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Fifth Session Fifth Parliament Republic of Trinidad  
and Tobago

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SENATE

**BILL**

AN Act to amend the Sexual Offences Act, 1986.

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THE SEXUAL OFFENCES (AMENDMENT) (NO. 2) BILL  
1999

**Explanatory Note**

(These notes form no part of the Bill, but are intended only to indicate its general purport)

The main purpose of the Bill is to amend the Sexual Offences Act, 1986 ("the Act"). Clauses 1 and 2 are self-explanatory.

Clause 3 would provide for definitions of new expressions including a definition of "imprisonment for life" to mean imprisonment for the natural life of the accused.

Clause 4 would repeal section 4 of the Act and substitute a new section which seeks to define the offence of rape, to increase the penalty for rape committed in aggravated circumstances and to empower the court to order compensation for victims of rape.

Clause 5 seeks to provide for the new offence of grievous sexual assault which involves the sexual violation of a woman with the use of objects or body parts other than the penis. Such an offence will incur penalties commensurate with that of rape.

Clause 6 would amend section 5 to provide for sexual assault to be committed by a cohabitant and to increase the penalty for such an offence from fifteen years to twenty years for a first offence and life imprisonment for a subsequent offence.

Clause 7 would increase the penalty for sexual intercourse with a female between the ages of fourteen and sixteen years from five years to twelve years for a first offence and fifteen years for a subsequent offence.

Clause 8 would increase the penalty for incest between an adult and a person older or younger than fourteen years from ten years to life imprisonment.

Clauses 9, 10 and 11 would amend sections 10, 11 and 12 of the Act respectively to increase the penalties from ten years to twenty-five years.

Clause 12 seeks to include a new section 12A which would authorise a police officer, without a warrant, to take into custody a person who has committed a sexual offence under section 6, 7, 8, 9,

10, 11 or 12. This has been included to take account of section 17 of the Administration of Justice (Miscellaneous Provisions) Act, 1996 which amended the Schedule to the Children's Act, Chap. 46:01 which provides for offences which are to be treated similarly to section 10 of that Act which empowers a constable to take into custody, without warrant, a person who has committed certain offences under that Act. Section 17 aforementioned includes offences under the Sexual Offences Act.

Clauses 13, 14, 15 and 16 amend sections 13, 14, 15 and 16 of the Act respectively by increasing the relevant penalties.

Clause 17 seeks to introduce a provision in the Act to provide for the reception in evidence of video recorded statements of a child provided certain conditions are satisfied, leaving the ultimate admission of such evidence to the discretion of the court.

Clause 18 would repeal the existing section 31 of the Act which provides for the abolition of the Common Law rules relating to evidence of recent complaint in sexual offence cases and insert a new section which would make it mandatory for certain specified persons to report any reasonable grounds they have for believing that a sexual offence has been committed in respect of a minor.

Clause 19 fills a lacuna in the law by preventing the revelation of the identity of a victim either before or after a person is charged with a sexual offence and removes the requirement of anonymity of persons charged with a sexual offence.

Clause 20 seeks to insert a new Part III; proposed sections 34A to 34C provides for the fulfilment of notification requirements of convicted sex offenders at police stations in the district in which they reside which would enable the police to keep track of known sex offenders thereby providing greater protection to the national community. Proposed section 34D provides for the mandatory medical examination of a person accused of a sexual offence under the Act.

## **BILL**

An Act to amend the Sexual Offences Act, 1986

[ , 1999 ]

ENACTED by the Parliament of Trinidad and Enactment  
Tobago as follows:—

**1.** This Act may be cited as the Sexual Offences Short title  
(Amendment) (No. 2) Act, 1999.

Interpretation  
Act No. 27 of 1986

**2.** In this Act, “Act” means the Sexual Offences Act, 1999.

Section 2  
amended

**3.** Section 2 of the Act is amended by inserting in appropriate alphabetical order the following definitions:

“ ‘cohabitant’ means a person in a cohabitational relationship in accordance with the Cohabital Relationships Act, 1998;

No. 30 of 1998

‘grievous sexual assault’ means—

- (a) the penetration of the vagina or anus of the complainant by a body part other than the penis of the accused or third person as the case may be;
- (b) the penetration of the vagina or anus of the complainant by an object manipulated by the accused or third person, as the case may be, except when such penetration is accomplished for medically recognised treatment;
- (c) the placing of the penis of the accused or third person, as the case may be, into the mouth of the complainant; or
- (d) the placing of the mouth of the accused or third person as the case may be, onto or into the vagina of the complainant;

‘imprisonment for life’, in relation to a person found guilty of an offence under this Act means imprisonment for the remainder of the natural life of that person;”.

Section 4 repealed  
and substituted

**4.** Section 4 of the Act is repealed and the following section is substituted:

“Rape

4. (1) Subject to subsection (2), a person (“the accused”) commits the offence of rape when he has sexual intercourse with another person (“the complainant”)—

- (a) without the consent of the complainant where he knows that the complainant does not consent to the intercourse or he is reckless as to whether the complainant consents; or
- (b) with the consent of the complainant where the consent—
  - (i) is extorted by threat or fear of bodily harm to the complainant or to another;
  - (ii) is obtained by personating someone else;
  - (iii) is obtained by false or fraudulent representations as to the nature of the intercourse; or
  - (iv) is obtained by unlawfully detaining the complainant.

(2) A person who commits the offence of rape is liable on conviction to imprisonment for life and any other punishment which may be imposed by law, except that if—

- (a) the complainant is under the age of twelve years;
- (b) the offence is committed by two or more persons acting in concert or with the assistance or in the presence, of a third person;
- (c) the offence is committed in particularly heinous circumstances;
- (d) the complainant was pregnant at the time of the offence; or
- (e) the accused has previously been convicted of the offence of rape,

he shall, in addition, be liable to twenty strokes with the cat-o-nine tails.

(3) The Court may order a person who is convicted of an offence under this Act, to pay to the complainant adequate compensation which shall be a charge on the property of the person so convicted.

(4) The provisions of subsection (3) shall not deprive the complainant of the right to claim compensation in any other Court, save that the Court that awards further compensation may take the order under subsection (4) into account when it makes a further award.”.

Section 4A  
inserted

**5. The following section is inserted after section 4:**

“Grievous  
sexual  
assault

4A. (1) Subject to subsection (2), a person (‘the accused’) commits the offence of grievous sexual assault when he commits the act on another person (‘the complainant’)—

(a) without the consent of the complainant where he knows that the complainant does not consent to the act or he is reckless as to whether the complainant consents;  
or

(b) with the consent of the complainant where the consent—

- (i) is extorted by threat or fear of bodily harm to the complainant or to another;
- (ii) is obtained by personating someone else;
- (iii) is obtained by false and fraudulent representations as to the nature of the act;

(iv) is obtained by unlawfully detaining the complainant.

(2) Subsections (2) to (5) of section 4 applies, *mutatis mutandis*, to the offence of grievous sexual assault as it does to the offence of rape.”.

**6.** Section 5 of the Act is amended— Section 5 amended

(a) by inserting after the word “husband” occurring in line one the words “or cohabitant”;

(b) by deleting the word “fifteen” occurring in subsection (2) and substituting the word “twenty” and by inserting after the word “years” the words “for a first offence and to imprisonment for life for a subsequent offence”.

**7.** Section 7(1) of the Act is amended by deleting the word “five” and substituting the word “twelve” and by adding after the word “years” in line five the words “for a first offence and to imprisonment for fifteen years for a subsequent offence”. Section 7 amended

**8.** Section 9(2)(b) of the Act is amended by deleting the words “ten years” and substituting the words “life imprisonment”. Section 9 amended

**9.** Section 10(2)(b) of the Act is amended by deleting the words “ten years” and substituting the words “twenty-five years”. Section 10 amended

**10.** Section 11(1) of the Act is amended by deleting the words “ten years” and substituting the words “twenty-five years”. Section 11 amended

**11.** Section 12(1) of the Act is amended by deleting the words “ten years” and substituting the words “twenty-five years”. Section 12 amended

**12.** The Act is amended by inserting after section 12 the following new section: New section 12A inserted



"Power of  
arrest

12A. A police officer may take into custody, without warrant, a person who has committed, or who the police officer has reason to believe has committed an offence under section 6, 7, 8, 9, 10, 11 or 12."

Section 13 amended **13.** Section 13 (1)(b) of the Act is amended by deleting the words "ten years" and substituting the words "twenty-five years".

Section 14 amended **14.** (1) Section 14(1) of the Act is amended by deleting the words "ten years" and substituting the words "fifteen years".

(2) Section 14(2) of the Act is amended by deleting the words "or female person" and inserting after the word "animal" the words "or an animal with a female person".

Section 15 amended **15.** Section 15(1) of the Act is amended by inserting after the words "five years" the words "for a first offence and to imprisonment for ten years for a subsequent offence".

Section 16 amended **16.** Section 16(1)(a) of the Act is amended by inserting after the words "ten years" the words "for a first offence and to imprisonment for fifteen years for a subsequent offence".

New section 29A inserted **17.** The Act is amended by inserting after section 29 the following new section:

"Admissibility  
of video  
recorded  
evidence  
No. 28 of 1999

29A. The provisions of section 19B of the Administration of Justice (Miscellaneous Provisions) Act, 1996, applies *mutatis mutandis*, to proceedings under this Act."

Section 31 repealed **18.** The Act is amended by repealing section 31 and inserting the following new section:

"Mandatory  
reporting of  
suspected  
abuse of  
minors

31. (1) Any person who—  
(a) is the parent or guardian of a minor;

- (b) has the actual custody, charge or control of a minor;
- (c) has the temporary custody, care, charge or control of a minor for a special purpose, as his attendant, employer or teacher, or in any other capacity; or
- (d) is a medical practitioner, or a registered nurse or midwife, and has performed a medical examination in respect of a minor,

and who has reasonable grounds for believing that a sexual offence has been committed in respect of that minor, shall report the grounds for his belief to a police officer as soon as reasonably practicable.

(2) Any person who without reasonable excuse fails to comply with the requirements of subsection (1), is guilty of an offence and is liable on summary conviction to a fine of fifteen thousand dollars or to imprisonment for a term of seven years or to both such fine and imprisonment.

(3) No report made to a police officer under the provisions of subsection (1) shall, if such report was made in good faith for the purpose of complying with those provisions, subject the person who made the report to any action, liability, claim or demand whatsoever.”.

**19. Section 32 of the Act is amended by—**

Section 32 amended

- (a) inserting before the word “After” occurring in line one of subsection (1), the words “Before or”;

- (b) deleting in subsection (1)—
  - (i) the words “or as the accused” occurring in the third line;
  - (ii) the words “or the accused” occurring in the second line of paragraph (a);
  - (iii) the word “(a)”; and
  - (iv) paragraph (b);
- (c) deleting the definition of the word “accused” occurring in subsection (4).

New Part inserted

**20.** The Act is amended by inserting after section 34 the following new Part:

### “PART III

#### NOTIFICATION REQUIREMENTS FOR SEX OFFENDERS

Persons liable  
to notification  
requirements

34A. (1) A person shall be subject to the notification requirements of this Part where—

- (a) he has been convicted of a sexual offence to which this part applies and he has been sentenced to a term of imprisonment;
- (b) such sentence has been commuted;  
or
- (c) he has been convicted of such offence, but has not been dealt with for the offence.

(2) The court before which a person is convicted of an offence shall, upon passing a sentence, or dealing with the matter in any other manner, specify the period of time during which the convicted

person shall be subject to notification requirements in accordance with the following table:

TABLE

<i>Description of Person</i>	<i>Applicable Period</i>
A person who, in respect of the offence, is or has been sentenced to imprisonment for life but such sentence has been commuted or for a term of ten years or more	An indefinite period
A person who, in respect of the offence, is or has been sentenced to imprisonment for a term of more than five years but less than ten years	A period of ten years commencing with the date of the sentence
A person who, in respect of the offence, is or has been sentenced to imprisonment for a term of five years or less	A period of seven years commencing with that date
A person of any other description	A period of five years commencing with that date

(3) Subsection (4) applies where a person is sentenced in respect of two or more sexual offences—

- (a) to consecutive terms of imprisonment; or
- (b) to terms of imprisonment which are partly concurrent.

(4) Subsection (2) shall have effect as if the person had been sentenced in respect of each of the offences to a term of imprisonment which—

- (a) in the case of consecutive terms, is equal to the aggregate of those terms;

(b) in the case of concurrent terms, is equal to the aggregate of those terms after making such deduction as may be necessary to secure that no period of time is counted more than once.

Notification  
requirements

34B. (1) A person who is subject to notification requirements shall, within fourteen days of his sentence or the commutation of his sentence as the case be, or of his being dealt with under section 34A(1)(c), notify to the police in the local police area the following information:

- (a) his name and, where he also uses one or more other names, each of those names;
- (b) his home address;
- (c) his date of birth.

(2) A person subject to notification requirements shall before the end of the period of fourteen days beginning with—

- (a) his using a name which has not been notified to the police under this section;
- (b) any change of his home address;  
or ;
- (c) his having resided or stayed for a period of fourteen days at any premises in the address of which has not been notified to the police under this section,

notify that name, the effect of that change or, as the case may be, the address of those premises, to the police.

(3) For the purpose of determining any period for the purposes of this subsection, there shall be disregarded any time when the person in question—

- (a) is remanded in or committed to custody by an order of a court;

- (b) is serving a sentence of imprisonment;
- (c) is detained in a hospital; or
- (d) is outside Trinidad and Tobago.

Method of  
notification

34c. (1) A person may give a notification requirement—

- (a) by attending at any police station in his local police area and giving an oral notification to any police officer; or to any person authorised for the purpose by the officer in charge of the station; or
- (b) by sending a written notification to any such police station.

(2) Any notification under this section shall be recorded in a register provided for that purpose and shall be acknowledged; such acknowledgement shall be in writing and in such form as the Minister, to whom responsibility for national security is assigned, may prescribe.

(3) In this section—

“home address”, in relation to any person, means the address of his home, that is to say, his sole or main residence in Trinidad and Tobago, or where he has no such residence, premises in Trinidad and Tobago which he regularly visits;

“local police area”, in relation to any person, means the police area in which his home is situated.

Offences

34D. (1) If a person—

- (a) fails without reasonable excuse, to comply with section 34B(1) or (2); or

(b) notifies to the police, in purported compliance with section 34B(1) or (2), any information which he knows to be false,

he shall be liable on summary conviction to a fine of five thousand dollars or to imprisonment for one year or both.

(2) A person commits an offence under subsection (1)(a) on the day on which he first fails, without reasonable excuse, to comply with section 34B(1) or (2), and continues to commit it throughout any period during which the failure continues; but a person shall not be prosecuted under that provision more than once in respect of the same failure.

(3) Proceedings for an offence under this section may be commenced in any court having jurisdiction in any place where the person charged with the offence resides or is found.

Mandatory  
medical  
examination  
of accused

34E. (1) Where a person is convicted of an offence under the sections to which this section applies, the Court shall require that the person be medically examined.

(2) Where upon such examination it is found that the person examined is suffering from the Human Immune Deficiency Virus, (hereinafter referred to as "HIV") or any other communicable disease, information to that effect shall be given promptly to the virtual complainant and the person examined.

(3) Subject to subsection (2) the information shall be confidential.





No. 35 of 1999

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FIFTH SESSION

**FIFTH PARLIAMENT**

REPUBLIC OF  
TRINIDAD AND TOBAGO

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**BILL**

AN ACT to amend the Sexual Offences  
Act, 1986

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Received and read the

First time.....

Second time.....

Third time.....

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