

# ACT ON THE PREVENTION OF SEXUAL ASSAULT AND PROTECTION, ETC. OF VICTIMS THEREOF

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Act No. 10261, Apr. 15, 2010

## CHAPTER Ⅱ GENERAL PROVISIONS

### Article 1 (Purpose)

The purpose of this Act is to prevent sexual assault and provide protection and support for victims thereof.

### Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term “sexual assault” means the commission of **any crime** described in Article 2 (1) of the Act on Special Cases concerning the Punishment, etc. of Sexual Crimes;
2. The term “sexual assault offender” means any person who has committed a crime falling under Article 2 (1) of the Act on Special Cases concerning the Punishment, etc. of Sexual Crimes;
3. The term “victim of sexual assault” means any person who has suffered direct harm as a result of the commission of sexual assault.

### Article 3 (Responsibility of State, etc.)

(1) The State and local governments shall take the following measures to prevent sexual assault and provide protection and support for victims of sexual assault (hereinafter referred to as “victims”):

1. Building and operation of reporting systems for sexual assault;
2. Investigation, research, education and publicity necessary to prevent sexual assault;
3. Establishment and operation of facilities for the protection and support of victims;
4. Support for the rehabilitation of victims, including residential assistance, occupational training and legal aid;

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5. Building and operation of cooperative systems between related agencies to facilitate the protection and support of victims;
6. Improvement of harmful environments, to prevent sexual assault;
7. Adjustment of related Acts and subordinate statutes and the establishment, implementation and evaluation of various policies to protect and support victims.

(2) The State and local governments shall take necessary budgetary measures to fulfill the responsibilities under paragraph (1).

### Article 4 (Investigation into Actual Conditions of Sexual Assault)

(1) The Minister of Gender Equality and Family shall investigate the actual conditions of sexual assault and announce the results of such investigation every three years to ascertain the actual conditions of sexual assault and establish policies for the prevention of sexual assault.

(2) Necessary matters regarding the details, methods, etc. of investigating the actual conditions of sexual assault under paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

### Article 5 (Education to Prevent Sexual Assault)

(1) For the purpose of helping the youth grow soundly, the State and local governments shall conduct sex education for the youth and other education necessary for the prevention of sexual assault.

(2) The principals of various levels of schools under Article 2 of the Elementary and Secondary Education Act shall conduct education necessary to form a healthy sense of values about sex and prevent sexual assault, as prescribed by Presidential Decree.

(3) Necessary matters regarding the details, methods, etc. of education under paragraph (2) shall be prescribed by Presidential Decree.

### Article 6 (Sexual Assault Prevention Week)

One week a year shall be designated as a sexual assault prevention week to call social attention to sexual assault and prevent sexual assault, as prescribed by Presidential Decree.

### Article 7 (Provision of Assistance Necessary to Send Victims, etc. to Schools)

(1) The State and local governments shall provide assistance necessary to send victims and their family members (hereinafter referred to as "victims, etc.") to schools (including admission, re-admission and special admission to schools, and change of schools; hereafter in this Article the same shall apply) located in areas other than their places of domicile, if they are students of any schools

listed in Article 2 of the Elementary and Secondary Education Act. In such cases, those who take charge of the provision of such assistance shall be careful not to infringe upon the privacy of the victims, etc.

(2) Necessary matters regarding the provision of assistance to send victims, etc. to schools under paragraph (1), including the calculation of the number of days of school attendance, shall be prescribed by Presidential Decree.

Article 8 (Prohibition of Unfavorable Measures against Victims)

No employer of a victim shall dismiss the victim or take any other unfavorable measure against him/her on the grounds that he/she is a victim of sexual assault.

Article 9 (Duty to Report)

The head or employee of a facility which serves to protect, educate or treat minors under the age of 19 (excluding minors who have reached the first day of a year in which they attain the age of 19) shall immediately report to an investigative agency on a minor under his/her protection and support when he/she discovers that the minor is a victim referred to in any of Articles 3 through 9 of the Act on Special Cases concerning the Punishment, etc. of Sexual Crimes and Articles 301 and 301-2 of the Criminal Act.

## CHAPTER Ⅹ ESTABLISHMENT AND OPERATION OF FACILITIES, ETC. FOR PROTECTION AND SUPPORT OF VICTIMS

Article 10 (Establishment and Operation of Counseling Centers)

(1) The State and local governments may establish and operate counseling centers for victims of sexual assault (hereinafter referred to as “counseling centers”).

(2) Any person, other than the State and local governments, who seeks to establish and operate a counseling center shall file a report thereon with a Special Self-Governing Province Governor or the head of a Si/Gun/Gu (referring to an autonomous Gu; hereinafter the same shall apply).

(3) Necessary matters regarding the standards for establishment and operation of counseling centers, the number of counselors and other staff members to be placed at each counseling center, the filing of reports, etc. shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

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### Article 11 (Functions of Counseling Centers)

The functions of counseling centers shall be as follows:

1. Receiving reports on sexual assault, and giving advice thereon;
2. Taking **the persons** who have difficulties in leading normal home or social life or otherwise require urgent protection **due to sexual assault**, to protective facilities, etc. for victims of sexual assault under Article 12;
3. Providing medical assistance for victims in such a way as to hand them over to medical institutions for the treatment of diseases and health care;
4. Accompanying victims to **investigative** agencies and courts in relation to investigations, examination of witnesses, etc.;
5. Requesting necessary cooperation and assistance from the Korea Legal Aid Corporation under Article 8 of the Legal Aid Act and other related agencies in relation to judicial settlement procedures for lodging complaints against sexual assault offenders, claiming compensation for damage, etc.;
6. Publicity and education for the prevention of sexual assault;
7. Research and study on sexual assault and related injuries.

### Article 12 (Establishment and Operation of Protective Facilities)

(1) The State and local governments may establish and operate protective facilities for victims of sexual assault (hereinafter referred to as “protective facilities”). In such cases, protective facilities for the disabled, etc. may be established and operated separately if deemed necessary.

(2) The social welfare corporations under the Social Welfare Services Act and other nonprofit corporations may establish and operate protective facilities with authorization **by** the Special Self-Governing Province Governor or the head of *Si/Gun/Gu* concerned. In such cases, protective facilities for the disabled, etc. may be established and operated separately with authorization **by** the Special Self-Governing Province Governor or the head of *Si/Gun/Gu* concerned if deemed necessary.

(3) Necessary matters regarding the standards for establishment and operation of protective facilities, the number of counselors and other staff members to be placed at each protective facility, the procedures for authorization, etc. shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

### Article 13 (Functions, etc. of Protective Facilities)

(1) The functions of protective facilities shall be as follows:

1. Providing protection, and room and board, for victims, etc.;
2. Giving victims advice and medical treatment necessary to **assist** their mental stability and rehabilitation in society;
3. Conducting education for independence and self-support and providing information on employment;
4. Affairs **under** subparagraphs 3, 4 and 5 of Article 11;
5. Affairs entrusted to the protective facilities pursuant to other Acts;
6. Other affairs needed to protect victims.

(2) Where a person who installs and operates a protective facility for the disabled performs the affairs listed in each subparagraph of paragraph (1), he/she shall endeavor to provide the disabled with proper protection and support based on the **particularities of** their condition.

Article 14 (Provision of Protection Expenses for Protective Facilities)

(1) The State and local governments may provide the following protection expenses for the heads of protective facilities or victims if necessary for protecting victims, etc. housed in such protective facilities: *Provided*, That if the victims, etc. housed in the protective facilities are subject to **protection** pursuant to the National Basic Living Security Act and other Acts and subordinate statutes, support under this Act shall be limited in so far as such protection extends:

1. Living expenses;
2. Subsidies for education of children;
3. Expenses **incurred in** bringing up children;
4. Other expenses prescribed by Presidential Decree.

(2) Necessary matters regarding the methods, procedures, etc. for the provision of protection expenses under paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

Article 15 (Housing in Protective Facilities)

(1) If a victim, etc. falls under any of the following subparagraphs, he/she may be housed in a protective facility:

1. Where the victim, etc. **wishes** or consents to be housed in such facility;
2. Where the victim, etc. **lacks** mental capacity, such as a minor or a mentally handicapped person, and his/her guardian, who is not the sexual assault offender, consents thereto.

(2) The head of a protective facility authorized pursuant to Article 12 (2) shall report the identity, grounds for housing, etc. of those housed in the protective facility pursuant to paragraph (1) without delay to the

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Special Self-Governing Province Governor or the head of *Si/Gun/Gu* concerned.

(3) The head of a protective facility may, at his/her own discretion, house in the protective facility the victims who are sexually assaulted by their relatives or the victims who **lacks** mental capacity, such as mentally handicapped persons, notwithstanding the provisions of paragraph (1), if deemed **improper** to seek their guardians' consent thereto in spite of the necessity of housing confirmed through counseling with its counselor. In such cases, if the protective facility **is** authorized pursuant to Article 12 (2), the head of such facility shall promptly obtain approval **from** the Special Self-Governing Province Governor or the head of *Si/Gun/Gu* concerned.

(4) In making decisions on housing and approval pursuant to paragraph (3), the head of the protective facility and the Special Self-Governing Province Governor or the head of *Si/Gun/Gu* concerned shall take into consideration the protection of the victims' rights and interests as a matter of the highest priority.

### Article 16 (Period of Housing in Protective Facility)

(1) The period of protection for an inmate housed in a protective facility shall not **exceed** six months.

(2) Notwithstanding the provisions of paragraph (1), the head of a protective facility may, if deemed necessary to protect inmates, extend the period of protection up to 18 months with approval of the Special Self-Governing Province Governor or the head of *Si/Gun/Gu* concerned: *Provided*, That if an inmate is a minor who has been sexually assaulted by his/her relative, the period may be extended until he/she attains the age of 18, with approval of the Special Self-Governing Province Governor or the head of *Si/Gun/Gu* concerned.

### Article 17 (Withdrawal from Protective Facilities)

(1) Any person who is housed in a protective facility pursuant to Article 15 (1) may withdraw from the protective facility of his/her own accord or upon request by his/her guardian who gave consent to his/her housing in such facility in accordance with subparagraph 2 of the same paragraph.

(2) The head of a protective facility may order an inmate to withdraw from the facility if **the inmate** falls under any of the following subparagraphs:

1. Where the purpose of protection is attained;
2. Where the period of protection expires pursuant to Article 16;
3. Where the inmate is found to be housed in the facility in any false or other fraudulent way;

4. Where the inmate commits a serious breach of discipline within the protective facility.

Article 18 (Establishment and Operation of Integrated Support Centers for Victims)

- (1) The State and local governments may establish and operate integrated support centers for victims of sexual assault (hereinafter referred to as “integrated support centers”) to comprehensively perform affairs relating to the counseling and treatment of sexual assault victims and the provision of remedies for such victims.
- (2) The State and local governments may allow the institutions or organizations prescribed by Presidential Decree to establish and operate integrated support centers.
- (3) The number of counselors and other staff members to be placed at each integrated support center and other necessary matters shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

Article 19 (Qualification Standards for Counselors, etc.)

- (1) Any person who falls under any of the following subparagraphs shall be disqualified from serving as head or counselor of a counseling center, protective facility or integrated support center:
  1. A minor or any person who is incompetent or quasi-incompetent;
  2. Any person who has been declared bankrupt and is not yet reinstated;
  3. Any person who has been sentenced to imprisonment without prison labor or heavier punishment and for whom the execution of the sentence is not terminated (including cases where the execution of the sentence is deemed to be terminated) or the non-execution of the sentence is not irrevocably settled yet;
  4. Any person who has been sentenced to a penalty or to medical treatment and custody on charges of violating Article 2 of the Act on Special Cases concerning the Punishment, etc. of Sexual Crimes or subparagraph 2 of Article 2 of the Act on the Protection of Children and Juveniles from Sexual Abuse and for whom ten years have yet to pass from the date on which the execution of such penalty or medical treatment and custody is terminated, suspended or exempted in whole or in part.
- (2) Any person who intends to be engaged at a counseling center, protective facility or integrated support center shall meet the qualification standards prescribed by Presidential Decree in relation to professional knowledge, career, etc.

Article 20 (Conduct of Supplementary Education)

- (1) The Minister of Gender Equality and Family or a Special Metropolitan City Mayor, Metropolitan City Mayor, Do Governor or Special Self-Governing Province

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Governor (hereinafter referred to as “Mayor/*Do* Governor”) shall conduct supplementary education to improve the **quality** of employees of counseling centers, protective facilities and integrated support centers.

(2) The Minister of Gender Equality and Family or **a** Mayor/*Do* Governor may entrust the affairs of education under paragraph (1) to the universities and junior colleges pursuant to subparagraphs 1 and 4 of Article 2 of the Higher Education Act or the specialized institutions prescribed by Presidential Decree.

(3) Necessary matters regarding the details, period, methods, etc. of supplementary education under paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

### Article 21 (Reporting on Closedown, Suspension, etc. of Business)

Where a counseling center or protective facility established pursuant to Article 10 (2) or 12 (2) seeks to close down, suspend or resume its business, it shall **report** thereon in advance to the Special Self-Governing Province Governor or the head of *Si/Gun/Gu* concerned, as prescribed by Ordinance of the Ministry of Gender Equality and Family.

### Article 22 (Orders for Correction)

The Special Self-Governing Province Governor or the head of **a** *Si/Gun/Gu* may order a counseling center or protective facility to take corrective measures within a fixed period if it falls under any of the following subparagraphs:

1. Where **the counseling center or protective facility** fails to meet the standards for establishment and operation, or the fixed number of staff members, under Article 10 (3) or 12 (3);
2. Where any counselor, etc. of the counseling center or protective facility fails to meet the qualification standards under Article 19.

### Article 23 (Revocation of Authorization, etc.)

(1) The Special Self-Governing Province Governor or the head of **a** *Si/Gun/Gu* may order a counseling center or protective facility to close down or suspend its business, or revoke its authorization, if it falls under any of the following subparagraphs:

1. Where it violates a corrective order issued pursuant to Article 22;
  2. Where it is established or operated for the purpose of profit-making, in violation of Article 29;
  3. Where it violates Article 32 (1) by failing to **report, submitting** a false report, or refusing or evading an investigation or inspection without any justifiable ground.
- (2) Detailed standards for the **closure** and suspension of business and the revocation



of authorization under paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

Article 24 (Respecting Intentions of Victims, etc.)

The heads and staff members of counseling centers, protective facilities and integrated support centers **are** prohibited from performing the affairs, etc. under Articles 11 and 13 (1) against any intention clearly expressed by the victims, etc. concerned.

Article 25 (Evaluation of Counseling Centers, Protective Facilities and Integrated Support Centers)

(1) The Minister of Gender Equality and Family shall evaluate the performance records of counseling centers, protective facilities and integrated support centers every three years and take into consideration the results of such evaluation in supervising facilities, providing support, etc.

(2) Necessary matters regarding the standards, methods, etc. for evaluation under paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

Article 26 (Provision of Subsidies)

(1) The State and local governments may provide subsidies for counseling centers, protective facilities or integrated support centers to cover the expenses involved in the establishment and operation thereof.

(2) Subsidies under paragraph (1) shall be granted after due consideration of the results of **an** investigation into the actual conditions of sexual assault under Article 4, **an** evaluation under Article 25, **reporting** under Article 32, etc.

Article 27 (Designation, etc. of Medical Institutions Taking Exclusive Charge of Victims of Sexual Assault)

(1) The Minister of Gender Equality and Family, **a** Special Self-Governing Province Governor or the head of **a** *Si/Gun/Gu* may designate national or public hospitals, public health centers or private medical facilities as medical institutions taking exclusive charge of the treatment of victims.

(2) The medical institutions designated as medical institutions taking exclusive charge of the treatment of victims pursuant to paragraph (1) shall provide the following medical services **to** victims upon request by the heads of counseling centers, protective facilities or integrated support centers:

1. Counseling and guidance concerning health;
2. Medical treatment;
3. Other physical and mental treatment prescribed by Presidential Decree.

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### Article 28 (Provision of Medical Expenses)

(1) The State and local governments may subsidize all or some of the expenses needed to provide medical treatment and other medical services under Article 27

(2).

(2) Necessary matters regarding the scope of medical expenses covered under paragraph (1), the procedures for provision thereof, etc. shall be prescribed by Ordinance of the Ministry of Gender Equality and Family.

### Article 29 (Prohibition of Operation for Purpose of Profit-Making)

No person shall establish or operate any counseling center or protective facility for the purpose of profit-making.

### Article 30 (Duty to Maintain Confidentiality)

No person serving or served as the head or staff member of a counseling center, a protective facility or an integrated support center shall divulge confidential information learned in the course of performing his/her duties.

## CHAPTER Ⅹ SUPPLEMENTARY PROVISIONS

### Article 31 (Cooperation with Police Offices)

If there is an urgent need to rescue a victim, the head of a counseling center, a protective facility or an integrated support center may request the head of a police office (including any police substation, police box and police branch office) to allow police officers under his/her control to accompany staff members of said facility or center; and the head of the police office so requested shall comply with such request unless there is any special reason to the contrary.

### Article 32 (Reporting, Inspection, etc.)

(1) The Minister of Gender Equality and Family, a Special Self-Governing Province Governor or the head of a Si/Gun/Gu may request the heads of counseling centers, protective facilities or integrated support centers to submit necessary reports on such centers or facilities, and direct the public officials concerned to investigate the operational situations of such centers or facilities or inspect the accounting books and other documents.

(2) Public officials who conduct an inspection under paragraph (1) shall notify the heads of such centers or facilities in advance of the date and time, purposes, etc. of such inspection.

(3) Public officials performing duties under paragraph (1) shall carry certificates

of authority and present them to interested persons.

Article 33 (Prohibition of Use of Similar Titles)

No person, other than a counseling center, protective facility or integrated support center under this Act, shall use the title “counseling center for victims of sexual assault”, “protective facility for victims of sexual assault” or “integrated support center for victims of sexual assault”, or any other similar **title**.

Article 34 (Hearings)

**A** Special Self-Governing Province Governor or the head of **a Si/Gun/Gu** shall hold a hearing when he/she intends to issue an order to close down business, or to revoke authorization, pursuant to Article 23.

Article 35 (Delegation of Authority)

Part of **the** authority of the Minister of Gender Equality and Family under this Act may be delegated to **a** Mayor/*Do* Governor or the head of **a Si/Gun/Gu**, as prescribed by Presidential Decree.

## CHAPTER Ⅷ PENAL PROVISIONS

Article 36 (Penal Provisions)

Any person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than two years or by a fine not exceeding five million won:

1. A person who establishes or operates a counseling center or protective facility without filing a report under Article 10 (2) or obtaining authorization under Article 12 (2);
2. A person who continues to operate a counseling center or protective facility in spite of an order for closedown or suspension of business or the revocation of authorization under Article 23;
3. A person who violates the prohibition of operation for the purpose of profit-making under Article 29;
4. A person who violates the duty to **maintain confidentiality** under Article 30.

Article 37 (Joint Penal Provisions)

If a representative of a legal entity, or an agent, servant or other employee of a legal entity or individual, commits an offense set forth in Article 36 in relation to the business of the legal entity or individual, the legal entity or individual, in addition to the offender, shall be punished by the fine prescribed in the said Article: *Provided*, That this shall not apply in cases where **such** legal entity or individual has not

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neglected to supervise that business with due care to prevent such offense.

### Article 38 (Fines for Negligence)

(1) Any person who falls under any of the following subparagraphs shall be subject to a fine for negligence not exceeding three million won:

1. A person who violates Article 32 (1) by failing to file a report, making a false report or refusing or evading an investigation or inspection without any justifiable ground;
2. A person who violates the prohibition of use of any similar title under Article 33.

(2) Fines for negligence under paragraph (1) shall be imposed and collected by the Minister of Gender Equality and Family, a Special Self-Governing Province Governor or the head of a *Si/Gun/Gu*, as prescribed by Presidential Decree.

## ADDENDA

### Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 2011.

### Article 2 (Repeal of Other Act)

The Act on the Protection, etc. of Victims of Sexual Crimes is hereby repealed.

### Article 3 (Transitional Measures concerning Counseling Centers)

Any counseling center for victims of sexual assault reported to a Special Self-Governing Province Governor or the head of a *Si/Gun/Gu* pursuant to the former Act on the Protection, etc. of Victims of Sexual Crimes, at the time this Act enters into force, shall be deemed a counseling center under this Act.

### Article 4 (Transitional Measures concerning Protective Facilities)

Any protective facility for victims of sexual assault reported to a Special Self-Governing Province Governor or the head of a *Si/Gun/Gu* pursuant to the former Act on the Protection, etc. of Victims of Sexual Crimes, as at the time this Act enters into force, shall be deemed a protective facility authorized under this Act: *Provided*, That said facility shall meet the requirements under Article 12 (3) within one year from the date this Act enters into force.

### Article 5 (Transitional Measures concerning Inmates in Protective Facilities)

Any person housed in a protective facility for victims of sexual assault pursuant to the former Act on the Protection, etc. of Victims of Sexual Crimes, as at the time this Act enters into force, shall be deemed an inmate under this Act.

### Article 6 (Transitional Measures concerning Qualification Standards for

Counselors, etc.)

Any employee of a counseling center for victims of sexual assault or a protective facility for victims of sexual assault pursuant to the former Act on the Protection, etc. of Victims of Sexual Crimes, **as** at the time this Act enters into force, shall be governed by the previous provisions if he/she falls under any subparagraph of Article 19 (1) due to any cause accrued before this Act **enters into force**, notwithstanding the provisions of subparagraphs of the said paragraph.

Article 7 (Transitional Measures concerning Administrative Disposition Taken Pursuant to the Former Act on the Protection, etc. of Victims of Sexual Crimes)

Any administrative disposition taken by an administrative agency against a counseling center or protective facility pursuant to the former Act on the Protection, etc. of Victims of Sexual Crimes, **as** at the time this Act enters into force, shall be deemed **an** administrative disposition taken under this Act.

Article 8 Omitted.

Article 9 (Relationship to Other Acts)

If the former Act on the Protection, etc. of Victims of Sexual Crimes, or the provisions thereof, are cited in other Acts and subordinate statutes, **as** at the time this Act enters into force, and if any provisions corresponding thereto **exist** in this Act, this Act or the corresponding provisions hereof in lieu of the former Act on the Protection, etc. of Victims of Sexual Crimes or the provisions thereof shall be deemed to be cited.