



Article Content

Title : Sexual Assault Crime Prevention Act CH
Amended Date : 2015-12-23
Category : Ministry of Health and Welfare (衛生福利部)

- Article 1** The Act is formulated in order to prevent sexual assault and to protect the rights of victims.
- Article 2** A sexual assault crime is defined as a situation where a person breaks any of the following: Articles 221 to 227, 228, 229, 332 Paragraph 2 Subparagraph 2, 334 Paragraph 2 Subparagraph 2, 348 Paragraph 2 Subparagraph 1 and their special laws under the Criminal Code.
An offender, referred to in the Act, is a person who is sentenced as guilty for violating any of the above Articles. Save for Articles 9, 22, 22-1 and 23, provisions of the Act regarding the offender is applicable to a person who has committed any of the crimes specified in Paragraph 1 and has had his or her prosecution deferred, and a person who has violated Article 25 of the Sexual Harassment Prevention Act and has been sentenced as guilty.
- Article 3** The competent authorities referred to in the Act are the Ministry of Health and Welfare at the central level, municipality governments at the municipal level, and county (city) governments at the county (city) level.
Regarding the provisions of the Act, the competent authorities and relevant authorities shall respect multicultural differences, and shall be active in planning for the protection, prevention and promotion measures in accordance with the needs of sexual assault prevention to the extent of its competence, and shall coordinate if the prevention task is related with the duty of other relevant authorities. The scope of competence is as follows.
1.Social competent authority: protection and assistance to the victims of sexual assault incidents, the planning, implementation and supervision of policies of sexual assault prevention, regular publication of relevant statistics of sexual assault incidents and other relevant matters.
2.Health competent authority: medical examinations, collection of evidence, physical and psychological treatment for the victims of sexual assault, physical and psychological treatment, counseling, and education for the offenders of sexual assault

incidents, and other relevant matters.

3.Education competent authority: sexual assault prevention education at every level of school, the protection of the right to education of the victims of sexual assault incidents and their children, and other relevant matters.

4.Labor competent authority: vocational training and employment services for the victims of sexual assault incidents and other relevant matters.

5.Police competent authority: the protection of the personal safety of victims of sexual assault incidents, the investigation of sexual assault crimes, statistics, the registration and report of the offender, visits to the offender, document consultation and other relevant matters.

6.Legal competent authority: investigation of sexual assault crimes, corrective measures and medical treatment within prison, and other relevant matters related to criminal justice.

7.Immigration competent authority: foreign nationals, residents of the Mainland China Area, or Hong Kong and Macao residents who are victims of sexual assault incidents in Taiwan, which has resulted in the overstaying of their tourist or resident visas, shall receive assistance for their residence, or the protection of their right to reside, and the deportation of offenders who are foreign nationals, residents of the Mainland China Area, or Hong Kong and Macao residents.

8.Cultural competent authority: regulating publications that violate the provisions of the Act and other relevant matters.

9.Communication competent authority: regulating broadcasts, television and other media under legal governance of the authority that violate the provision of the Act and other relevant matters.

10.Household registration competent authority: the personal identification data and household registration of the victims of sexual assault incidents and their underage children and other relevant matters.

11.Other sexual assault prevention measures shall be executed by relevant authorities in accordance with their competence.

Article 4 The central competent authority shall undertake the following tasks:

1. Investigate, make a draft and discuss policies and regulations for sexual assault prevention.
2. Coordinating, supervising and examining implementation of sexual assault prevention in the government.
3. Supervising handling procedure, inquiries, medical treatment and service network for sexual assault incidents that local competent authorities concerned have set up.
4. Advancing education and promoting sexual assault prevention.

5. Establishing, compiling, managing, and making statistics of sexual assault incidents.

6. Studying the issues of sexual assault prevention.

7. Dealing with other issues related to sexual assault prevention.

The central competent authority, in handling the preceding paragraph matters, shall select and hire scholars, experts, private institutions representatives, and representatives from relevant institutions to provide consultation. The number of any gender shall not be less than one-third of the total number of such representatives. The number of such scholars, experts, and the non-official representatives shall not be less than one half of the total number of such representatives.

Article 5 Deleted

Article 6 A municipality and a county (city) government should set up a Sexual Assault Prevention Center, which undertakes the following tasks:

1. Provide a 24-hour hotline service.

2. Provide victims with a 24-hour emergency rescue.

3. Assist victims by obtaining medical treatment, medical examinations and evidence.

4. Assist victims with psychological treatment, counseling, emergency placement and legal services.

5. Coordinate hospitals to set up special medical teams for dealing with sexual assault incidents.

6. The offenders' tracking counseling and physical and psychological treatment.

7. Promote sexual assault prevention education, training and advertising.

8. Other relevant issues about sexual assault prevention and protection.

The Sexual Assault Prevention Center should be equipped with social workers, police, medical teams and other professionals.

Its organization is arranged by the relevant authorities of the municipality or of the county (city).

Local governments should take the first two Paragraphs 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:

1. The structure and function of the reproductive organs of both sexes.

2. Safe sexual behavior and knowledge of self-protection.

3. Education in equality of the sexes.
4. Building the correct psychology of sexuality.
5. Respect for others' sexual freedom.
6. Realization that sexual assaults are crimes.
7. Dealing with crises of sexual assaults.
8. Techniques of sexual assault prevention.
9. Other relevant education about sexual assaults.

The education course indicated in the first paragraph shall be conducted with diversified methods by schools.

Any organizations, troops, schools, and institutions with more than 30 joining, hiring or serving people should regularly hold sexual assault crime prevention training or encourage their members to attend such training.

Article 8 If medical workers, social workers, educational workers, caregivers, police officers, labor administration staff, judicial officers, immigration officers, officers of corrective institutions, and village (township) officers learn of suspected sexual assault incidents while performing their duties, they must report them to the competent authority of the municipality or county (city) within 24 hours.

The content of the report, the name and address of reporters and any information that is sufficient to identify the reporter is confidential unless otherwise specified by law.

The competent authority of the municipality and county (city) shall proceed with the classification procedure within 24 hours after it has acknowledged or received the report specified in Paragraph 1.

The protocol of report and classification specified in the preceding Article is formulated by the central competent authority.

Article 9 The central authorities should set up a national archive of sexual offenders, and it should contain name, gender, date of birth, national identification number, domicile or place of residence, photograph, criminal information, fingerprints, DNA and other information.

The content of the archive is confidential and should not be revealed unless otherwise specified by law. The protocol of archive management and usage is formulated by the relevant central supervisory authorities.

Article 10 Hospitals and clinics cannot refuse to provide medical treatment or issue a Medical Certificate of Diagnosis for no reason. During the examination, the victim should be accompanied by nursing staff. The privacy of the victim should be protected; a safe and appropriate medical environment should also be ensured. 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 the regulation of Paragraph 1 have to pay a fine of between ten thousand and fifty thousand NT dollars to relevant health authorities.

Article 11 Consent should be obtained from victims while collecting evidence, unless it is specified by Code of Criminal Procedure, Code of Court Martial Procedure or the victim is unconscious or unable to provide consent. In the case of the victim being declared under guardianship or under twelve years old, permission should be obtained from his or her guardian or legal representative. However if state of existence of the guardian or legal representative is unclear, difficult to contact, or is suspected of conducting the sexual assault, examination should be carried out.

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 Staffs who access information that they require for legitimate work purpose, such as 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 otherwise specified by law. The police shall take every measure to protect the safety of the victim when required. 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 one's identity.

Article 13 Publicity material, publications, broadcasts, television, internet contents or other kinds of media should not report or publish the name or any other personal identifiable information about the victim. However, there will be no such limitation if a consent is given by a competent victim, or if, in accordance with the law, the police or prosecutor consider disclosing the information is necessary.

Those who violate this provision should be fined between six thousand and sixty thousand NT dollars by the relevant authorities; and objects involved should be confiscated, contents should be ordered to be removed or taken off shelves, or dealt with accordingly. If there are any correction not made as ordered within the specified period, each and every lapse may be subject to additional separate penalty. In the case where the victim is dead, the fine could be voided after the social benefits are assessed by the relevant authorities.

Article 13-1 Broadcasters and television companies that violate the regulation of Paragraph 1 of the preceding Article have to pay a fine of between sixty thousand and six hundred thousand NT dollars to the relevant authorities, and the relevant authorities shall order corrective measures within the specified period; if the measures are not implemented as ordered within the specified period, each and every lapse may be subject to an additional separate penalty.

For the publicity materials, publications, internet contents or other kinds of media other than those mentioned in the preceding Paragraph that violate the regulation of Paragraph 1 of the preceding Article, the persons in charge must pay a fine of between sixty thousand and six hundred thousand NT dollars to the relevant authorities, and any objects involved should be confiscated, and contents should be removed or taken off shelves or dealt with accordingly. If any corrective measures are not made as ordered within the specified period, each and every lapse may be subject to an additional separate penalty until the measures have been implemented.

Persons other than those mentioned in the two preceding Paragraphs who violate Paragraph 2 of the preceding Article without any appropriate reasons, have to pay a fine of between twenty thousand and one hundred thousand NT dollars.

For the publicity materials, publications, internet contents or other kinds of media that have no persons in charge or the person in charge is not in a supervisory position to the act of the perpetrator, the fine specified in Paragraph 2 is to be imposed on the perpetrator.

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 officers to deal with sexual assault incidents.

The specially trained officers as referred in the preceding paragraph shall take training courses at least six hours each year.

The above-mentioned medical organizations in paragraph 1 refer

to medical units that are appointed by the central supervisory Health Authority to deal with sexual assault incidents.

Article 15 The victim's legal representative, spouse, immediate family member or relative within the third degree, parents, family members, doctor, psychiatrist, consolation workers or social workers may accompany the victim during investigation or trial and offer their opinions.
The company as referred in the preceding Paragraph does not apply to the person who 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 accompany the victim and provide opinions.

Article 15-1 Whenever considered as necessary by a judicial policeman, judicial police officer, prosecuting officer, prosecutor or judge at the investigation or trial level, if the victims of sexual assault incidents are children or have mental disabilities, they may be interrogated (examined) with the assistance of relevant professionals at their side. This provision is not applicable when the judicial policeman, judicial police officer, prosecuting officer, prosecutor or judge has received relevant professional training.
The judicial policeman, judicial police officer, prosecuting officer, prosecutor or judge may use a one-way mirror, audio and visual transmission technology equipment or other appropriate isolation measures when the professionals specified in the preceding Paragraph are assisting with the interrogation (examination).
The provisions of the two preceding Paragraphs apply *mutatis mutandis* to any case where the party, agent or defense attorney is cross-examining victims who are children or have mental disabilities.

Article 16 Upon application by victims or duties of judicial officers, 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 could be separated from the defendant or judge.
The judge or military judge should undertake the above isolating-for-questioning approach, when the victim is unable to speak freely or completely during the face-to-face questioning in court due to mental disability, physical or psychological injury.
The chief judge should also make inquiry when the defendant or defense attorney is forbidden from questioning the victim due to

one's inappropriate manner.

Neither the defendant in a sexual assault case nor his or her defense attorney shall question or raise other sexual experience that victim had, unless the judge or military judge considers it to be necessary.

Article 16-1 During an investigation or trial, if needed or upon application by the victim, the prosecutor and court may appoint or retain an expert witness of a relevant professional field to provide professional testimony, and the statements made by him or her at the trial can be used as evidence.
The provisions of Articles 163 to 171, 175 and 199 of the Code of Criminal Procedure shall apply mutatis mutandis to the preceding Paragraph.

Article 16-2 In cases where the defendant of the sexual assault crime or his or her defense counsel make any statement or action implying sexual discrimination against the victims during the trial, the judge shall stop any such action immediately.

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 during investigation can be used as evidence as long as it can be proven beyond a reasonable doubt and it is one of the elements of the crime:

1. The victim is unable to make a statement due to physical or psychological injury resulting from the sexual assault incident.
2. The victim is unable to or refuses to make a statement at trial due to physical or psychological pressure caused by the inquiries or cross-examination.
3. A person who is interrogated pursuant to Article 15-1.

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

1. Consent of the victim.
2. In the case of the victim having no or limited behavior capability, consents have been made by both the victim and his or her legal representative.

Article 19 Upon application, the municipality or county (city) government should provide the victim the following allowance:

1. Medical costs that are outside the scope of National Health Insurance and fees for psychological recovery.
2. Legal cost and lawyer's fees.
3. Other costs.

Aspects such as the entitlement, eligibility criteria and amount

are decided by the authorities of the municipality or county (city) government.

- Article 20 Should the offender fall into one of the following categories, and it is considered to be necessary after examination, the competent authority of the municipality or county (city) should order the offender to receive physical and psychological treatment or counselling education:
- 1.The offender has completed an imprisonment term or rehabilitative disposition. If the offender is sentenced to community service, the implementation starts from when the community service punishment is pronounced.
 - 2.The offender is on parole.
 - 3.There is a postponement in the implementation of the sentence.
 - 4.There is an exemption from the penalty.
 - 5.The offender has been pardoned.
 - 6.A Court or military court has suspended compulsory treatment pursuant to Article 22-1 Paragraph 3.
- The provision of the preceding paragraph may apply mutatis mutandis where a person violates Article 2 Paragraph 1, and may be pronounced as a final protective measure under the Juvenile Delinquency Act by court when necessary.
- The guardian who bears the responsibility of protection and supervision of the offender should take one or more of the following measures:
- 1.Arrange appointments, visits, and provide assistive measures such as group activities or conducting surveys.
 - 2.Arrange frequent appointments and visits when there is evidence showing a high probability of the offender committing further offences or it is necessary to further enforce the counseling and probation. If necessary, the offender should be allowed to meet an appointed officer from the police department regularly or irregularly.
 - 3.When there is evidence that the offender is using drugs, an order for taking a urinary test may be given.
 - 4.If the offender who has no permanent residence or the residence is not suitable for the enforcement of the probation, the guardian should appeal to the prosecutor or military prosecutor for an appointed residence.
 - 5.If the offender is in the habit of committing crimes at certain times or it is proved with sufficient evidence that the offender has a high probability of committing a crime again, the guardian should report to the prosecutor or military prosecutor to obtain an order that the offender shall not go out at the monitored time without permission.
 - 6.The guardian may report to the prosecutor or military prosecutor for permission to conduct a lie detector test.

7.The guardian may report to the prosecutor or military prosecutor for permission to conduct electronic monitoring.

8.Where the offender has a fixed crime pattern or it is proved with sufficient evidence that the offender has a high probability of committing a crime again, it may be reported to the prosecutor or military prosecutor so as to obtain a constraining order forbidding the offender from staying close to certain locations or people.

9.The guardian may transfer the offender to appropriate institutions or organizations.

10.Other necessary measures.

The enforcement period for carrying out Paragraph 1 is less than three years. However the competent authority of the municipality or county (city) may extend the period to the extent of one year when continued implementation is considered to be necessary; absent the necessity of continuing implementation, the disposition should be suspended.

Save for inmates serving fixed-term sentences who are to be handled by prison or military prison, and juveniles receiving corrective education who are to be handled by correctional institutes, the assessment of Paragraph 1 should be carried out by the competent authority of the municipality or county (city). The content, standard and procedure as specified in the Paragraph 1 as well as the content, procedure and result evaluation of the physical and psychological treatment or counseling education, etc., should be jointly determined by the central competent authority, Ministry of Justice and Ministry of National Defense.

Regarding the urinary test as specified in Paragraph 3, Subparagraph 3, its implementation, method, procedure, period, frequency, examining organization and items examined, etc., are jointly determined by the Ministry of Justice and other relevant authorities.

Regarding the lie detector test as specified in Paragraph 3, Subparagraph 6, and technology monitoring equipment as specified in Subparagraph 7, the protocol of its implementing authorities (institution), personnel, methods, procedures and other aspects, are jointly determined by the Ministry of Justice and other relevant authorities.

Article 21 Should the offender, mentioned in Article 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:

1. 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.

2. After receiving the notice from the relevant authorities of the municipality or county (city), the offender arrives late for assessment, physical and psychological treatment or counseling education or is taking less hours than required.

3. Those who do not register, report, have one's information modified, or accept regular visit according to Article 23, paragraphs 1, 2 and 4.

The offender mentioned above who does not carry out the order in time, is subject to imprisonment for up to one year, labor service under detention, a fine, or multiple fine up to fifty thousand NT dollars.

After enforcing the punishment on the offender on parole, postponing the execution, postponing the prosecution punishment, or fix-term imprisonment to be commuted to community service as referred in Paragraph 1, the relevant authorities of the municipality or county (city) should inform the local court prosecutor office or the court military prosecutor's office that is in charge.

On receiving the notice, the public prosecutor office or military prosecutor 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 and commuted community service.

Article 22 Should the offender conduct the same crime, after receiving physical and psychological treatment or counseling education as instructed by Article 21 Paragraph 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 prosecutor and the military prosecutor and force the offender into treatment by law.

Article 22-1 Before completing imprisonment terms, if the offender has received counseling or treatment, is identified, evaluated and there is considered to be a danger of recidivism, and therefore Article 91-1 of the Criminal Code is not applicable, the prison or military prison shall submit a relevant evaluation report to the prosecutor of the district prosecutor office or military prosecutor office. The prosecutor shall file a petition to the court or military court for an order stating that the offender shall receive compulsory treatment in a medical institution or other designated places.

After the offender, pursuant to Article 20, has received physical and psychological treatment or counseling education, and it is further assessed that his or her self-control still cannot prevent recidivism, and therefore Article 91-1 of the

Criminal Code is not applicable, the prosecutor of the district prosecutor office, the prosecutor of the military prosecutor office, or the competent authority of the municipality or county (city) shall submit a relevant evaluation report and file a petition to the court or military court for an order stating that the offender shall receive compulsory treatment in a medical institution or other designated places.

During the period of the implementation of the compulsory treatment order specified in the two preceding Paragraphs, appraisal and evaluation regarding the necessity to stop the treatment shall be performed at least once a year until the danger of recidivism has been remarkably reduced. After the offender has been identified and it has been assessed that there is no necessity to continue the compulsory treatment, the offender, the prosecutor of the district prosecutor office, the prosecutor of the military prosecutor office, or the competent authority of the municipality or county (city) shall file a petition to the court or military court for an order to stop the compulsory treatment.

If the offender fails to appear on time to receive the compulsory treatment specified in Paragraph 2, he or she may be subject to the punishment of imprisonment of not more than one year, detention, and/or fine of not more than fifty thousand NT dollars.

The petition procedure, implementation authorities (institutions) of the compulsory treatment, venues, implementation procedure, method, the source of financing the compulsory treatment specified in Paragraphs 1 and 2, and the petition procedure, method, identification and the formation of the evaluation council of the suspension of compulsory treatment specified in Paragraph 3, shall be jointly determined by the Ministry of Justice, the central competent authority and the Ministry of National Defense.

Article 23 The offender who violates Article 221, Article 222, Article 224, Paragraph 1, Article 225, Paragraph 1, Article 226, Article 226, Paragraph 1, Article 332, Paragraph 2, Subparagraph 2, Article 334, Subparagraph 2, Article 348 Paragraph 2, Subparagraph 1, or its special regulations of the Criminal Code and violates any regulations of Article 20 Paragraph 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 offender who violates Article 224, Article 225, Paragraph 2, Article 228, or recidivist of Article 227 of the Criminal Code, and violates any regulations of Article 20 Paragraph 1, should

also abide to the provisions of the preceding paragraph. The period for the reporting and registering is five years.

The two preceding paragraphs do not apply if the offender is under 18 years old when the crime was committed.

The offenders of paragraph 1~2 should regularly or irregularly accept the visit of the police bureau and modify the information details of movements within seven days during the period for the reporting and registering.

The periodical registration aims to protect social benefit and the safety of the society and should be examined by an appointed person.

The registration, reporting, visiting period, times, procedures, and scope, content, executing organization, qualification and condition of the appointed person, and examination procedure of the preceding paragraph, and other procedures to be followed, are decided by the relevant police authorities.

Article 23-1 If a defendant or accused offender who is sentenced as guilty for violating Article 21 paragraph 2 has absconded or is in hiding and has been issued a circular order for his arrest, the competent police authorities may publish the identification information in a newspaper or via other mediums. Competent police authorities should stop publicizing once the accused has been apprehended, arrested, has deceased, or obviously remains unnecessary.

The two preceding paragraphs do not apply if the offender is under 18 years old when the crime was committed.

Article 24 The Enforcement Rules for the Act shall be determined by the central competent authorities concered.

Article 25 The Act shall come into force after six months of its promulgation.

The amendments of the Act that were made on December 22, 2009 shall come into force on November 23, 2009.

The amendments of the Act that were made on October 25, 2011 shall come into force on January 1, 2012.

The amendments of the Act that were made on December 8, 2015, save for Article 15-1 that shall come into force on January 1, 2017, shall come into force on the date of their promulgation.