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After Mandatory Referral Preventing Displaced Attrition In Child And Adolescent Sexual-Offence Cases

On 17 September 2026, the National Assembly passed legislation requiring cases involving sexual offences against children and adolescents to be forwarded to prosecutors rather than terminated by police without prosecutorial review. The reform changes a critical point in Korea's criminal-enforcement architecture.

Mandatory referral can close an important early-stage enforcement gap. It does not, however, guarantee that more cases will progress through the justice system.

Removing police-level case closure may simply relocate attrition to the next institutional stage. Cases that previously disappeared before prosecutorial review may instead accumulate in supplementary-investigation requests, prosecutorial non-indictment decisions, repeated police-prosecution transfers, or longer processing periods.

The central implementation question is therefore not: How many cases are referred? It is: What proportion of the additional cases entering prosecutorial review actually progress, where do the others exit, and why?

Institutum Lex Feminae recommends that implementation of mandatory referral be accompanied from the outset by a measurable referral-to-disposition conversion framework.

ACTION NEEDED

Before implementation data begin to accumulate, the government should establish four mechanisms:

- Measure referral-to-disposition conversion across the entire enforcement chain.
- Create a displaced-attrition indicator comparing pre- and post-reform case exits.
- Measure police-prosecution "case bouncing" and the delay it generates.
- Disaggregate conversion outcomes according to case characteristics associated with evidentiary difficulty.

Without these measures, Korea may be able to demonstrate that more cases reach prosecutors without being able to determine whether the reform actually increases access to criminal enforcement.

PROBLEM AND CONTEXT

The reform changes the institutional location at which a case may exit the criminal-enforcement system. That distinction is fundamental.

If 100% of qualifying cases are forwarded, the referral rate will necessarily improve. But referral is an institutional transfer, not an enforcement outcome.

A case may subsequently:

- be returned for supplementary investigation;
- remain pending for a longer period;
- receive a non-indictment disposition;
- move repeatedly between police and prosecutors;
- be indicted on a different or reduced legal basis;
- or proceed to trial.

A referral statistic alone cannot distinguish these outcomes.

This creates a measurement risk: the reform's procedural requirement could itself become the principal performance indicator. A system could therefore report near-universal compliance with mandatory referral even if downstream conversion remains unchanged.

ANALYSIS

1. ATTRITION MAY MOVE RATHER THAN DISAPPEAR

Mandatory referral eliminates one institutional exit point. It does not eliminate the reasons cases exit.

If evidentiary weakness, digital-evidence problems, victim disengagement, investigative deficiencies or disagreements over legal qualification previously contributed to police closure, those pressures may reappear after referral.

The reform should therefore be evaluated through matched pre/post enforcement pathways, not simply through the number of cases transferred.

The relevant comparison is: police intake → referral → prosecutorial disposition → indictment → adjudication, before and after implementation.

This would reveal whether the reform reduces attrition or merely changes the institution recording it.

2. CREATE A “DISPLACED ATTRITION” INDICATOR

Institutum Lex Feminae proposes a specific implementation indicator: Displaced Attrition Rate.

The indicator would measure the proportion of cases newly reaching prosecutorial review because of mandatory referral that subsequently exit without indictment. This should be compared with the pre-reform proportion of comparable cases previously terminated before prosecutorial review.

The objective is not to treat every non-indictment as an enforcement failure. The objective is to determine whether the reform changes substantive case conversion or merely relocates case closure downstream.

Reasons for non-indictment should therefore be coded separately. This distinction would prevent a statistically misleading conclusion in which increased prosecutorial referrals are interpreted automatically as increased enforcement effectiveness.

3. MEASURE THE POLICE-PROSECUTION “BOUNCE”

A second implementation risk lies between referral and final prosecutorial disposition. A prosecutor may request supplementary investigation. A case may then move back to police and subsequently return to prosecutors.

That process can be legitimate and necessary. But repeated transfers can also become a hidden source of delay.

Korea should therefore record: initial referral → supplementary-investigation request → return to police → re-referral → final prosecutorial disposition.

For each case, authorities should record:

- number of institutional transfers;
- reason for each supplementary-investigation request;
- days added by each transfer;
- final disposition.

Institutum Lex Feminae proposes a Referral Bounce Rate measuring the percentage of mandatory-referral cases returned for supplementary investigation at least once, alongside a Repeat Bounce Rate for cases transferred more than once.

This would expose an implementation failure that ordinary referral and prosecution statistics would not capture.

4. INTRODUCE A “TIME-TO-CONVERSION” MEASURE

Mandatory referral may increase prosecutorial caseload. If capacity does not adjust accordingly, a reform designed to increase oversight could unintentionally lengthen the period between police intake and prosecutorial disposition.

The government should therefore establish a baseline before implementation and compare:

- median days from police intake to referral;
- median days from referral to prosecutorial disposition;
- median total days from intake to indictment or non-indictment.

These figures should be reported together. Otherwise, improvements at one institutional stage could conceal deterioration elsewhere in the enforcement chain.

5. DO NOT ALLOW NATIONAL AVERAGES TO HIDE THE HARDEST CASES

The current Act defines child/adolescent sexual offences across several statutory categories, including offences under the Act itself, the Sexual Violence Punishment Act, the Criminal Act and specified child-welfare offences.

A single national conversion rate would therefore conceal substantial differences between cases.

Implementation data should be distinguished, at minimum:

- victim age group;
- relationship between victims and alleged offender;
- online/digital versus offline offence;
- principal evidentiary structure;
- offence category;
- regional police and prosecution jurisdiction.

The purpose is not to publish identifiable victim information. It is to determine whether mandatory referral works equally across case types.

A reform can improve the national average while producing little change for cases involving the greatest evidentiary or institutional barriers.

RECOMMENDATIONS

1. BUILD A REFERRAL-TO-DISPOSITION CONVERSION DATASET

Create a common case identifier allowing anonymized linkage across police referral, prosecutorial disposition and subsequent judicial outcome.

The dataset should measure reported/investigated → referred → supplementary investigation → re-referred → indicted/non-indicted → adjudicated.

The primary performance measure should not be the mandatory referral rate. It should be the conversion rate between each institutional stage.

2. ESTABLISH A DISPLACED-ATTRITION BASELINE BEFORE IMPLEMENTATION

Preserve a pre-reform cohort of comparable cases and establish where those cases exited the enforcement chain.

At 6, 12 and 24 months after implementation, compare the new pathway.

The evaluation should answer one specific question: Did cases that previously exit at police level begin progressing further, or did the same attrition reappear at prosecutorial level?

This baseline must be established before historical comparison becomes difficult or inconsistent.

3. CREATE REFERRAL-BOUNCE AND TIME-TO-CONVERSION INDICATORS

Require measurement of:

- percentage returned for supplementary investigation;
- percentage returned more than once;
- median number of transfers per case;
- additional days generated by transfers;
- final prosecutorial disposition following return.

A significant increase in repeated transfers or processing time should trigger a joint police-prosecution implementation review.

This would distinguish meaningful prosecutorial oversight from procedural circulation.

4. PUBLISH A CONVERSION MATRIX, NOT A SINGLE SUCCESS RATE

Annual implementation reporting should present conversion rates by offence and case characteristics rather than one aggregate national figure.

This would identify whether the reform is effective specifically for cases involving digital evidence, younger victims, known offenders or other evidentiary structures.

The resulting matrix could reveal where mandatory referral works—and where additional enforcement redesign is required.

In fine, mandatory referral changes who gets to decide whether a child or adolescent sexual-offence case progresses. That is a significant institutional change.

But moving a case across an institutional boundary is not the same as converting it into enforcement.

The success of the reform should therefore not be measured by whether qualifying cases reach prosecutors. That outcome is mandated by the legislation itself. The meaningful test begins after referral.

Korea should measure whether cases progress further, whether attrition moves downstream, whether police-prosecution transfers create new delays, and whether the reform produces comparable effects across different categories of cases.

If mandatory referral removes one exit point but creates another, conventional statistics may record procedural success while the enforcement gap remains unchanged.

A referral-to-disposition framework would allow Korea to distinguish the two—and measure whether the reform changes not merely the movement of cases, but their actual conversion through the justice system.

SOURCES

1. Ministry of Gender Equality and Family, Republic of Korea, press release, 17 September 2026, concerning National Assembly plenary passage of legislation requiring referral of all child and adolescent sexual-offence cases to prosecutors.
2. National Law Information Center (국가법령정보센터), Act on the Protection of Children and Youth Against Sexual Abuse (아동·청소년의 성보호에 관한 법률), current statutory framework and definition of child/adolescent sexual offences.
3. National Assembly of the Republic of Korea, legislative records and plenary proceedings concerning the September 2026 amendment to the child and adolescent sexual-offence case referral framework.