

South Korea

Act On The Prevention Of Sexual Traffic And Protection, Etc. Of Victims Thereof

Act No. 7212, Mar. 22, 2004
Amended by Act No. 7413, Mar. 24, 2005
Act No. 7784, Dec. 29, 2005
Act No. 7849, Feb. 21, 2006
Act No. 8852, Feb. 29, 2008
Act No. 8965, Mar. 21, 2008
Act No. 9125, Jun. 13, 2008

Article 1 (Purpose)

The purpose of this Act is to prevent sexual traffic, to protect victims of sexual traffic and anyone who performs an act of trafficking in sex and to help them attain their self-reliant lives.

Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows: < 1. The term “sexual traffic” means acts provided for in Article 2 (1) 1 of the Act on the Punishment of Acts of Arranging Sexual Traffic;

2. The term “act of arranging sexual traffic” means acts provided for in Article 2 (1) 2 of the Act on the Punishment of Acts of Arranging Sexual Traffic;

3. The term “human traffic aimed for sexual traffic” means acts provided for in Article 2 (1) 3 of the Act on the Punishment of Acts of Arranging Sexual Traffic; and

4. The term “victims of sexual traffic” means persons provided for in Article 2 (1) 4 of the Act on the Punishment of Acts of Arranging Sexual Traffic.

[Article amended by Act. No 7784 of Dec. 29, 2005]

Article 3 (Responsibilities of State, etc.)

(1) The State and local governments shall create a legal and institutional mechanism and take necessary administrative and fiscal measures with respect to matters falling under each of the following subparagraphs in order to prevent sexual traffic and to protect the victims of sexual traffic and anyone who performs sexual acts for money (hereinafter referred to as “victims, etc. of sexual traffic”) and to help them attain their self-reliant lives:

1. Survey, study, education and public relations that are performed with the aim of preventing the sexual traffic, the act of arranging sexual traffic and the human traffic aimed for sexual traffic; and

2. The building and operation of establishments (including establishments for foreign women) in order to protect victims, etc. of the sexual traffic and to help them attain their self-reliant lives.

(2) The State shall work to promote international cooperation in order to prevent the human traffic aimed for sexual traffic.

Article 3-2 (Surveys on Actual Conditions of Sexual Traffic)

(1) The Minister of Gender Equality shall conduct surveys on actual conditions of sexual traffic in and outside Korea every three years, publish a synthesized report on actual conditions of sexual traffic and utilize it as basic data for policy making for prevention of sexual traffic.

(2) The Minister of Gender Equality may, when he/she deems as necessary for surveys on actual conditions under paragraph (1), request the head of a central administrative agency concerned, the head of a local government concerned and the head of any relevant organization to submit data or for cooperation necessary for carrying out surveys. In such cases, any person who has been requested to submit data or for cooperation shall comply with such request unless any grounds exist to the contrary.

(3) Matters necessary for methods, contents of actual conditions, etc. of sexual traffic under paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality.

[Article Inserted by Act No. 8965 of Mar. 21, 2008]

Article 4 (Preventive Education against Sexual Traffic)

(1) The head of any state agency, any local government or any elementary, middle or high school and the head of any other public institution prescribed by Presidential Decree shall conduct preventive education against sexual traffic with a view to fostering sound values on sex, preventing sexual traffic and protecting human rights and submit the results thereof to the Minister of Gender Equality.

(2) Matters necessary for the contents and methods of preventive education against sexual traffic, procedures for submission of results, etc. under paragraph (1) shall be prescribed by Presidential Decree.

[Article Amended by Act No. 8965 of Mar. 21, 2008]

Article 5 (Kinds of Supporting Establishments)

(1) The kinds of supporting establishments for victims, etc. of sexual traffic (hereinafter referred to as “supporting establishments”) shall be as follows:

[Article amended by Act No. 7784 of Dec. 29, 2005>

1. General supporting establishment: The establishment that provides victims, etc. of sexual traffic with accommodations and meals for not more than one year and helps them attain their self-reliant lives;

2. Juvenile supporting establishment: The establishment that provides juvenile victims, etc. of sexual traffic with accommodations and meals for not more than one year and helps them attain their self-reliant lives through schooling and education, etc.;

3. Supporting establishment for foreign women: The establishment that provides the foreign women who are victims, etc. of sexual traffic with accommodations and meals for not more than three months (with respect to any foreign woman who falls under Article 11 of the Act on the Punishment of Acts of Arranging Sexual Traffic, the relevant period) and helps them return to their homelands; and

4. Rehabilitation supporting centers: The establishment that provides necessary assistances in rehabilitating victims, etc. of sexual traffic.

(2) The head of every general supporting establishment may extend the entrance period within the scope of not more than 6 months under the conditions as prescribed by Ordinance of the Ministry of Gender Equality.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

(3) The head of every juvenile supporting establishment may extend the entrance period before the relevant juveniles attain the age of 19 under the conditions of Ordinance of the Ministry of Gender Equality.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

Article 6 (Building of Supporting Establishments)

(1) The State or local governments may build and operate supporting establishments.

(2) In cases where anyone, other than the State or local governments, intends to build and operate a supporting establishment, he shall submit a report thereon to the head of Si/Gun/Gu (referring to the head of an autonomous Gu; hereinafter the same shall apply).

(3) Necessary matters concerning the standards for building of supporting establishments and the procedures for reporting thereon, and the qualification standards for and the number of the employees thereof shall be prescribed by Ordinance of the Ministry of Gender Equality.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by act No. 8852 of Feb. 29, 2008]

Article 7 (Works of Supporting Establishments)

(1) Each of general supporting establishments shall perform the work falling under each of the following subparagraphs:

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 7784 of Dec. 29, 2005; amended by Act No. 8852 of Feb. 29, 2008]

1. Provision of accommodations and meals;
2. Counseling and treatment services rendered with the aim of helping victims, etc. of sexual traffic to psychologically stabilize and adapt themselves to society;
3. Medical support, including the transfer of victims, etc. of sexual traffic to medical institutions for the treatment of their diseases as well as their health care;
4. The accompaniment of victims, etc. of sexual traffic to any investigation agency for investigation and to the court for the interrogations of them as witnesses;
5. Request to legal aid institutions, etc. for their necessary cooperation and support;
6. The conduct of education for rehabilitation and self-reliant lives and the provision of job information;
7. Assurances in making them eligible for benefits provided for in the National Basic Living Security Act and other Acts and subordinate statutes related to the social security;
8. Education for technology (including commissioned education for technology);
9. Matters commissioned to supporting establishments in accordance with other Acts; and
10. Other matters prescribed by Ordinance of the Ministry of Gender Equality.

(2) Each of juvenile supporting establishments shall perform the work of offering educational programs in order for juveniles to go on to the next stage of education and helping them enroll in educational institutions in addition to the works referred to in each subparagraph of paragraph

(1).

(3) Each of supporting establishments for foreign women shall perform the works referred to in paragraph (1) 1 through 5 and 9 and also the work of helping them return to their homelands.

(4) Each of rehabilitation supporting centers shall perform the works falling under each of the following subparagraphs:

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

1. Operating rehabilitation communities, etc.;

2. Helping inmates land jobs and offering technical education (including any commissioned technical education);

3. Providing information pertaining to the landing of jobs and starts-up of business; and

4. Other works of helping inmates adapt themselves to society, which are prescribed by Ordinance of the Ministry of Gender Equality.

Article 8 (Admission to Supporting Establishments)

(1) Anyone who intends to be admitted to any supporting establishment shall observe the admission rules of the relevant supporting establishment.

(2) Anyone who intends to use programs provided by any supporting establishment shall observe the use rules of the relevant supporting establishment.

(3) The head of every supporting establishment may take measures to expel any inmate or user who fails to observe the admission rules and the use rules or performs the act of seriously hindering group life or to interrupt such inmate and user from using his supporting establishment.

(4) Necessary matters concerning procedures for being admitted to supporting establishments and using them, and the admission rules and the use rules, etc. shall be prescribed by Ordinance of the Ministry of Gender Equality.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

Article 9 (Operation of Supporting Establishments)

(1) The head of every supporting establishment shall make maximum efforts to safeguard the human rights of inmates or users.

(2) The head of every supporting establishment shall provide inmates and users with necessary assistances such as counseling, education, provision of information, protection from danger, etc. in order for them to improve their abilities to adapt themselves to society.

(3) The head of every supporting establishment shall conduct health checkups for inmates within one month from the date on which they are admitted to his supporting establishment and if any inmate is found to suffer from poor health, the head of every supporting establishment shall take necessary measures, including the payment of medical allowance under the Medical Care Assistance Act, and, if necessary, request any medical institution to treat the inmate's disease.

[Article amended by Act No. 7784 of Dec. 29, 2005]

(4) Necessary matters concerning methods of, standards, etc. for operating supporting establishments shall be prescribed by Ordinance of the Ministry of Gender Equality.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

Article 10 (Opening of Counseling Centers)

- (1) The State or local governments may open and operate counseling centers for the victims, etc. of sexual traffic (hereinafter referred to as “counseling centers”).
- (2) Anyone, other than the State or local governments, who intends to open and operate a counseling center shall submit a report thereon to the head of Si/Gun/Gu.
- (3) Every counseling center shall have a counseling room, and may have a protection room used to temporarily protect users.
- (4) Necessary matters concerning standards for opening counseling centers, procedures for reporting thereon, standards for operating counseling centers, qualification standards for counselors and employees, the number of counselors and employees shall be prescribed by Ordinance of the Ministry of Gender Equality.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

Article 11 (Work of Counseling Centers)

Every counseling center shall perform the work falling under each of the following subparagraphs:

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

1. Rendering counseling services and visiting scenes;
2. Publishing matters concerning the use of supporting establishments and turning over or introducing any victim, etc. of sexual traffic to any supporting establishment;
3. Relieving the victims of sexual traffic;
4. Conducting the works referred to in Article 7 (1) 3 through 5;
5. Performing matters that are commissioned to the counseling center under other Acts; and
6. Taking measures prescribed by Ordinance of the Ministry of Gender Equality to protect victims, etc. of sexual traffic.

Article 11-2 (Establishment, etc. of Central Support Center for Prevention of Sexual Traffic)

(1) The State may install and operate Central Support Center for Prevention of Sexual Traffic to facilitate effective liaison, coordination, etc. of delivery systems for support services with respect to preventive activities against sexual traffic, victims of sexual traffic, etc. (hereinafter referred to as the “Central Support Center”).

(2) The Central Support Center shall carry out duties falling under any of the following subparagraphs:

1. Construction of an integrated liaison network between and among supporting centers and counselling centers.;
2. Construction and operation of relief systems for victims of sexual traffic and support to rescue activities for victims of sexual traffic;

3. Operation of legal and medical support teams and establishment of legal and medical support systems;
4. Development and diffusion of self-support and self-reliance programs for victims of sexual traffic, etc;
5. Research on and publicity of support measures for victims of sexual traffic, etc;
6. Surveys on actual conditions of sexual traffic and research on preventive measures against sexual traffic;
7. Development of preventive educational programs against sexual traffic;
8. Education and fosterage of counselors and development and diffusion of counsel technique; and
9. Other matters prescribed by Ordinance of Ministry of Gender Equality.

(3) Operation of the Central Support Center may be entrusted to a nongovernmental party.

(4) Other necessary matters concerning organization and operation of the Central Support Center, criteria for qualifications of employees, etc. shall be prescribed by Presidential Decree.

[Article inserted by Act No. 9125 of June 13, 2008]

Article 12 (Cooperation of Investigation Agencies)

The head of every counseling center may, when it is necessary to urgently relieve any victim of sexual traffic, request the head of the competent state police station for the accompaniment of any police officer under his control and the head of the competent state police station who receives such request shall comply with the request unless the special grounds exist that make it impossible to comply with it.

[Article amended by Act No. 7849 of Feb. 21, 2006]

Article 13 (Respect of Wills of Victims, etc. of Sexual Traffic)

The head of every supporting establishment or counseling center shall not admit any victim, etc. of sexual traffic to any supporting establishment or protect such victims under Article 10 (3) against their explicit will.

Article 14 (Subsidy of Medical Expenses)

(1) In cases where the head of any supporting establishment requests any medical institution to treat his inmates in accordance with Article 9 (3) and their treatment does not fall under treatment items that make them eligible for the benefits provided for in the Medical Care Assistance Act, the State or local governments may provide a subsidy necessary to cover, in whole or in part, medical expenses for their treatment.

[Article amended by Act No. 7784 of Dec. 29, 2005]

(2) Necessary matters concerning the scope of and procedures for providing the subsidy necessary to cover medical expenses, etc. referred to in paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

Article 14-2 (Designation, etc. of Exclusive Charge Medical Institution)

(1) The Minister of Gender Equality or the head of Si/Gun/Gu may designate a medical institution, such as the exclusive charge medical institution designated under the provisions of Article 33 (1) of the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof, as the medical institution taking exclusive charge of the treatment of victims, etc. of sexual traffic.

[Article amended by Act No. 8852 of Feb. 29, 2008]

(2) The medical institution designated under the provisions of paragraph (1) shall provide the medical treatment, etc. falling under each of the following subparagraphs in cases where there exists a request of the head of a supporting establishment or a counseling center:

1. Health consultation and guidance;
2. Medical treatment to victims of sexual traffic; and
3. Other physical or mental treatment as prescribed by Presidential Decree.

[Article inserted by Act No. 7784 of Dec. 29, 2005]

Article 15 (Subsidies to Cover Costs and Expenses)

(1) The State or local governments may provide subsidies necessary to cover costs and expenses incurred to build and operate supporting establishments and counseling centers.

(2) The State or local governments may provide non-profit corporations or organizations performing protective and helping activities for victims of overseas sexual traffic (referring to victims of sexual traffic arising abroad) with financial aid for the expenses thereof within the extent of budget.

[Article inserted by Act No. 8965 of Mar. 21, 2008]

(3) Necessary matters concerning the scope of subsidies provided to cover costs and expenses referred to in paragraph (1) shall be prescribed by Presidential Decree.

Article 16 (Guidance and Oversight)

(1) The Minister of Gender Equality, the Special Metropolitan City Mayor, the Metropolitan City Mayor, the Do governor (hereinafter referred to as the Mayor/Do governor) or the head of Si/Gun/Gu may order the heads of supporting establishments or counseling centers to make necessary reports or data, and get the public officials under his control to enter supporting establishments or counseling centers to check relevant documents, etc.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

(2) The public officials assigned to enter supporting establishments or counseling centers to check relevant documents under paragraph (1) shall notify the heads of supporting establishments or counseling centers of the objectives of their visits and checks, the date and time of their visits, etc. before they enter such supporting establishments and counseling centers, and carry the certificates to indicate their authority and produce them to the persons concerned.

Article 17 (Report on Discontinuance and Suspension, etc.)

Anyone who intends to discontinue, suspend the operation of, or resume the operation of the supporting establishment or counseling center reported under Article 6 (2) or 10 (2) shall submit a report thereon to the head of Si/Gun/Gu as prescribed by Ordinance of the Ministry of Gender Equality.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

Article 18 (Prohibition on Operation for Making Profit)

Any supporting establishment or counseling center provided for in this Act shall be prohibited from being opened and operated for making profit.

Article 19 (Obligation to Keep Secrets, etc. Undisclosed)

The head of every supporting establishment or counseling center and the persons who assist him, or the persons who has been in such positions shall be prohibited from leaking secrets that they learn or have learned while performing their respective duties.

Article 20 (Closedown, etc. of Supporting Establishment and Counseling Center)

(1) The Minister of Gender Equality, the Mayor/Do governor or the head of Si/Gun/Gu may, when any supporting establishment or counseling center falls under any of the following subparagraphs, order such supporting establishment or counseling center to suspend or discontinue its operation or close it down:

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 7784 of Dec. 29, 2005; amended by Act No. 8852 of Feb. 29, 2008]

1. When supporting establishments or counseling centers fail to meet the building standards provided for in Article 6 (3) or 10 (4);
2. When supporting establishments or counseling centers fail to submit the report required under Article 16 (1) without any justifiable grounds or make a false report;
3. When supporting establishments or counseling centers violate the provisions of Article 18;
4. When the heads of supporting establishments or counseling centers or any of their employees commit the crime provided for in Article 2 (1) of the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof against any inmate or user;
5. When supporting establishments or counseling centers fall under Article 40 (1) 3 and 3-2 of the Social Welfare Services Act; and
6. When supporting establishments or counseling centers fail to comply with any order given under this Act.

(2) When the Minister of Gender Equality, the Mayor/Do governor or the head of Si/Gun/Gu intends to order any supporting establishment or counseling center to suspend or discontinue its operation or to close it down under paragraph (1), he shall hold a hearing.

(3) Necessary matters concerning detailed kinds of and standards for the disposition referred to in paragraph (1) shall be prescribed by Ordinance of the Ministry of Gender Equality.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

Article 21 (Delegation of Authority)

The Minister of Gender Equality or the Mayor/Do governor may delegate part of his authority under this Act to the Mayor/Do governor or the head of Si/Gun/Gu, respectively, under the conditions as prescribed by Presidential Decree.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

Article 22 (Penal Provisions)

Anyone who falls under any of the following subparagraphs shall be punished by imprisonment for not more than one year or by a fine not exceeding 5 million won:

1. One who has opened and operated a supporting establishment without submitting a report thereon required under Article 6 (2);
2. One who has opened and operated a counseling center without submitting a report thereon required under Article 10 (2);
3. One who has violated the provisions of Article 18 or 19; and
4. One who has failed to comply with the order given under Article 20.

Article 23 (Joint Penal Provisions)

If the representative of a corporation or the agent, the employee or the employed of a corporation or an individual commits an offense provided for in Article 22 in connection with the business of the corporation or the individual, such corporation or individual shall each be fined under the same Article in addition to the punishment of the actor.

Article 24 (Fine for Negligence)

(1) Anyone who falls under any of the following subparagraphs shall be punished by a fine for negligence not exceeding 3 million won:

1. One who has rejected, hindered or dodged the entry and check by the relevant public officials under Article 16 (1); and
2. One who has violated the provisions of Article 17.

(2) The fine for negligence referred to in paragraph (1) shall be imposed and collected by the Minister of Gender Equality, the Mayor/ Do governor or the head of Si/Gun/Gu (hereinafter referred to as the “imposition authority”) under the conditions as prescribed by Presidential Decree.

[Article amended by Act No. 7413 of Mar. 24, 2005; amended by Act No. 8852 of Feb. 29, 2008]

(3) Anyone who is dissatisfied with the fine for negligence referred to in paragraph (2) may raise an objection to the imposition authority within 30 days from the date on which he is notified of such fine for negligence.

(4) When anyone who is subject to a disposition taken to impose a fine for negligence under paragraph (2) raises an objection under paragraph (3), the imposition authority shall promptly

notify the competent court of the fact and the competent court shall, upon receiving such notification, place the case on trial in accordance with the Non-Contentious Case Litigation Procedure Act.

[Article amended by Act No. 7784 of Dec. 29, 2005]

(5) When no objection is raised and no fine for negligence is paid within the period referred to in paragraph (3), such fine for negligence shall be collected according to the example of a disposition taken to collect the national tax in arrears or the local tax in arrears.

ADDENDA

Article 1 (Enforcement Date)

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

Article 2 (Transitional Measures concerning Supporting Establishments and Counseling Centers)

(1) The temporal protection establishments, the guidance and protection establishments that are built in accordance with the previous Prevention of Prostitution, etc. Act at the time of enforcement of this Act shall be deemed the general supporting establishments and the juvenile supporting establishments that are built in accordance with this Act, the self-reliant rehabilitation establishments shall be deemed the rehabilitation supporting centers under this Act, and the women's welfare counseling centers shall be deemed the counseling centers for the victims of sexual traffic under this Act, respectively: Provided, That they are required to meet the establishment standards that are prescribed by this Act within 2 years from the date of enforcement of this Act.

(2) The temporal protection establishments, the guidance and protection establishments, the self-reliant rehabilitation establishments and the women's welfare counseling centers that are built under the previous Prevention of Prostitution, etc. Act at the time of enforcement of this Act shall each be reported as the general supporting establishments, the juvenile supporting establishments, the rehabilitation supporting centers and the counseling centers for the victims of sexual traffic, respectively, within 6 months from the date of enforcement of this Act.

Article 3 (Transitional Measures concerning Penal Provisions)

The application of the penal provisions to any act committed prior to the enforcement of this Act shall be governed by the previous Prevention of Prostitution, etc. Act.

Article 4 Omitted.

ADDENDA <Act No. 7413, Mar. 24, 2005>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 4 Omitted.

ADDENDA <Act No. 7784, Dec. 29, 2005>

(1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.

(2) (Transitional Measures concerning Entrance Period Extended for Persons Entering General Supporting Establishments)

The heads of general supporting establishments may again extend the entrance period for the persons whose entrance period has already been extended under the previous provisions of Article 5 (2) at the time this Act enters into force.

ADDENDA <Act No. 7849, Feb. 21, 2006>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2006. (Proviso Omitted.)

Articles 2 through 41 Omitted.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 8965, Mar. 21, 2008>

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

ADDENDUM <Act No. 9125, Jun. 13, 2008>

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