

## **Sexual Assault Crime Prevention Act**

**Amended Date** 2010.01.13

- Article 1      The Act is formulated in order to prevent sexual assault and to protect the rights of victims.
- Article 2      The Definition of sexual assault crime, refers to the situation where a person breaks Act 221 to 227, Act 228, Act 229, Act 332.2.2, Act 334.2, Act 348.2.1 and its special laws under the Criminal Code.  
An offender, referred to in the Act, is a person who is sentenced as guilty for violating the above Acts.
- Article 3      The competent authorities referred to in the Act are the Ministry of the Interior at the central level, municipality governments at the municipal level, and county (city) governments at the county (city) level.
- Article 4      The Ministry of Interior should set up a Committee of Sexual Assault Prevention to undertake the following items:  
A. Investigate, make a draft and discuss policies and regulations for sexual assault prevention.  
B. Coordinating, supervising and examining implementation of sexual assault prevention in the government.  
C. Supervising handling procedure, inquiries, medical treatment and service network for sexual assault incidents that local competent authorities concerned have set up.  
D. Advancing education and promotion of sexual assault prevention.  
E. Arranging and making statistics of sexual assault incidents.  
F. Studying the trends and problems of sexual assault prevention.  
G. Dealing with other issues about sexual assault prevention.
- Article 5      The Minister of the Ministry of Interior acts as the director general of its Committee of Sexual Assault Prevention; representatives of private institutions, scholars and experts should occupy at least half of the committee seats.  
The Committee of Sexual Assault Prevention should allocate special people and departments to deal with relevant business affairs, and the corresponding regulations are formulated by the relevant central authorities.
- Article 6      A municipality and a county (city) government should set up a Sexual Assault Prevention Center, which undertakes the following items:  
A. Provide a 24-hour hotline service.

- B. Provide victims with a 24-hour emergency rescue.
- C. Assist victims by obtaining medical attentions, medical examinations and evidence.
- D. Assist the victim with psychological treatment, counseling, emergency placement and legal services.
- E. Set up special medical teams for dealing with sexual assault incidents with the co-operation of hospitals.
- F. The offender's tracking counseling and physical and psychological treatment.
- G. Promote sexual assault prevention education, training and advertising.
- H. Other relevant issues about sexual assault prevention and protection.

The Sexual Assault Prevention Center should be equipped with social workers, police, medical teams and people from other relevant areas. Its organization is arranged by the relevant authorities of the municipality or of the county (city).

Local governments should take the first two items into budgetary consideration and the central government will meet the difference with a special subsidy.

Article 7 In each academic year, students at all levels of middle and primary schools should have four hours or more of courses on sexual assault prevention.

The sexual assault prevention courses should contain:

- A. The structure and function of the reproductive organs of both sexes.
- B. Safe sexual behavior and knowledge of self-protection.
- C. Education in equality of the sexes.
- D. Building a correct sexual psychology.
- E. Respect for others' sexual freedom.
- F. Realization that sexual assaults are crimes.
- G. Dealing with dangers of sexual assaults
- H. Techniques of sexual assault prevention.
- I. Other relevant education about sexual assaults.

Article 8 During the turn of duty, should medical workers, social workers, education workers, nursery workers, police or administrative workers learn of suspicious sexual assault incidents, they must report to the relevant authorities of Municipality or County (City) within 24 hours.

The manner and content of the report is as formulated by the relevant central authorities.

The content of the report, the name and address of the reporter and any information that is sufficient to identify him/her are confidential unless it is specified otherwise in the Law.

Article 9      The central authorities should set up a national database of sexual offenders, and it should contain fingerprints and DNA.  
The content of the database is confidential and should not be changed unless specified by the Law. The management and usage of the database is formulated by the relevant central authorities.

Article 10    Hospitals and clinics should not refuse giving medical attentions for no reason and should produce a Medical Certificate of Diagnosis.  
During the examination, the victim should be accompanied by nursing staff. The privacy of the victim should be protected and the victim should be offered a safe and appropriate environment for the examination.

The format of the Medical Certificate of Diagnosis is decided by the discussion between the central competent Health Authority and relevant authorities.

Those who violate this regulation should pay a fine of between ten thousand and fifty thousand NT dollars to relevant health authorities.

Article 11    The victim should agree to be examined while collecting evidence, unless it is specified in the Criminal Procedure Act, Military Justice Law or the victim is unconscious or otherwise unable to express him or herself. In the case of the victim being declared under guardianship or younger than twelve years old, permission should be obtained from his or her guardian or legal representative. However if the guardian or legal representative is unclear, difficult to contact, or is suspected of conducting the sexual assault, examination should be carried out to collect evidence.

After collecting evidence, the exhibit should be kept in the exhibit bag. The judiciary and military police should immediately send the exhibit to the National Police Agency at the Ministry of Interior for examination. The result of the exhibit's examination should be filed according to the Law.

If a case of sexual assault crime is only considered for prosecution as an offense instituted only in response to complaint (a legal complaint or a private prosecution has not been proposed yet), the National

Police Agency of the Ministry of Interior should send the exhibit to the relevant local authorities of the Municipality or County (City) for safe keeping. In the case of it being impossible to identify a suspect, the exhibit will be destroyed after six months.

Article 12 Due to work reasons, those who know or have the victim's name, date of birth, address and any other information that is sufficient to identify his or her identity, should keep these details confidential unless specified by the Law.

The published legal documents, produced by the executive, judicial and military authorities, should not reveal the victim's name, date of birth, address or any other information that is sufficient to identify him/her.

Article 13 Advertisements, publications, broadcasts, television, electronic messages, computer, internet or other kinds of media should report or record neither the victim's name nor other information which can lead discovery of his or her identity. However, there will be no such limitation if an agreement is given by a competent or if the investigation on sexual assault incident in accordance with the law thinks revealing the victim's identity is necessary.

Those who violate this regulation should be fined by the relevant authorities between six thousand and sixty thousand NT dollars; and objects involved should be confiscated or dealt with accordingly. If behavior is not corrected within the period specified by the formal notice, fines will be imposed for each further violation. In the case where the victim is dead, the fine could be voided after the social benefits are assessed by the relevant authorities.

Article 14 The High Court, the Supreme Prosecutors Office, the Military Court, the Military Court Prosecutors Office, the Judiciary, the Military Police Authority and medical institutions should allocate specially trained people to deal with sexual assault incidents.

The medical organizations mentioned above refer to those medical units that are appointed by the central competent Health Authority to deal with sexual assault incidents.

Article 15 The victim's legal representative, spouse, a direct relative or within the third-degree relatives, parents, family members, doctor, psychiatrist, consolation workers or social workers may accompany the victim during the investigation or trial and state their opinions. The above item does not apply when the person who is responsible

for accompanying the victim, is the offender or the suspect in the sexual assault.

In the case of the victim being a child or teenager, unless it is obviously unnecessary, the relevant authorities of the Municipality or County (City) should appoint a social worker to keep the victim accompanied and provide opinions.

Article 16 According to his or her application or rights, the inquiries or questioning of the victim may be carried out outside the court via technology equipment such as audio, video conference or any other suitable means so that the victim is isolated from the defendant or judge.

The judge or court martial chairman should undertake the above isolating-for-questioning approach, when the victim is called to the court to give statement and is unable to speak freely or completely during the face-to-face questioning due to mental disability or physical and psychological injury.

The chief judge should also inquire if the defendant or defence barrister is forbidden from questioning the victim inappropriately.

The defendant in a sexual assault crime and his or her defence barrister should not question or raise the sexual experience that victim had other than with the defendant, unless the judge or Military Judge considers it to be necessary.

Article 17 Should the victim fall into one of the following categories, the statement which he or she made to the prosecuting officer, judicial police officer or judicial policeman's investigation can be used as evidence if it is proved to be true and if it essential to decide the committal of the crime:

A. The victim is unable to make a statement due to physical or psychological injury resulting from the sexual assault incident.

B. The victim is present at the trial but is unable to or refuses to make a statement due to physical or psychological pressure caused by the inquiries or cross-examination.

Article 18 Trials of sexual assault crimes are not open to public, unless they fall into one of the following categories and are considered suitable by the judge or military judge:

A. Agreement of the victim.

B. In the case of the victim having no or limited behavior capability, agreement

should be made with both the victim and his or her legal representative.

Article 19 According to his or her application, the municipality or county (city) government should provide the victim the following allowance:

- A. Medical costs that are outside the scope of National Health Insurance and fees for psychological recovery.
- B. Legal cost and lawyer's fees.
- C. Other fees.

Aspects such as the allowance's eligibility, condition and amount are decided by the authorities of the municipality or county (city) government.

Article 20 Should the offender fall into any one of the following categories, and it is considered to be necessary, the relevant authorities of the municipality or county (city) government should order the offender to receive physical and psychological treatment or counseling education.

- A. Completed imprisonment term or similar measure of safety.
- B. Parole.
- C. Postponement of the execution.
- D. Exemption from the penalty.
- E. Pardoned
- F. Suspension of prosecution punishment

The guardian, who is responsible for protective control of the offender falling into the above item 2 and 3, should deal with him or her with the following one or several approaches:

- A. Arrange appointments, visits, and involve group activities or conduct surveys to assist the offenders in preventive controls.
- B. Arrange frequent appointments and visits, for the offender who is already in protective control, and where it has been proved there is enough evidence that he or she conducted the same crime. If necessary, the victim should be allowed to meet an appointed person from the police department regularly or irregularly.
- C. Order the offender who is already under preventive controls and is suspected of taking drugs to take a urinary test.
- D. For the offender who is under preventive control and has no permanent accommodation or accommodation that is not good for the conductor of the preventive control, the guardian should appeal to the Prosecutor and Military Judge to obtain permission so that the

offender stays at an appointed accommodation.

E. For the offender, who is under preventive control, has habit of conducting crime at night or is proved to have conducted the same crime with sufficient evidence, the guardian should institute a curfew with the permission from the Prosecutor and Military Judge.

F. For the offender, who is under preventive control, that has already received physical and psychological treatment or counseling education, the guardian should carry out a lie detector test with the permission from the Prosecutor and Military Judge.

G. The guardian should constrain the offender, who is under preventive control, and has an identifiable crime pattern or is proved to have conducted crime again with sufficient evidence, to stay close to certain locations or people with the permission from the Prosecutor and Military Judge.

H. Introduce the offender to the appropriate organization or section.

I. Other necessary approaches.

With the permission from the Prosecutor and Military Judge, the guardian could supervise and control the offender, who falls into the above item 4 and 5, with technological equipment.

The period of carrying out the first item is less than three years.

However the municipality or county (city) government should stop carrying out the approach when the regulation is assessed and considered to be unnecessary.

The assessment of the first item should be carried out by the relevant authorities of the municipalities or county (city). In the case where the offender is in jail, the assessment should be carried out by the prison or military prison.

Aspects such as the assessment's content, preparation and procedure, the physical and psychological treatment or counseling education, the registration's content and procedure and result evaluation in item 1, should be formulated by the central authorities, Ministry of Justice, Ministry of National Defense and the Department of Health, Executive Yuan.

As far as the urinary test concerned in item 2.3, its execution, procedure, period and frequency, examining organization and other aspects are decided by the Ministry of Justice and other relevant organizations.

The lie detector test concerned in item 2.6, its executing authorities

(organization), people, conducting procedure and manner, and the technology equipment concerned in item 3, its supervising and control manner, conducting procedure, authorities (organization) and people, are decided by the Ministry of Justice and other relevant organizations.

Article 21 Should the offender, mentioned in Act 20, fall into any one of the categories, he/she is liable to pay a fine between ten thousand and fifty thousand new NT dollars and carry out the procedures within the specified period:

A. After receiving the notice from the relevant authorities of the municipality or county (city), the offender is absent or refuses to receive assessment, physical and psychological treatment or counseling education without any appropriate reasons.

B. After receiving the notice from the relevant authorities of the municipality or county (city), the offender arrives late at the assessment, physical and psychological treatment or counseling education or is present for fewer hours.

C. Those who do not register or report regularly according to Act 23.1.

The offender mentioned above who does not carry out the procedures, is liable for imprisonment term for up to one year, labor service under detention, a fine, or all together up to a fine of fifty thousand NT dollars.

After conducting the punishment the offender on parole, postponing the execution or postponing the prosecution punishment listed in item 1, the relevant authorities of the municipality or county (city) should inform the local court prosecutors office or the court martial prosecutor's office that is in charge.

On receiving the notice, the court prosecutors office or military court prosecutors' office, should inform the prison director, Ministry of Justice, and Ministry of National Defense to withdraw the parole, postpone the execution or suspend the prosecution punishment.

Article 22 Should the offender conduct the same deed, after receiving physical and psychological treatment or counseling education as instructed by Act 21 item 1 (examination, assessment, his or her self-control and prevention) the municipality or county (city) government should hand in relevant assessment report to the local court prosecutors office's prosecuting officer and the military court prosecutors office's



prosecuting officer and force the offender into treatment according to the Law.

Article 23      The offender who violates Act 221, Act 222, Act 224.1, Act 225.1, Act 226, Act 226.1, Act 332.2.2, Act 334.2, Act 348.2.1 and its special regulations of the Criminal Code and violates any regulations of Act 20.1 should regularly report to the police bureau and register information such as their identity, enrolment, employment, driver's license and details of movements. The period for the reporting and registering is seven years.

The above regulation does not apply if the offender is younger than 18 years old when the crime was committed.

The periodical registration aims to protect social benefit and the safety of the society and should be examined by an appointed person. The registration and reporting process and the examination process's scope, content, executing organization, qualification and condition of the appointed person, the procedure of the examination and other procedures to be followed are decided by the relevant central authorities.

Article 24      The Enforcement Rules for the Act shall be determined by the central competent authorities in charge of sexual assault crime prevention.

Article 25      The Act shall come into force six months after its announcement. The amendments of the Act that were made on December 22, 2009 shall come into force on November 23, 2009.