

Act on the Punishment of Procuring Prostitution and Associated Acts

Chapter I General Provisions

Article 1 (Purpose)

The purpose of this Act is to eliminate prostitution, procuring prostitution and associated acts, and human trafficking for the purpose of prostitution, and to protect the human rights of victims of prostitution.

Article 2 (Definitions)

① For the purpose of this Act, the definitions of terms shall be as follows:

1. The term “prostitution” means an act of a person falling on the any part of the following sub-subparagraphs or being a subject thereof with an unspecified person in exchange for money, valuables or property benefits, or promising it:
 - (1) Sexual intercourse; and
 - (2) Quasi-sexual intercourse by means of part of the body including the oral cavity and/or the anus, or with sexual apparatus.
2. The term “procuring prostitution and associated acts” means an act falling under any part of the following sub-subparagraphs:
 - (1) An act of an act of procuring or offering prostitution, alluring or coercing a person to be a counterpart in the purchasing of sex;
 - (2) An act of providing a place for prostitution; and
 - (3) An act of providing funds, land, or buildings with the knowledge that they are used for prostitution.
3. The term “human trafficking for the purpose of prostitution” means an act falling under any part of the following sub-subparagraphs:
 - (1) An Act of transferring a person under control and management to a third party by means of deceptive scheme, force, or other forms of coercion with the purpose of producing photographs or virtual communication media which expresses obscene contents including sexual intercourse, an act of making a person sell sex, or an act of forcing obscene acts as a defined under Article 245 of the Criminal Law.
 - (2) An act of transferring a subject under control and management to a third party providing and promising money, valuables, property benefits including advance payment to juveniles as defined under Article 2 subparagraph 1 of the

Juvenile Protection Act (hereinafter referred to as “juveniles”), a person with mental disorder, or a person with serious disabilities as defined under the Presidential Decree or a person who protects and supervises the subject for the same purpose as sub-subparagraph (1);

- (3) An act of receiving a subject for the same purpose as sub-subparagraph (1) or to resell with the knowledge that acts under sub-subparagraph (1) and/or (2) are being carried out; and
- (4) An act of recruiting, transporting, harboring a person for the same purposes as sub-subparagraphs (1) and (3).

4. The term “victims of prostitution” means a person falling under any part of the following sub-subparagraphs:

- (1) A person who is forced to sell sex by means of deceptive scheme, force, or other forms of coercion;
- (2) A person who sells sex intoxicated with narcotic drugs, psychotropic medicine or marihuana as defined under Article 2 of the Act on the Control of Narcotics and other Analogous Substances (hereinafter collectively referred to as “drugs”) by a person who protects or supervises through work, employment, or other relationship;
- (3) Juveniles, a person with mental disorder, or a person with serious disabilities as defined under the Presidential Decree who are procured or solicited to sell sex; and
- (4) A person who is trafficked for the purpose of prostitution.

② A person is considered to be under control and management as stipulated in paragraph ① subparagraph 3 sub-subparagraph (1) of this Article when a situation falls under any part of the following subparagraphs:

1. When a person is prevented from leaving against one’s will even if consent from the person based on debt bondage has been acquired; or
2. When an employer or a supervisor of another person, or a person who intermediates in immigration or employment, or assists as such, receives passports or analogous documents for reasons such as securing fulfillment of financial obligations for the purpose of selling sex.

Article 3 (Responsibility of the State)

① The state and local governments shall take legal and institutional measures and raise necessary funds regarding education and promotion of public awareness on the prevention and elimination of prostitution, procuring prostitution and associated acts,

or human trafficking for the purpose of prostitution.

- ② The state shall make efforts to enhance international cooperation and strengthen mutual legal assistance in criminal matters, preventing human trafficking for the purpose of prostitution.

Article 4 (Prohibition)

No one shall take part in activities falling under any part of the following subparagraphs:

1. Prostitution;
2. Procuring prostitution and associated acts;
3. Human trafficking for the purpose of prostitution;
4. An act of employing and recruiting another person for the purpose of prostitution, or introducing and intermediating work with the knowledge that the work is associated with prostitution; and
5. An act of advertising for activities and/or an agency where such activities are carried out, which fall under subparagraphs 1, 2, or 4.

Article 5 (Relationship with Other Acts)

In case where specific provisions are stipulated in the Act on Protection of Juveniles from Sexual Crimes with regard to provisions set out in this Act, the Act on Protection of Juveniles against Sexual Crimes shall supersede this Act.

Chapter II Protection of Victims of Prostitution

Article 6 (Exceptions to the Punishment for Victims of Prostitution and the Protection thereof)

- ① The victims of prostitution shall not be subject to punishment for prostitution.
- ② In case where there is a good reason to believe that the accused or a witness is a victim of prostitution in the process of an investigation, the prosecutor or the judicial police officer shall immediately notify the victim's legal representative, family members, relatives, or legal counsel, and take appropriate actions to protect the victim including personal protection, confidentiality of investigation, transfer of victims to family members, relatives, or assistance facilities and counseling centers for the victims. A prosecutor or a judicial police officer may not give notification when unavoidable circumstances exist such as protecting the privacy of the accused or the witness.

- ③ In case where the court or law enforcement agencies investigate or question as witnesses, reporters (report includes complaints and claims hereinafter) of crimes defined under this Act or victims of prostitution (hereinafter collectively referred to as “reporter, etc.”), Article 7 or Article 13 of Protection of Reporters, etc. of Specific Crimes Act shall be applied mutatis mutandis. In such case, existence of concerns for retaliation are not required except for Article 9 and Article 13 of Protection of Reporters, etc. of Specific Crimes Act.

Article 7 (Duty to Report)

- ① When the head or staff members working in assistance facilities or a counseling centers for prostitution victims as defined under Article 5(1) and Article 10 of the Act on Prevention of Prostitution and Protection of Victims Thereof respectively, become aware of the facts regarding the victimization caused by prostitution through work, they shall immediately report to law enforcement agencies.
- ② Reporters of criminal acts defined under this Act shall not be put at a disadvantage by anyone because of the report.
- ③ Unless provided otherwise in other legal provisions, information or material that reveals the identity of the reporter such as personal information or pictures shall not be posted on the Internet, published, or broadcasted through the media.

Article 8 (Presence in Company of Persons Having Fiduciary Relations)

- ① The court may allow a reporter to be accompanied by a person having fiduciary relations when examining the reporter, etc. as a witness, by the court’s own decision or at the request of the reporter, the reporter’s legal representative, or the prosecutor.
- ② The law enforcement agency may allow a reporter to be accompanied by a person having fiduciary relations when investigating the reporter, etc., by the law enforcement agency’s own decision or at the request of the reporter, the reporter’s legal representative, or the prosecutor.
- ③ Juveniles, a person with mental disorder, or a person with serious disabilities as defined under the Presidential Decree shall be accompanied by a person having fiduciary relations on request subject to paragraph ① or ② unless there exists a special reason such as concerns for hampering of the trial or the investigation.
- ④ Anyone who accompanies a reporter in the examination or the investigation person to paragraph ① or ③ shall not unjustly influence the investigation or the trial by testifying for the reporter or leading the reporter’s testimony.

Article 9 (Confidentiality of the Trial)

- ① The court may when necessary decide to hold a closed trial for reasons of privacy or protection of the reporter, etc.
- ② A reporter etc. and the reporter's family subpoenaed to testify as a witness may request that the examination of the witness be closed to the public for reasons of privacy or protection of the witness.
- ③ The judge may, when a request is made in accordance with paragraph ②, decide on the method or the place of the interrogation such as whether to allow such request or examining outside the court.
- ④ Article 57 paragraph ② or ③ of the Court Organization Act may be applied mutatis mutandis regarding the confidentiality of a trial subject to paragraph ① or ③.

Article 10 (Invalidation of Claims Arising from Illegal Causes)

- ① The claim that a person who procures prostitution and does associated acts, a person who employs and recruits those who sell sex or introduces and mediates prostitution, or a person who has trafficked another person for the purpose of prostitution has on those who sell sex or is planning to do so regarding one's deed shall be invalidated regardless of the form or pretext of the contract. The same shall apply when the claim is transferred to a third party or the liability is undertaken.
- ② The prosecutor or the judicial police officer shall check and take into consideration whether money, valuables, property benefits were provided for the purpose of seducing and coercing prostitution or preventing a person from leaving the brothel when investigating a case regarding complaints and claims resulting from questionable noncompliance of a liability related to illegal causes as set forth in paragraph ①.
- ③ When investigating a person who sells sex or victims of prostitution, the prosecutor of the judicial police officer shall notify the person or the legal representative the fact that claims under paragraph ① are invalidated and that assistance facilities are available.

Article 11 (Special Provisions for Foreign Women)

- ① When a foreign woman reports crimes under this Act or is investigated as a victim of prostitution, the case shall not be subject to a deportation order or an execution of social protection under Article 46 and Article 51 of the Immigration Control Act respectively until a decision is made on a disposition not to institute a public action or to prosecute the case. In this case, the law enforcement agency shall take necessary actions for immigration management such as notifying the foreign woman's personal

information and residence to the immigration control office.

- ② After deciding to prosecute a case subject to paragraph ①, the prosecutor may request the head of the immigration control office to suspend the execution of a deportation order or temporarily withdraw detention for a certain period of time in consideration of the damage status caused by prostitution, testimony or necessity of compensation, or other factors.
- ③ During a period when the execution of a deportation order is suspended or detention is temporarily withdrawn in accordance with paragraph ① or ②, the subjected foreign woman may be allowed to use the assistance facilities.
- ④ When investigating a foreign woman as a victim of prostitution, law enforcement agencies shall inform her of her right to claim compensation in accordance with the Act on Special Cases concerning Expedition etc. of Legal Proceedings.
- ⑤ When a foreign woman, the victim of prostitution, files a claim for compensation in accordance with the Act on Special Cases concerning Expedition etc. of Legal Proceedings, paragraph ① may be applied mutatis mutandis until the order of compensation is confirmed.

Chapter III Protection Cases

Article 12 (Treatment of Protection Cases)

- ① Considering the character and motive of the case, the character and conduct of the person, the prosecutor shall send the case to the competent court as a protection case when there is good reason to believe that the person who sells sex be put under protective disposition under this Act unless there is a special circumstance.
- ② After reviewing a case on prostitution, if there is good reason to believe that it be put under protective disposition under this Act, the court may by decision send the case to the competent court of protection cases.

Article 13 (Jurisdiction)

- ① The jurisdiction of protection cases (herein after “protection cases”) subject to this Act falls under the family court which has jurisdiction over the place of prostitution or the place of residence or present domicile of a person who sells sex. Provided, that a family court is not established in the district, the district court has jurisdiction (including assistance. The same applies herein after).
- ② A protection case is examined and decided by a single judge.

Article 14 (The Decision of Protective Disposition, etc.)

- ① The judge may decide on any part of the following subparagraphs by decision when the necessity of protective disposition is recognized as a result of examination.
1. No trespassing of a place or district recognized for concerns of possible prostitution;
 2. Probation under the Protection and Surveillance, etc. Act;
 3. Community service and attending lecture order under the Protection and Surveillance, etc. Act;
 4. Disposition to the assistance facility under Article 5 paragraph ① subparagraph 1 or 3 of the Act on Prevention of Prostitution and Protection of Victims Thereof;
 5. Entrusting counseling to counseling centers for prostitution victims under Article 10 of the Act on Prevention of Prostitution and Protection of Victims Thereof; and
 6. Entrusting medical care to a medical institution taking exclusive charge under Article 33 of the Act on the Punishment of Sexual crimes and Protection of Victims Thereof.
- ② The decision on each subparagraph of paragraph ① may be made jointly.
- ③ The court shall notify the prosecutor, the subject of the protective disposition, the probation officer, or the assistance facility and the counseling center for victims of prostitution, or the medical institution (herein after “designated institution”) entrusted with the protective disposition without delay when the decision for protective disposition has been made. Provided, that when the protective disposition is entrusted to a designated institution that is not run by the government, the head of that institution must consent to the designation.
- ④ The court shall send the probation officer or the head of the designated institution necessary information for education, counseling, medical care, or probation when a decision under paragraph ① subparagraph 2 or 6 is made.
- ⑤ The Protection and Surveillance, etc. Act shall apply mutatis mutandis in all other cases not subject to this Act regarding probation, community service and attendance center order.

Article 15 (Period of Protective Disposition)

The protective disposition under Article 14 paragraph ① subparagraphs 1, 2, 4, and 5 may not exceed 6 months and community service and attendance center order under subparagraph 3 of the same paragraph may not exceed 100 hours.

Article 16 (Change in Protective Disposition)

- ① The Court may at the request of the prosecutor, probation officer, or head of the designated institution change the type and period of the protective disposition once through a decision.
- ② When changing the type and period of the protective disposition under paragraph ①, the total length of the disposition may not exceed 1 year in case of protective disposition under Article 14 paragraph ① subparagraphs 1, 2, 4 through 5 and 200 hours in case of community service and attendance center order under subparagraph 3 of the same paragraph.

Article 17(Other Legal Applications)

- ① Regarding protective disposition on prostitution cases that this act does not provide, Articles 13 through 17, 19 through 28, 30 through 32 paragraph ①, 34 through 38, 43, 44 and 46 through 55 of the Act on Special Cases Concerning Punishment of Domestic Violence, etc. shall apply mutatis mutandis and “crimes of domestic violence” shall mean “prostitution” and “family protection cases” shall mean “protection cases.” Provided, that provisions that can not be applied to prostitution cases such as temporary measures, articles regarding the rights of victims or legal representatives shall not apply.
- ② Necessary matters regarding the investigation and trial of protection cases that are not provided in this Act shall be decided by the Supreme Court Regulations

Chapter IV Penal Provisions

Article 18 (Penal Provisions)

- ① Anyone who falls under any part of the following subparagraphs shall be punished by imprisonment for not more than 10 years or by a fine not exceeding 100,000,000 won:
 1. A person who forces selling sex by means of assault or threats;
 2. A person who forces selling sex by deceptive scheme or other similar methods getting the person into trouble;
 3. A person who forces selling sex by using the fact that protection and supervision is provided for the person based on the relationship of family, relatives, employment or others; and
 4. A person who films videos, etc. expressing obscene material such as sexual

intercourse by means of deceptive scheme or force.

② Anyone who falls under any part of the following subparagraphs shall be punished by imprisonment of a definite term for no less than 1 year:

1. A person who commits a crime(including attempted crimes) under paragraph ① and received or requested and promised all or a part of the compensation thereof;
2. A person who forces juveniles, a person with mental disorder, or a person with serious disabilities as defined under the Presidential Decree to sell sex using deceptive scheme or force; and
3. A person who commits a crime under paragraph ① as a member of a criminal organization or group defined under Article 4 of the Punishment of Violence, etc. Act.

③ Anyone who falls under any part of the following subparagraphs shall be punished by imprisonment of a definite term for no less than 3 years:

1. A person who forces prostitution by means of confining a person or showing group or multiple force to that person;
2. A person who forces an abortion or sterilization by means of deceptive scheme or force using the employment and management relationship with the person who sold or will sell sex;
3. A person who trafficked persons for the purpose of prostitution; and
4. A person who commits a crime under paragraph ② subparagraph 1 or 2 as a member of an organization or group defined under Article 4 of the Punishment of Violence, etc. Act.

④ Anyone who falls under any part of the following subparagraphs shall be punished by imprisonment of a definite term for no less than 5 years:

1. A person who forces the person receiving protection or supervision based on business, employment, or other relationship to sell sex using drugs;
2. A person who commits a crime under paragraph ③ subparagraph 1 or 3 as a member of an organization or group defined under Article 4 of the Punishment of Violence, etc. Act.

Article 19 (Penal Provisions)

① Anyone who falls under any part of the following subparagraphs shall be punished by imprisonment for not more than 3 years or by a fine not exceeding 30,000,000 won:

1. A person who procures prostitution and does associated acts;
2. A person who recruits persons for sex selling acts; and

3. A person who introduces and/or mediates work making persons involve in prostitution.

② Anyone who falls under any part of the following subparagraphs shall be punished by imprisonment for not more than 7 years or by a fine not exceeding 70,000,000 won;

1. A person who procures prostitution and does associated acts vocationally;
2. A person who recruits persons for prostitution and gets profits thereof;
3. A person who introduces and mediates work making persons involve in prostitution and gets profits thereof.

Article 20 (Penal Provisions)

① Anyone who falls under any part of the following subparagraphs shall be punished by imprisonment for not more than 3 years or by a fine not exceeding 30,000,000 won:

1. A person who advertises (herein after by means including publications, printed handouts, telephones, the Internet, or others) with the purpose of introducing and mediating work to make persons involve in prostitution or obscene acts as defined under Article 245 of the Criminal Code;
2. A person who advertises a place where prostitution, procurement, or associated acts occur; and
3. A person who provides advertisement offering or seducing acts of buying sex.

② Anyone who produces and supplies advertisement material or places an advertisement subject to paragraph ① as a business shall be punished by imprisonment for not more than 2 years or by a fine not exceeding 10,000,000 won.

③ Anyone who distributes advertisement material or published materials of advertisement subject to paragraph ① as a business shall be punished by imprisonment for not more than 1 year or by a fine not exceeding 5,000,000 won.

Article 21 (Penal Provisions)

① Anyone who sells sex or buys sex shall be punished by imprisonment for not more than 1 year or by a fine, detention, or minor fine not exceeding 3,000,000 won.

② Anyone who violates Article 7 paragraph ③ shall be punished by a fine not exceeding 5,000,000 won.

Article 22 (Aggravated Punishment for Criminal Organization)

Anyone who forms or becomes a member of an organization or a group for the

purpose of committing criminal acts as defined under Article 18 and Article 19 of this Act shall be punished under Article 4 of the Punishment of Violence, etc. Act.

Article 23 (Attempted Crimes)

The attempts to commit the crimes as prescribed in Articles 18 through 20 shall be punished.

Article 24 (Joint Punishment by Imprisonment and a Fine)

Crimes under Articles 18 paragraph ①, 19, 20, and 23(excluding attempted crimes under Article 18 paragraph 2 through 4) may be jointly punished by imprisonment and a fine.

Article 25 (Confiscation and Additional Collection)

Money, valuables or property benefits obtained by a person who committed criminal acts under Articles 18 through 20 shall be subject to confiscation and if confiscation is not possible, the equivalent amount of money shall be collected.

Article 26 (Mitigation or Remission of Punishment)

When a person who commits criminal acts under this Act reports to a law enforcement agency or voluntarily surrenders oneself, the punishment may be mitigated or remitted.

Article 27 (Joint Penal Provision)

When a representative of a juristic person, or an agent, servant or employee of a juristic person or individual commits a crime under Articles 18 through 23 concerning the business of the juristic person or individual, a fine as prescribed in each corresponding Article shall be imposed on the juristic person or individual, in addition to the offender and if punishment with a fine is not provided a fine not exceeding 100,000,000 won will be imposed.

Article 28(Recompense)

- ① Recompense may be given to anyone who reports crimes under Article 18 paragraph ② subparagraph 3, paragraph ③ subparagraphs 3 and 4 of the same Article, paragraph ④ of the same Article and Article 22 to a law enforcement agency.
- ② Necessary matters regarding the standard and scope of compensation provided under paragraph ① shall be decided by a Presidential Decree.

Addenda

Article 1(Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Article 2 (Annulment of Other Acts)

The Prevention of Prostitution, etc. Act will annul this clause.

Article 3 (Transitional Measures Concerning Penal Provisions)

In the application of the penal provisions to the acts committed prior to the enforcement of this Act, the previous Prevention of Prostitution, etc. Act shall apply.

Article 4(Transitional Measures Concerning Protective Detention, etc.)

If the implementation of protective disposition procedures, protective disposition, or proper guidance and protection measure is in progress under previous rules at the time of this Act's promulgation, the previous rules shall apply.

Article 5 (Amendment of Other Acts, etc.) : Omission