

**AN ACT TO AMEND THE NEW PENAL CODE CHAPTER 14 SECTIONS 14.70
AND 14.71 AND TO PROVIDE FOR GANG RAPE**

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IT IS ENACTED BY THE NATIONAL TRANSITIONAL LEGISLATIVE ASSEMBLY of the Liberia National Transitional Government of the Republic of Liberia in Legislature Assembled:

Section 1: Effective Date of Amendment

That immediately after the passage and publication in handbills of this Act, Chapter 14 of the New Penal Code is here amended.

Section 2: Sections 14.70 and 14.71 are hereby repealed and are replaced by the following:

14.70

1. **Offence:** A person who has sexual intercourse with another person (male or female) has committed rape if:

- a)
 - (i) He intentionally penetrates the vagina, anus, mouth or any other opening of another person (male or female) with his penis, without the victim's consent; or,
 - (ii) He/She intentionally penetrates the vagina or anus or another person with a foreign object or with any other part of the body (other than the penis), without the victim's consent.
- b) The victim is less than eighteen (18) years old, provided the actor is eighteen (18) years of age or older.

2. **Gang Rape:** A person has committed Gang Rape, a first degree felony if:

He or she purposely promotes or facilitates rape or agrees with one or more persons to engage in or cause the performance of conduct which shall constitute Rape.

3. Definitions

a) Sexual Intercourse

- (i) Penetration, however slight, of the vagina, anus or mouth, or any other opening of another by the penis; or
- (ii) Penetration, however slight, of the vagina or anus of another person by a foreign object or any other part of the body (other than the penis).

b) Consent

- (i) For the purposes of this felony, a person consents if he/she agrees by choice and has the freedom and capacity to make that choice.
- (ii) There shall be a presumption of lack of consent in the following circumstances:
 - (a) Any person, who at the time of the relevant act or immediately before it began, was using violence against the victim or causing the victim to fear that immediate violence would be used against him/her;
 - (b) Any person, at the time of the relevant act or immediately before it began, was causing the victim to fear that violence was being used, or that violence would be used, against another person;
 - (c) The victim was detained at the time of the relevant act;
 - (d) The victim was asleep or otherwise unconscious at the time of the relevant act;
 - (e) Because of the victim's physical disability, he or she could not have been able, at the time of the relevant act, to communicate to the perpetrator whether he or she consented;
 - (f) Where the victim had been administered or caused to take without his/her consent, a substance which, having regard to when it was administered or taken, was capable of causing or enabling him or her to be stupefied or overpowered at the time of the relevant act;

- (g) The defendant intentionally induced the victim to consent to the relevant Act by impersonating a person known personally to the victim.

4. Grading and Sentencing

- (a) Rape is a felony of the first degree where:
 - (i) The victim was less than 18 years of age at the time the offense was committed; or,
 - (ii) The offense involves gang rape as defined in sub-paragraph 2 above; or
 - (iii) The act of rape complained of results in either permanent disability or serious bodily injury to the victim; or
 - (iv) At the time of the relevant act or immediately before it began, the defendant threatened the victim with a firearm or other deadly weapon;
- (b) The maximum sentence for first-degree rape shall be life imprisonment. And for the purposes of bail, it shall be treated as per capital offenses under Section 13.1.1; Capital Offenses of the Criminal Procedure Law.
- (c) Rape is second degree felony where the conditions set out in Section 4(a) (i) – (iv) above are not met. The maximum sentence for second-degree rape shall be ten (10)-year imprisonment.

5. Other Miscellaneous Provisions

- a) The trial of all cases under Section 14.70 shall be heard *in camera*.
- b) Sections 14.78(3) and 14.78(4) of the New Penal Code are hereby repealed.

This Act shall take effect immediately upon publication in handbills.

ANY LAW TO THE CONTRARY NOTWITHSTANDING.