of not more than one thousand N.T. dollars (U.S.\$4,000).

Article 23.

Those who entice, accommodate, mediate, assist or by other ways involve a person under the age of eighteen in sexual transactions, shall be punished with imprisonment of not less than one year but not more than seven years, and

alternatively coupled with a fine of not more than one million N.T. dollars (U.S.\$40,000).

Those who intend to make profits by committing the crime specified in the preceding Section shall be punished with imprisonment of not less than three years but not more than ten years, coupled with a fine of not more than five million N.T. dollars (U.S.\$200,000).

Those who habitually commit the crime specified in the preceding Section shall be punishment with imprisonment of not less than five years, coupled with a fine of not more than ten million N.T. dollars (U.S.\$400,000).

Those who receive or shield the victims of the crimes specified in the preceding three Sections or who make the victims hide shall be punished with imprisonment of not less than one year but not more than seven years, and alternatively coupled with a fine of not more than three hundred thousand N.T. dollars (U.S.\$12,000).

Those who act as the mediator of the crime specified in the preceding Section shall be deemed to have committed the crime.

Those who attempt to commit the crimes specified in Sections One, Two, Four, and Five shall be punished for the attempt.

Article 24.

Those who use coercion, threats, drugs, fraud, hypnotism or other methods that are against the victim's will to make a person under the age of eighteen involved in sexual transactions, shall be punished with imprisonment of at least five years, and alternatively coupled with a fine of not more than two million N.T. dollars (U.S.\$80,000).

Those who intend to make profits by committing the crime specified in the preceding Section shall be punished with imprisonment of not less than seven years, coupled with a fine of not more than seven million N.T. dollars (U.S.\$280,000).

Those who habitually commit the crime specified in the preceding Section shall be punishment with life imprisonment or imprisonment of not less than ten years, coupled with a fine of not more than ten million N.T. dollars (U.S.\$400,000).

Those who receive or shield the victims of the crimes specified in the preceding three Sections or make the victims hide shall be punished with imprisonment of not less than five years, and alternatively coupled with a fine of not more than five hundred thousand N.T. dollars (U.S.\$20,000).

Those who act as the mediator of the crime specified in the preceding Section shall be deemed to have committed the crime.

Those who attempt to commit the crimes specified in Sections One, Two, Four, and Five shall be punished for the attempt.

Article 25.

Those who intend to make profits and involve a person under the age of eighteen in sexual transactions by trafficking, pawning or other means of the same nature shall be punished with imprisonment of not less than five years, coupled with seven million N.T. dollars (US\$28,000).

Those who use coercion, threats, drugs, fraud, hypnotism or other methods that are against the victim's will and commit the crime specified in the preceding Section, shall be punished with imprisonment of not less than seven years, coupled with a fine of not more than ten million N.T. dollars (U.S.\$400,000).

Those who act as the mediator of the crime specified in the preceding two Sections shall be punished with imprisonment of not less than five years, coupled with not more than 5 million N.T. dollars (U.S.\$200,000).

Those who habitually commit the crimes specified in the preceding three Sections shall be punishment with life imprisonment or imprisonment of not less than ten years, coupled with a fine of not more than twenty million N.T. dollars (U.S.\$800,000).

Those who receive or shield the victims of the crimes specified in Sections one and two of this Article or make the victims hide shall be punished as the specified crimes.

Those who act as the mediator of the crime specified in the preceding Section shall be deemed to have committed the crime.

Those who attempt to commit the crimes specified in Sections One, Two, Four, and Five shall be punished for the attempt.

Those who have prepared to commit the crimes specified in Sections One to Three of this Article shall be punished with imprisonment of not less than one year but not more than seven years.

Article 26.

Those who commit the crimes specified in Sections One and Two of Article 24 or Section Two of Article 25 and intentionally kill the victim or otherwise cause the death of the victim shall be sentenced to capital punishment, but if serious injury is caused to the victim (instead of death), the punishment shall be imprisonment.

Article 27.

Those who film or make paintings, vedio tapes, film pictures, CD ROM, electrical signals or other product showing conducts of indecency or sexual interaction involving a person under the age of eighteen shall be punished with imprisonment of not less than six months but not more than five years, and alternatively coupled with a fine of not more than five hundred thousand N.T. dollars (U.S.\$20,000) .

Those who intend to make profits by committing the crime specified in the preceding Section shall be punished with imprisonment of not less than one year but not more than seven years, coupled with a fine of not more than five million N.T. dollars (U.S.\$200,000).

Those who induce, mediate or use other means to involve a person under the age of eighteen in the filming or making of paintings, vedio tapes, film pictures, CD ROM, electrical signals or other product showing conducts of indecency or sexual interaction shall be punished with imprisonment of not less than one year but not more than seven years, and alternatively coupled with a fine of not more than one million N.T. dollars (U.S.\$40,000) .

Those who use coercion, threats, drugs, fraud, hypnotism or other methods that are against the victim's will and commit the crime specified in the preceding Section, shall be punished with imprisonment of not less than five years, and alternatively coupled with a fine of not more than three million N.T. dollars (U.S.\$120,000).

Those who habitually commits the crimes specified in Sections Two to Four of this Article shall be punished with imprisonment of not less than seven years, coupled with a fine of not more than ten million N.T. dollars (U.S.\$400,000).

Those who attempt to commit the crimes specified in Sections One to Four of this Article shall be punished for the attempt.

The products specified in Sections One to Four of this Articles shall all be confiscated despite its ownership.

Article 28.

Those who distribute or sell the paintings, vedio tapes, film pictures, CD ROM, electrical signals or other products specified in the preceding Article, or display such products to the public, shall be punished with imprisonment of not more than three years, and alternatively coupled with a fine of not more than five million N.T. dollars (U.S.\$200,000) .

The products specified in this Articles shall all be confiscated despite its ownership.

Article 29.

Those who utilise propaganda, publications, television or other media to publish or broadcast advertisements in order to induce, mediate, imply or by other means cause others to be involved in sexual transactions shall be punished with imprisonment of not less than one year but not more than seven years, and alternatively coupled with a fine of not more than one million N.T. dollars (U.S.40.000).

Article 30.

Those public servants or elected officials who commit any crime specified in this Law or shield others to commit crimes specified under this Law shall receive punishment increased up to one half of the original provision for imprisonment.

Article 31.

Those who intend to commit the crimes specified in Articles 23 to 27 of this Law, transport the victims out of this country shall receive punishment increased up to one half of the original provision for imprisonment.

Article 32.

Those parents who commit a crime specified in this Law against their children, but the offender of Articles 22 to 28 of this Law are captured owing to their confession or plead, shall receive less punishment or be excused of the punishment under this Law.

Those who commit a crime specified in Article 23 of this Law make confession and thus help to capture the offenders of Articles 23 to 32, shall receive less punishment or be excused of the punishment under this Law.

Article 33.

Those publishers who print advertising messages to induce, mediate, imply or by other ways to involve others in sexual transactions may be sanctioned by the information authority and be imposed a fine of not less than thirty thousand but not more than four hundred thousand N.T. dollars (U.S.\$1,200 -- \$16,000).

Should payment of the fine specified above be delayed, a petition may be made to the Court for its enforcement.

Article 34.

If an offender commits any of the crimes specified in Articles 23 to 29 of this Law and the Court has made a finalised guilty-judgment against him/her, the competent authority shall notice such offender's name, photograph, and ratio decidendi in public.

The preceding Section shall not apply if the offender is under the age of eighteen.

Article 35.

If an offender commits any of the crimes specified in Articles 22 to 29 of this Law and the Court has made a finalised guilty-judgment against him/her, the competent authority should impose counseling education on such offenders. The competent authority should make guidelines for the enforcement of such counseling education.

To those who refuse to attend the counseling education as provided above or who does not finish the imposed counseling hours, the competent authority may impose on a fine of not less than six thousand but not more than thirty thousand N.T. dollars (U.S.\$240 -- \$1,200). Such fine may be continuously imposed for every refusal to comply with the counseling requirement.

Article 36.

Those who commit the crime specified in Section One of Article 9 of this Law shall be imposed on a fined of not less than six thousand but not more than thirty thousand N.T. dollars (U.S.\$240 -- \$1,200). Those doctors, nurses or other medical workers who commit such crime for the purpose of saving the child/juvenile from emergent dangers causing to their lives or bodies shall be immune from the punishment.

Chapter Five : Supplementary Provisions

Article 37.

Those who commit the crimes specified in Articles 24 or 25 of this Law against a person of eighteen years old or above shall be punished according to this Law.

Article 38.

Within six months after this Law becomes effective, the central competent authority shall promulgate the regulations for the enforcement of this Law.

Article 39.

This Law becomes effective as soon as it is promulgated.