REVISED PENAL CODE

Text and Special Penal Laws

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Act No. 3815
(December 8, 1930)

AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS

Preliminary Article - This law shall be known as "The Revised Penal Code."

BOOK ONE | *General Provisions Regarding The Date Of Enforcement And Application Of The Provisions Of This Code, And Regarding The Offenses, The Persons Liable And The Penalties*

Preliminary Title **Date Of Effectiveness And Application Of The Provisions Of This Code**

Article 1. *Time when Act takes effect.* - This Code shall take effect on the first day of January, nineteen hundred and thirty-two.

Article 2. *Application of its provisions.* - Except as provided in the treaties and laws of preferential application, the provisions of this Code shall be enforced not only within the Philippine Archipelago, including its atmosphere, its interior waters and maritime zone, but also outside of its jurisdiction, against those who:

1. Should commit an offense while on a Philippine ship or airship

2. Should forge or counterfeit any coin or currency note of the Philippine Islands or obligations and securities issued by the Government of the Philippine Islands;

3. Should be liable for acts connected with the introduction into these islands of the obligations and securities mentioned in the presiding number;

4. While being public officers or employees, should commit an offense in the exercise of their functions; or

5. Should commit any of the crimes against national security and the law of nations, defined in Title One of Book Two of this Code.

Title One **FELONIES AND CIRCUMSTANCES WHICH AFFECT CRIMINAL LIABILITY**

Chapter One FELONIES

Article 3. *Definitions.* - Acts and omissions punishable by law are felonies (delitos).

Felonies are committed not only be means of deceit (dolo) but also by means of fault (culpa).

There is deceit when the act is performed with deliberate intent and there is fault when the wrongful act results from imprudence, negligence, lack of foresight, or lack of skill.

Article 4. *Criminal liability.* - Criminal liability shall be incurred:

1. By any person committing a felony (delito) although the wrongful act done be different from that which he intended.

2. By any person performing an act which would be an offense against persons or property, were it not for the inherent impossibility of its accomplishment or an account of the employment of inadequate or ineffectual means.

Article 5. *Duty of the court in connection with acts which should be repressed but which are not covered by the law, and in cases of excessive penalties.* - Whenever a court has knowledge of any act which it may deem proper to repress and which is not punishable by law, it shall render the proper decision, and shall report to the Chief Executive, through the Department of Justice, the reasons which induce the court to believe that said act should be made the subject of legislation.

In the same way, the court shall submit to the Chief Executive, through the Department of Justice, such statement as may be deemed proper, without suspending the execution of the sentence, when a strict enforcement of the provisions of this Code would result in the imposition of a clearly excessive penalty, taking into consideration the degree of malice and the injury caused by the offense.

Article 6. *Consummated, frustrated, and attempted felonies.* - Consummated felonies as well as those which are frustrated and attempted, are punishable.

A felony is consummated when all the elements necessary for its execution and accomplishment are present; and it is frustrated when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.

There is an attempt when the offender commences the commission of a felony directly or over acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than this own spontaneous desistance.

Article 7. *When light felonies are punishable.* - Light felonies are punishable only when they have been consummated, with the exception of those committed against person or property.

Article 8. *Conspiracy and proposal to commit felony.* - Conspiracy and proposal to commit felony are punishable only in the cases in which the law specially provides a penalty therefor.

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.

There is proposal when the person who has decided to commit a felony proposes its execution to some other person or persons.

Article 9. *Grave felonies, less grave felonies and light felonies.* - Grave felonies are those to which the law attaches the capital punishment or penalties which in any of their periods are afflictive, in accordance with Article 25 of this Code.

Less grave felonies are those which the law punishes with penalties which in their maximum period are correctional, in accordance with the abovementioned article

Light felonies are those infractions of law for the commission of which the penalty of arresto menor or a fine not exceeding Forty thousand pesos (P40,000) or both is provided.

(as amended by Republic Act No. 10951, [August 29, 2017])

Article 10. *Offenses not subject to the provisions of this Code.* - Offenses which are or in the future may be punishable under special laws are not subject to the provisions of this Code. This Code shall be supplementary to such laws, unless the latter should specially provide the contrary.

Chapter Two JUSTIFYING CIRCUMSTANCES AND CIRCUMSTANCES WHICH EXEMPT FROM CRIMINAL LIABILITY

Article 11. *Justifying circumstances.* - The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur;

First. Unlawful aggression.

Second. Reasonable necessity of the means employed to prevent or repel it.

Third. Lack of sufficient provocation on the part of the person defending himself.

2. Any one who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or his relatives by affinity in the same degrees and those consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the revocation was given by the person attacked, that the one making defense had no part therein.

3. Anyone who acts in defense of the person or rights of a stranger, provided that the first and second requisites mentioned in the first circumstance of this Article are present and that the person defending be not induced by revenge, resentment, or other evil motive.

4. Any person who, in order to avoid an evil or injury, does not act which causes damage to another, provided that the following requisites are present;

First. That the evil sought to be avoided actually exists;

Second. That the injury feared be greater than that done to avoid it;

Third. That there be no other practical and less harmful means of preventing it.

5. Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office.

6. Any person who acts in obedience to an order issued by a superior for some lawful purpose.

Article 12. *Circumstances which exempt from criminal liability.* - the following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

When the imbecile or an insane person has committed an act which the law defines as a felony (delito), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.

2. A person under nine years of age.

3. A person over nine years of age and under fifteen, unless he has acted with discernment, in which case, such minor shall be proceeded against in accordance with the provisions of Art. 80 of this Code.

When such minor is adjudged to be criminally irresponsible, the court, in conformably with the provisions of this and the preceding paragraph, shall commit him to the care and custody of his family who shall be charged with his surveillance and education otherwise, he shall be committed to the care of some institution or person mentioned in said Art. 80.

4. Any person who, while performing a lawful act with due care, causes an injury by mere accident without fault or intention of causing it.

5. Any person who act under the compulsion of irresistible force.

6. Any person who acts under the impulse of an uncontrollable fear of an equal or greater injury.

7. Any person who fails to perform an act required by law, when prevented by some lawful insuperable cause.

Chapter Three CIRCUMSTANCES WHICH MITIGATE CRIMINAL LIABILITY

Article 13. *Mitigating circumstances.* - The following are mitigating circumstances;

1. Those mentioned in the preceding chapter, when all the requisites necessary to justify or to exempt from criminal liability in the respective cases are not attendant.

2. That the offender is under eighteen year of age or over seventy years. In the case of the minor, he shall be proceeded against in accordance with the provisions of Art. 80.

3. That the offender had no intention to commit so grave a wrong as that committed.

4. That sufficient provocation or threat on the part of the offended party immediately preceded the act.

5. That the act was committed in the immediate vindication of a grave offense to the one committing the felony (delito), his spouse, ascendants, or relatives by affinity within the same degrees.

6. That of having acted upon an impulse so powerful as naturally to have produced passion or obfuscation.

7. That the offender had voluntarily surrendered himself to a person in authority or his agents, or that he had voluntarily confessed his guilt before the court prior to the presentation of the evidence for the prosecution;

8. That the offender is deaf and dumb, blind or otherwise suffering some physical defect which thus restricts his means of action, defense, or communications with his fellow beings.

9. Such illness of the offender as would diminish the exercise of the will-power of the offender without however depriving him of the consciousness of his acts.

10. And, finally, any other circumstances of a similar nature and analogous to those above mentioned.

Chapter Four CIRCUMSTANCE WHICH AGGRAVATE CRIMINAL LIABILITY

Article 14. *Aggravating circumstances.* - The following are aggravating circumstances:

1. That advantage be taken by the offender of his public position.

2. That the crime be committed in contempt or with insult to the public authorities.

3. That the act be committed with insult or in disregard of the respect due the offended party on account of his rank, age, or sex, or that is be committed in the dwelling of the offended party, if the latter has not given provocation.

4. That the act be committed with abuse of confidence or obvious ungratefulness.

5. That the crime be committed in the palace of the Chief Executive or in his presence, or where public authorities are engaged in the discharge of their duties, or in a place dedicated to religious worship.

6. That the crime be committed in the night time, or in an uninhabited place, or by a band, whenever such circumstances may facilitate the commission of the offense.

Whenever more than three armed malefactors shall have acted together in the commission of an offense, it shall be deemed to have been committed by a band.

7. That the crime be committed on the occasion of a conflagration, shipwreck, earthquake, epidemic or other calamity or misfortune.

8. That the crime be committed with the aid of armed men or persons who insure or afford impunity.

9. That the accused is a recidivist.

A recidivist is one who, at the time of his trial for one crime, shall have been previously convicted by final judgment of another crime embraced in the same title of this Code.

10. That the offender has been previously punished by an offense to which the law attaches an equal or greater penalty or for two or more crimes to which it attaches a lighter penalty.

11. That the crime be committed in consideration of a price, reward, or promise.

12. That the crime be committed by means of inundation, fire, poison, explosion, stranding of a vessel or international damage thereto, derailment of a locomotive, or by the use of any other artifice involving great waste and ruin.

13. That the act be committed with evidence premeditation.

14. That the craft, fraud or disguise be employed.

15. That advantage be taken of superior strength, or means be employed to weaken the defense.

16. That the act be committed with treachery (alevosia).

There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.

17. That means be employed or circumstances brought about which add ignominy to the natural effects of the act.

18. That the crime be committed after an unlawful entry.

There is an unlawful entry when an entrance of a crime a wall, roof, floor, door, or window be broken.

20. That the crime be committed with the aid of persons under fifteen years of age or by means of motor vehicles, motorized watercraft, airships, or other similar means. (As amended by RA 5438).

21. That the wrong done in the commission of the crime be deliberately augmented by causing other wrong not necessary for its commissions.

Chapter Five ALTERNATIVE CIRCUMSTANCES

Article 15. *Their concept.* - Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. They are the relationship, intoxication and the degree of instruction and education of the offender.

The alternative circumstance of relationship shall be taken into consideration when the offended party in the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender.

The intoxication of the offender shall be taken into consideration as a mitigating circumstances when the offender has committed a felony in a state of intoxication, if the same is not habitual or subsequent to the plan to commit said felony but when the intoxication is habitual or intentional, it shall be considered as an aggravating circumstance.

Title Two **PERSONS CRIMINALLY LIABLE FOR FELONIES**

Article 16. *Who are criminally liable.* - The following are criminally liable for grave and less grave felonies:

1. Principals.

2. Accomplices.

3. Accessories.

The following are criminally liable for light felonies:

1. Principals

2. Accomplices.

Article 17. *Principals.* - The following are considered principals:

1. Those who take a direct part in the execution of the act;

2. Those who directly force or induce others to commit it;

3. Those who cooperate in the commission of the offense by another act without which it would not have been accomplished.

Article 18. *Accomplices.* - Accomplices are those persons who, not being included in Article 17, cooperate in the execution of the offense by previous or simultaneous acts.

Article 19. *Accessories.* - Accessories are those who, having knowledge of the commission of the crime, and without having participated therein, either as principals or accomplices, take part subsequent to its commission in any of the following manners:

1. By profiting themselves or assisting the offender to profit by the effects of the crime.

2. By concealing or destroying the body of the crime, or the effects or instruments thereof, in order to prevent its discovery.

3. By harboring, concealing, or assisting in the escape of the principals of the crime, provided the accessory acts with abuse of his public functions or whenever the author of the crime is guilty of treason, parricide, murder, or an attempt to take the life of the Chief Executive, or is known to be habitually guilty of some other crime.

Article 20. *Accessories who are exempt from criminal liability.* - The penalties prescribed for accessories shall not be imposed upon those who are such with respect to their spouses, ascendants, descendants, legitimate, natural, and adopted brothers and sisters, or relatives by affinity within the same degrees, with the single exception of accessories falling within the provisions of paragraph 1 of the next preceding article.

Title Three **PENALTIES**

Chapter One PENALTIES IN GENERAL

Article 21. *Penalties that may be imposed.* - No felony shall be punishable by any penalty not prescribed by law prior to its commission.

Article 22. *Retroactive effect of penal laws.* - Penal Laws shall have a retroactive effect insofar as they favor the persons guilty of a felony, who is not a habitual criminal, as this term is defined in Rule 5 of Article 62 of this Code, although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving the same.

Article 23. *Effect of pardon by the offended party.* - A pardon of the offended party does not extinguish criminal action except as provided in Article 344 of this Code; but civil liability with regard to the interest of the injured party is extinguished by his express waiver.

Article 24. *Measures of prevention or safety which are not considered penalties.* - The following shall not be considered as penalties:

1. The arrest and temporary detention of accused persons, as well as their detention by reason of insanity or imbecility, or illness requiring their confinement in a hospital.

2. The commitment of a minor to any of the institutions mentioned in Article 80 and for the purposes specified therein.

3. Suspension from the employment of public office during the trial or in order to institute proceedings.

4. Fines and other corrective measures which, in the exercise of their administrative disciplinary powers, superior officials may impose upon their subordinates.

5. Deprivation of rights and the reparations which the civil laws may establish in penal form.

Chapter Two CLASSIFICATION OF PENALTIES

Article 25. *Penalties which may be imposed.* - The penalties which may be imposed according to this Code, and their different classes, are those included in the following:

Scale

Principal Penalties

Capital punishment:

Death.

Afflictive penalties:

Reclusion perpetua,

Reclusion temporal,

Perpetual or temporary absolute disqualification,

Perpetual or temporary special disqualification,

Prision mayor.

Correctional penalties:

Prision correccional,

Arresto mayor,

Suspension,

Destierro.

Light penalties:

Arresto menor,

Public censure.

Penalties common to the three preceding classes:

Fine, and

Bond to keep the peace.

Accessory Penalties

Perpetual or temporary absolute disqualification,

Perpetual or temporary special disqualification,

Suspension from public office, the right to vote and be voted for, the profession or calling.

Civil interdiction,

Indemnification,

Forfeiture or confiscation of instruments and proceeds of the offense,

Payment of costs.

Article 26. *When afflictive, correctional, or light penalty.* -A fine, whether imposed as a single or as an alternative penalty, shall be considered an afflictive penalty, if it exceeds One million two hundred thousand pesos (P1,200,000); a correctional penalty, if it does not exceed One million two hundred thousand pesos (P1,200,000) but is not less than Forty thousand pesos (P40,000); and a light penalty, if it be less than Forty thousand pesos (P40,000). *(as amended by Republic Act No. 10951, [August 29, 2017])*

Chapter Three DURATION AND EFFECTS OF PENALTIES

Section One. - *Duration of Penalties*

Article 27. *Reclusion perpetua.* - The penalty of *reclusion perpetua* shall be from twenty years and one day to forty years.

Reclusion temporal. — The penalty of *reclusion temporal* shall be from twelve years and one day to twenty years.

Prision mayor and temporary disqualification. — The duration of the penalties of *prision mayor* and temporary disqualification shall be from six years and one day to twelve years, except when the penalty of disqualification is imposed as an accessory penalty, in which case, its durations shall be that of the principal penalty.

Prision correccional, suspension, and *destierro*. — The duration of the penalties of *prision correccional*, suspension, and *destierro* shall be from six months and one day to six years, except when the suspension is imposed as an accessory penalty, in which case, its duration shall be that of the principal penalty.

Arresto mayor. — The duration of the penalty of *arresto mayor* shall be from one month and one day to six months.

Arresto menor. — The duration of the penalty of *arresto menor* shall be from one day to thirty days.

Bond to keep the peace. — The bond to keep the peace shall be required to cover such period of time as the court may determine.

(as amended by Republic Act No. 7659, [December 13, 1993])

Article 28. *Computation of penalties.* - If the offender shall be in prison, the term of the duration of the temporary penalties shall be computed from the day on which the judgment of conviction shall have become final.

If the offender be not in prison, the term of the duration of the penalty consisting of deprivation of liberty shall be computed from the day that the offender is placed at the disposal of the judicial authorities for the enforcement of the penalty. The duration of the other penalties shall be computed only from the day on which the defendant commences to serve his sentence.

Article 29. *Period of preventive imprisonment deducted from term of imprisonment.* - Offenders or accused who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment if the detention prisoner agrees voluntarily in writing after being informed of the effects thereof and with the assistance of counsel to abide by the same disciplinary rules imposed upon convicted prisoners, except in the following cases:

1. When they are recidivists, or have been convicted previously twice or more times of any crime; and

2. When upon being summoned for the execution of their sentence they have failed to surrender voluntarily.

If the detention prisoner does not agree to abide by the same disciplinary rules imposed upon convicted prisoners, he shall do so in writing with the assistance of a counsel and shall be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

Credit for preventive imprisonment for the penalty of *reclusion perpetua* shall be deducted from thirty (30) years.

Whenever an accused has undergone preventive imprisonment for a period equal to the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated,

he shall be released immediately without prejudice to the continuation of the trial thereof or the proceeding on appeal, if the same is under review. Computation of preventive imprisonment for purposes of immediate release under this paragraph shall be the actual period of detention with good conduct time allowance: *Provided, however,* That if the accused is absent without justifiable cause at any stage of the trial, the court may motu proprio order the rearrest of the accused: *Provided, finally,* That recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. In case the maximum penalty to which the accused may be sentenced is *destierro*, he shall be released after thirty (30) days of preventive imprisonment.

(As amended by Republic Act 6127, June 17, 1970, E.O. No. 214, July 10, 1988, Republic Act No. 10592, [May 29, 2013]).

Section Two. - *Effects of the penalties according to their respective nature*

Article 30. *Effects of the penalties of perpetual or temporary absolute disqualification.* - The penalties of perpetual or temporary absolute disqualification for public office shall produce the following effects:

1. The deprivation of the public offices and employments which the offender >may have held even if conferred by popular election.

2. The deprivation of the right to vote in any election for any popular office or to be elected to such office.

3. The disqualification for the offices or public employments and for the exercise of any of the rights mentioned.

In case of temporary disqualification, such disqualification as is comprised in paragraphs 2 and 3 of this article shall last during the term of the sentence.

4. The loss of all rights to retirement pay or other pension for any office formerly held.

Article 31. *Effect of the penalties of perpetual or temporary special disqualification.* - The penalties of perpetual or temporary special disqualification for public office, profession or calling shall produce the following effects:

1. The deprivation of the office, employment, profession or calling affected;

2. The disqualification for holding similar offices or employments either perpetually or during the term of the sentence according to the extent of such disqualification.

Article 32. *Effect of the penalties of perpetual or temporary special disqualification for the exercise of the right of suffrage.* - The perpetual or temporary special disqualification for the exercise of the right of suffrage shall deprive the offender perpetually or during the term of the sentence, according to the nature of said penalty, of the right to vote in any popular election for any public office or to be elected to such office. Moreover, the offender shall not be permitted to hold any public office during the period of his disqualification.

Article 33. *Effects of the penalties of suspension from any public office, profession or calling, or the right of suffrage.*- The suspension from public office, profession or calling, and the exercise of the right of suffrage shall disqualify the offender from holding such office or exercising such profession or calling or right of suffrage during the term of the sentence.

The person suspended from holding public office shall not hold another having similar functions during the period of his suspension.

Article 34. *Civil interdiction.* - Civil interdiction shall deprive the offender during the time of his sentence of the rights of parental authority, or guardianship, either as to the person or property of any ward, of marital authority, of the right to manage his property and of the right to dispose of such property by any act or any conveyance inter vivos.

Article 35. *Effects of bond to keep the peace.* - It shall be the duty of any person sentenced to give bond to keep the peace, to present two sufficient sureties who shall undertake that such person will not commit the offense sought to be prevented, and that in case such offense be committed they will pay the amount determined by the court in the judgment, or otherwise to deposit such amount in the office of the clerk of the court to guarantee said undertaking.

The court shall determine, according to its discretion, the period of duration of the bond.

Should the person sentenced fail to give the bond as required he shall be detained for a period which shall in no case exceed six months, is he shall have been prosecuted for a grave or less grave felony, and shall not exceed thirty days, if for a light felony.

Article 36. *Pardon; its effect.* - A pardon shall not work the restoration of the right to hold public office, or the right of suffrage, unless such rights be expressly restored by the terms of the pardon.

A pardon shall in no case exempt the culprit from the payment of the civil indemnity imposed upon him by the sentence.

Article 37. *Cost; What are included.* - Costs shall include fees and indemnities in the course of the judicial proceedings, whether they be fixed or unalterable amounts previously determined by law or regulations in force, or amounts not subject to schedule.

Article 38. *Pecuniary liabilities; Order of payment.* - In case the property of the offender should not be sufficient for the payment of all his pecuniary liabilities, the same shall be met in the following order:

1. The reparation of the damage caused.

2. Indemnification of consequential damages.

3. The fine.

4. The cost of the proceedings.

Article 39. *Subsidiary penalty.* - If the convict has no property with which to meet the fine mentioned in paragraph 3 of the next preceding article, he shall be subject to a subsidiary personal liability at the rate of one day for each amount equivalent to the highest minimum wage rate prevailing in the Philippines at the time of the rendition of judgment of conviction by the trial court, subject to the following rules:

1. If the principal penalty imposed be prision correccional or arresto and fine, he shall remain under confinement until his fine referred in the preceding paragraph is satisfied, but his subsidiary imprisonment shall not exceed one-third of the term of the sentence, and in no case shall it continue for more than one year, and no fraction or part of a day shall be counted against the prisoner.

2. When the principal penalty imposed be only a fine, the subsidiary imprisonment shall not exceed six months if the culprit shall have been prosecuted for a grave or less grave felony, and shall not exceed fifteen days, if for a light felony.

3. When the principal penalty imposed is higher than prision correccional, no subsidiary imprisonment shall be imposed upon the culprit.

4. If the principal penalty imposed is not to be executed by confinement in a penal institution, but such penalty is of fixed duration, the convict, during the period of time established in the preceding rules shall continue to suffer the same deprivations as those of which the principal penalty consists.

5. The subsidiary personal liability which the convict may have suffered by reason of his insolvency shall not relieve him from the fine in case his financial circumstances should improve.

(As amended by RA 5465, April 21, 1969, Republic Act No. 10159, [April 10, 2012])

Section Three. - *Penalties in which other accessory penalties are inherent*

Article 40. *Death; Its accessory penalties.* - The death penalty, when it is not executed by reason of commutation or pardon shall carry with it that of perpetual absolute disqualification and that of civil interdiction during thirty years following the date sentence, unless such accessory penalties have been expressly remitted in the pardon.

Article 41. *Reclusion perpetua and reclusion temporal; Their accessory penalties.* - The penalties of reclusion perpetua and reclusion temporal shall carry with them that of civil interdiction for life or during the period of the sentence as the case may be, and that of perpetual absolute disqualification which the offender shall suffer even though pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon.

Article 42. *Prision mayor; Its accessory penalties.* - The penalty of prision mayor, shall carry with it that of temporary absolute disqualification and that of perpetual special disqualification from the right of suffrage which the offender shall suffer although pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon.

Article 43. *Prision correccional; Its accessory penalties.* - The penalty of prision correccional shall carry with it that of suspension from public office, from the right to follow a profession or calling, and that of perpetual special disqualification from the right of suffrage, if the duration of said imprisonment shall exceed eighteen months. The offender shall suffer the disqualification provided in the article although pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon.

Article 44. *Arresto; Its accessory penalties.* - The penalty of arresto shall carry with it that of suspension of the right to hold office and the right of suffrage during the term of the sentence.

Article 45. *Confiscation and forfeiture of the proceeds or instruments of the crime.* - Every penalty imposed for the commission of a felony shall carry with it the forfeiture of the proceeds of the crime and the instruments or tools with which it was committed.

Such proceeds and instruments or tools shall be confiscated and forfeited in favor of the Government, unless they be property of a third person not liable for the offense, but those articles which are not subject of lawful commerce shall be destroyed.

Chapter Four APPLICATION OF PENALTIES

Section One. - *Rules for the application of penalties to the persons criminally liable and for the graduation of the same.*

Article 46. *Penalty to be imposed upon principals in general.* - The penalty prescribed by law for the commission of a felony shall be imposed upon the principals in the commission of such felony.

Whenever the law prescribes a penalty for a felony is general terms, it shall be understood as applicable to the consummated felony.

Article 47. *In what cases the death penalty shall not be imposed; Automatic Review of the Death Penalty Cases.* — The death penalty shall be imposed in all cases in which it must be imposed under existing laws, except when the guilty person is below eighteen (18) years of age at the time of the commission of the crime or is more than seventy years of age or when upon appeal or automatic review of the case by the supreme court, the required majority vote is not obtained for the imposition of the death penalty, in which cases the penalty shall be reclusion perpetua.

In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment by the court en banc, within twenty (20) days but not earlier than fifteen (15) days after promulgation of the judgment or notice of denial of any motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days from the filing thereof by the stenographic reporter.

(as amended by Republic Act No. 7659, [December 13, 1993])

Article 48. *Penalty for complex crimes.* - When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

Article 49. *Penalty to be imposed upon the principals when the crime committed is different from that intended.* - In cases in which the felony committed is different from that which the offender intended to commit, the following rules shall be observed:

1. If the penalty prescribed for the felony committed be higher than that corresponding to the offense which the accused intended to commit, the penalty corresponding to the latter shall be imposed in its maximum period.

2. If the penalty prescribed for the felony committed be lower than that corresponding to the one which the accused intended to commit, the penalty for the former shall be imposed in its maximum period.

3. The rule established by the next preceding paragraph shall not be applicable if the acts committed by the guilty person shall also constitute an attempt or frustration of another crime, if the law prescribes a higher penalty for either of the latter offenses, in which case the penalty provided for the attempted or the frustrated crime shall be imposed in its maximum period.

Article 50. *Penalty to be imposed upon principals of a frustrated crime.* - The penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the principal in a frustrated felony.

Article 51. *Penalty to be imposed upon principals of attempted crimes.* - A penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the principals in an attempt to commit a felony.

Article 52. *Penalty to be imposed upon accomplices in consummated crime.* - The penalty next lower in degree than that prescribed by law for the consummated shall be imposed upon the accomplices in the commission of a consummated felony.

Article 53. *Penalty to be imposed upon accessories to the commission of a consummated felony.* - The penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the accessories to the commission of a consummated felony.

Article 54. *Penalty to imposed upon accomplices in a frustrated crime.* - The penalty next lower in degree than prescribed by law for the frustrated felony shall be imposed upon the accomplices in the commission of a frustrated felony.

Article 55. *Penalty to be imposed upon accessories of a frustrated crime.* - The penalty lower by two degrees than that prescribed by law for the frustrated felony shall be imposed upon the accessories to the commission of a frustrated felony.

Article 56. *Penalty to be imposed upon accomplices in an attempted crime.* - The penalty next lower in degree than that prescribed by law for an attempt to commit a felony shall be imposed upon the accomplices in an attempt to commit the felony.

Article 57. *Penalty to be imposed upon accessories of an attempted crime.* - The penalty lower by two degrees

than that prescribed by law for the attempted felony shall be imposed upon the accessories to the attempt to commit a felony.

Article 58. *Additional penalty to be imposed upon certain accessories.* - Those accessories falling within the terms of paragraphs 3 of Article 19 of this Code who should act with abuse of their public functions, shall suffer the additional penalty of absolute perpetual disqualification if the principal offender shall be guilty of a grave felony, and that of absolute temporary disqualification if he shall be guilty of a less grave felony.

Article 59. *Penalty to be imposed in case of failure to commit the crime because the means employed or the aims sought are impossible.* - When the person intending to commit an offense has already performed the acts for the execution of the same but nevertheless the crime was not produced by reason of the fact that the act intended was by its nature one of impossible accomplishment or because the means employed by such person are essentially inadequate to produce the result desired by him, the court, having in mind the social danger and the degree of criminality shown by the offender, shall impose upon him the penalty of *arresto mayor* or a fine from 200 to 500 pesos.

Article 60. *Exception to the rules established in Articles 50 to 57.* - The provisions contained in Articles 50 to 57, inclusive, of this Code shall not be applicable to cases in which the law expressly prescribes the penalty provided for a frustrated or attempted felony, or to be imposed upon accomplices or accessories.

Article 61. *Rules for graduating penalties.* - For the purpose of graduating the penalties which, according to the provisions of Articles 50 to 57, inclusive, of this Code, are to be imposed upon persons guilty as principals of any frustrated or attempted felony, or as accomplices or accessories, the following rules shall be observed:

1. When the penalty prescribed for the felony is single and indivisible, the penalty next lower in degrees shall be that immediately following that indivisible penalty in the respective graduated scale prescribed in Article 71 of this Code.

2. When the penalty prescribed for the crime is composed of two indivisible penalties, or of one or more divisible penalties to be impose to their full extent, the penalty next lower in degree shall be that immediately following the lesser of the penalties prescribed in the respective graduated scale.

3. When the penalty prescribed for the crime is composed of one or two indivisible penalties and the maximum period of another divisible penalty, the penalty next lower in degree shall be composed of the medium and minimum periods of the proper divisible penalty and the maximum periods of the proper divisible penalty and the maximum period of that immediately following in said respective graduated scale.

4. when the penalty prescribed for the crime is composed of several periods, corresponding to different divisible penalties, the penalty next lower in degree shall be composed of the period immediately following the minimum prescribed and of the two next following, which shall be taken from the penalty prescribed, if possible; otherwise from the penalty immediately following in the above mentioned respective graduated scale.

5. When the law prescribes a penalty for a crime in some manner not especially provided for in the four preceding rules, the courts, proceeding by analogy, shall impose corresponding penalties upon those guilty as principals of the frustrated felony, or of attempt to commit the same, and upon accomplices and accessories.

TABULATION OF THE PROVISIONS OF THE CHAPTER

	Penalty Prescribe for the crime	**Penalty to be imposed upon the principal in a frustrated crime, and accomplice in a consummated crime**	**Penalty to be imposed upon the principal in an attempted crime, the accessory in the consummated crime and the accomplices in a frustrated crime.**	**Penalty to be imposed upon the accessory in a frustrated crime, and the accomplices in an attempted crime**	**Penalty to be imposed upon the accessory in an attempted crime**
First Case	Death	*Reclusion Perpetua*	*Reclusion Temporal*	*Prision Mayor*	*Prision Correccional*
Secon d Case	Reclusion Perpetua to Death	*Reclusion Temporal*	*Prision Mayor*	*Prision Correccional*	*Arresto Mayor*
Third Case	Reclusion Temporal in its maximum period to death	Prision Mayor in its maximum period to reclusion temporal in its medium period	Prision correccional in its maximum period to prision mayor in its medium period	Arresto Mayor in its maximum period to prision correccional in its medium period	Fine and Arresto Mayor in its minimum and medium periods
Fourth Case	Prision Mayor in its maximum period to reclusion temporal in its medium period.	Prision correccional in its maximum period to prision mayor in its medium period.	Arresto mayor in its maximum period to prision correccional in its medium period.	Fine and Arresto Mayor in its minimum and medium periods	Fine.

Section Two. - *Rules for the application of penalties with regard to the mitigating and aggravating circumstances, and habitual delinquency.*

Article 62. *Effects of the attendance of mitigating or aggravating circumstances and of habitual delinquency.* — Mitigating or aggravating circumstances and habitual delinquency shall be taken into account for the purpose of diminishing or increasing the penalty in conformity with the following rules:

1. Aggravating circumstances which in themselves constitute a crime specially punishable by law or which

are included by the law in defining a crime and prescribing the penalty therefor shall not be taken into account for the purpose of increasing the penalty.

1(a). When in the commission of the crime, advantage was taken by the offender of his public position, the penalty to be imposed shall be in its maximum regardless of mitigating circumstances.

The maximum penalty shall be imposed if the offense was committed by any person who belongs to an organized/syndicated crime group.

An organized/syndicated crime group means a group of two or more persons collaborating, confederating or mutually helping one another for purposes of gain in the commission of any crime.

2. The same rule shall apply with respect to any aggravating circumstances inherent in the crime to such a degree that it must of necessity accompany the commission thereof.

3. Aggravating or mitigating circumstances which arise from the moral attributes of the offender, or from his private relations with the offended party, or from any other personal cause, shall only serve to aggravate or mitigate the liability of the principals, accomplices and accessories as to whom such circumstances are attendant.

4. The circumstances which consist in the material execution of the act, or in the means employed to accomplish it, shall serve to aggravate or mitigate the liability of those persons only who had knowledge of them at the time of the execution of the act or their cooperation therein.

5. Habitual delinquency shall have the following effects :

(a) Upon a third conviction the culprit shall be sentenced to the penalty provided by law for the last crime of which he be found guilty and to the additional penalty of prision correccional in its medium and maximum periods;

(b) Upon a fourth conviction, the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of prision mayor in its minimum and medium periods; and

(c) Upon a fifth or additional conviction, the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of prision mayor in its maximum period to reclusion temporal in its minimum period.

Notwithstanding the provisions of this article, the total of the two penalties to be imposed upon the offender, in conformity herewith, shall in no case exceed 30 years.

For the purpose of this article, a person shall be deemed to be habitual delinquent, if within a period of ten years from the date of his release or last conviction of the crimes of serious or less serious physical injuries, robo, hurto, estafa or falsification, he is found guilty of any of said crimes a third time or oftener.

(as amended by Republic Act No. 7659, [December 13, 1993])

Article 63. *Rules for the application of indivisible penalties.* - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

3. When the commission of the act is attended by some mitigating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

4. When both mitigating and aggravating circumstances attended the commission of the act, the court shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.

Article 64. *Rules for the application of penalties which contain three periods.* - In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of Articles 76 and 77, the court shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:

1. When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.

2. When only a mitigating circumstances is present in the commission of the act, they shall impose the penalty in its minimum period.

3. When an aggravating circumstance is present in the commission of the act, they shall impose the penalty in its maximum period.

4. When both mitigating and aggravating circumstances are present, the court shall reasonably offset those of one class against the other according to their relative weight.

5. When there are two or more mitigating circumstances and no aggravating circumstances are present, the court shall impose the penalty next lower to that prescribed by law, in the period that it may deem applicable, according to the number and nature of such circumstances.

6. Whatever may be the number and nature of the aggravating circumstances, the courts shall not impose a greater penalty than that prescribed by law, in its maximum period.

7. Within the limits of each period, the court shall determine the extent of the penalty according to the number and nature of the aggravating and mitigating circumstances and the greater and lesser extent of the evil produced by the crime.

Article 65. *Rule in cases in which the penalty is not composed of three periods.* - In cases in which the penalty prescribed by law is not composed of three periods, the courts shall apply the rules contained in the foregoing articles, dividing into three equal portions of time included in the penalty prescribed, and forming one period of each of the three portions.

Article 66. *Imposition of fines.* - In imposing fines the courts may fix any amount within the limits established by law; in fixing the amount in each case attention shall be given, not only to the mitigating and aggravating circumstances, but more particularly to the wealth or means of the culprit.

Article 67. *Penalty to be imposed when not all the requisites of exemption of the fourth circumstance of Article 12 are present.* - When all the conditions required in circumstances Number 4 of Article 12 of this Code to exempt from criminal liability are not present, the penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period shall be imposed upon the culprit if he shall have been guilty of a grave felony, and *arresto mayor* in its minimum and medium periods, if of a less grave felony.

Article 68. *Penalty to be imposed upon a person under eighteen years of age.* - When the offender is a minor under eighteen years and his case is one coming under the provisions of the paragraphs next to the last of Article 80 of this Code, the following rules shall be observed:

1. Upon a person under fifteen but over nine years of age, who is not exempted from liability by reason of the court having declared that he acted with discernment, a discretionary penalty shall be imposed, but always lower by two degrees at least than that prescribed by law for the crime which he committed.

2. Upon a person over fifteen and under eighteen years of age the penalty next lower than that prescribed by law shall be imposed, but always in the proper period.

Article 69. *Penalty to be imposed when the crime committed is not wholly excusable.* - A penalty lower by one or two degrees than that prescribed by law shall be imposed if the deed is not wholly excusable by reason of the lack of some of the conditions required to justify the same or to exempt from criminal liability in the several cases mentioned in Article 11 and 12, provided that the majority of such conditions be present. The courts shall impose the penalty in the period which may be deemed proper, in view of the number and nature of the conditions of exemption present or lacking.

Article 70. *Successive service of sentence.* - When the culprit has to serve two or more penalties, he shall serve them simultaneously if the nature of the penalties will so permit otherwise, the following rules shall be observed:

In the imposition of the penalties, the order of their respective severity shall be followed so that they may be executed successively or as nearly as may be possible, should a pardon have been granted as to the penalty or penalties first imposed, or should they have been served out.

For the purpose of applying the provisions of the next preceding paragraph the respective severity of the penalties shall be determined in accordance with the following scale:

1. Death,

2. Reclusion perpetua,

3. Reclusion temporal,

4. Prision mayor,

5. Prisión correccional,

6. Arresto mayor,

7. Arresto menor,

8. Destierro,

9. Perpetual absolute disqualification,

10 Temporal absolute disqualification.

11. Suspension from public office, the right to vote and be voted for, the right to follow a profession or calling, and

12. Public censure.

Notwithstanding the provisions of the rule next preceding, the maximum duration of the convict's sentence shall not be more than three-fold the length of time corresponding to the most severe of the penalties imposed upon him. No other penalty to which he may be liable shall be inflicted after the sum total of those imposed equals the same maximum period.

Such maximum period shall in no case exceed forty years.

In applying the provisions of this rule the duration of perpetual penalties (pena perpetua) shall be computed at thirty years. (As amended).

Article 71. *Graduated scales.* - In the case in which the law prescribed a penalty lower or higher by one or more degrees than another given penalty, the rules prescribed in Article 61 shall be observed in graduating such penalty.

The lower or higher penalty shall be taken from the graduated scale in which is comprised the given penalty.

The courts, in applying such lower or higher penalty, shall observe the following graduated scales:

SCALE NO. 1

1. Death,

2. Reclusion perpetua,

3. Reclusion temporal,

4. Prision mayor,

5. Prision correccional,

6. Arresto mayor,

7. Destierro,

8. Arresto menor,

9. Public censure,

10. Fine.

SCALE NO. 2

1. Perpetual absolute disqualification,

2. Temporal absolute disqualification

3. Suspension from public office, the right to vote and be voted for, the right to follow a profession or calling,

4. Public censure,

5. Fine.

Article 72 *Preference in the payment of the civil liabilities.* - The civil liabilities of a person found guilty of two or more offenses shall be satisfied by following the chronological order of the dates of the judgments rendered against him, beginning with the first in order of time.

Section Three. - *Provisions common in the last two preceding sections*

Article 73. *Presumption in regard to the imposition of accessory penalties.* - Whenever the courts shall impose a penalty which, by provision of law, carries with it other penalties, according to the provisions of Articles 40, 41, 42, 43 and 44 of this Code, it must be understood that the accessory penalties are also imposed upon the convict.

Article 74. *Penalty higher than reclusion perpetua in certain cases.* - In cases in which the law prescribes a penalty higher than another given penalty, without specially designating the name of the former, if such higher penalty should be that of death, the same penalty and the accessory penalties of Article 40, shall be considered as the next higher penalty.

Article 75. *Increasing or reducing the penalty of fine by one or more degrees.* - Whenever it may be necessary to increase or reduce the penalty of fine by one or more degrees, it shall be increased or reduced, respectively, for each degree, by one-fourth of the maximum amount prescribed by law, without however, changing the minimum.

The same rules shall be observed with regard of fines that do not consist of a fixed amount, but are made proportional.

Article 76. *Legal period of duration of divisible penalties.* - The legal period of duration of divisible penalties shall be considered as divided into three parts, forming three periods, the minimum, the medium, and the maximum in the manner shown in the following table:

TABLE SHOWING THE DURATION OF DIVISIBLE PENALTIES AND THE TIME INCLUDED IN EACH OF THEIR PERIODS

Penalties	Time included in the penalty in its entirety	Time included in its minimum period	Time included in its medium period	Time included in its maximum
Reclusion temporal	From 12 years and 1 day to 20 years.	From 12 years and 1 day to 14 years and 8 months.	From 14 years, 8 months and 1 day to 17 years and 4 months.	From 17 years, 4 months and 1 day to 20 years.
Prision mayor, absolute disqualification and special temporary disqualification	From 6 years and 1 day to 12 years.	From 6 years and 1 day to 8 years.	From 8 years and 1 day to 10 years.	From 10 years and 1 day to 12 years.
Prision correccional, suspension and destierro	From 6 months and 1 day to 6 years.	From 6 months and 1 day to 2 years and 4 months.	From 2 years, 4 months and 1 day to 4 years and 2 months.	From 4 years, 2 months and 1 day to 6 years.
Arresto mayor	From 1 month and 1 day to months.	From 1 to 2 months.	From 2 months and 1 day to 4 months.	From 4 months and 1 day to 6 months.
Arresto menor	From 1 to 30 days.	From 1 to 10 days.	From 11 to 20 days.	From 21 to 30 days.

Article 77. *When the penalty is a complex one composed of three distinct penalties.* - In cases in which the law prescribes a penalty composed of three distinct penalties, each one shall form a period; the lightest of them shall be the minimum the next the medium, and the most severe the maximum period.

Whenever the penalty prescribed does not have one of the forms specially provided for in this Code, the periods shall be distributed, applying by analogy the prescribed rules.

Chapter Five EXECUTION AND SERVICE OF PENALTIES

Section One. - *General Provisions*

Article 78. *When and how a penalty is to be executed.* - No penalty shall be executed except by virtue of a final judgment.

A penalty shall not be executed in any other form than that prescribed by law, nor with any other circumstances or incidents than those expressly authorized thereby.

In addition to the provisions of the law, the special regulations prescribed for the government of the institutions in which the penalties are to be suffered shall be observed with regard to the character of the work to be performed, the time of its performance, and other incidents connected therewith, the relations of the convicts among themselves and other persons, the relief which they may receive, and their diet.

The regulations shall make provision for the separation of the sexes in different institutions, or at least into different departments and also for the correction and reform of the convicts.

Article 79. *Suspension of the execution and service of the penalties in case of insanity.* - When a convict shall become insane or an imbecile after final sentence has been pronounced, the execution of said sentence shall be suspended only with regard to the personal penalty, the provisions of the second paragraph of circumstance number 1 of Article 12 being observed in the corresponding cases.

If at any time the convict shall recover his reason, his sentence shall be executed, unless the penalty shall have prescribed in accordance with the provisions of this Code.

The respective provisions of this section shall also be observed if the insanity or imbecility occurs while the convict is serving his sentence.

Article 80. *Suspension of sentence of minor delinquents.* - Whenever a minor of either sex, under sixteen years of age at the date of the commission of a grave or less grave felony, is accused thereof, the court, after hearing the evidence in the proper proceedings, instead of pronouncing judgment of conviction, shall suspend all further proceedings and shall commit such minor to the custody or care of a public or private, benevolent or charitable institution, established under the law of the care, correction or education of orphaned, homeless, defective, and delinquent children, or to the custody or care of any other responsible person in any other place subject to visitation and supervision by the Director of Public Welfare or any of his agents or representatives, if there be any, or otherwise by the superintendent of public schools or his representatives, subject to such conditions as are prescribed hereinbelow until such minor shall have reached his majority age or for such less period as the court may deem proper. The court, in committing said minor as provided above, shall take into consideration the religion of such minor, his parents or next of kin, in order to avoid his commitment to any private institution not under the control and supervision of the religious sect or denomination to which they belong.

The Director of Public Welfare or his duly authorized representatives or agents, the superintendent of public schools or his representatives, or the person to whose custody or care the minor has been committed, shall submit to the court every four months and as often as required in special cases, a written report on the good or bad conduct of said minor and the moral and intellectual progress made by him.

The suspension of the proceedings against a minor may be extended or shortened by the court on the recommendation of the Director of Public Welfare or his authorized representative or agents, or the superintendent of public schools or his representatives, according as to whether the conduct of such minor has been good or not and whether he has complied with the conditions imposed upon him, or not. The provisions of the first paragraph of this article shall not, however, be affected by those contained herein.

If the minor has been committed to the custody or care of any of the institutions mentioned in the first paragraph of this article, with the approval of the Director of Public Welfare and subject to such conditions as this official in accordance with law may deem proper to impose, such minor may be allowed to stay elsewhere under the care of a responsible person.

If the minor has behaved properly and has complied with the conditions imposed upon him during his confinement, in accordance with the provisions of this article, he shall be returned to the court in order that the same may order his final release.

In case the minor fails to behave properly or to comply with the regulations of the institution to which he has been committed or with the conditions imposed upon him when he was committed to the care of a responsible person, or in case he should be found incorrigible or his continued stay in such institution should be inadvisable, he shall be returned to the court in order that the same may render the judgment corresponding to the crime committed by him.

The expenses for the maintenance of a minor delinquent confined in the institution to which he has been committed, shall be borne totally or partially by his parents or relatives or those persons liable to support him, if they are able to do so, in the discretion of the court; Provided, That in case his parents or relatives or those persons liable to support him have not been ordered to pay said expenses or are found indigent and cannot pay said expenses, the municipality in which the offense was committed shall pay one-third of said expenses; the province to which the municipality belongs shall pay one-third; and the remaining one-third shall be borne by the National Government: Provided, however, That whenever the Secretary of Finance certifies that a municipality is not able to pay its share in the expenses above mentioned, such share which is not paid by said municipality shall be borne by the National Government. Chartered cities shall pay two-thirds of said expenses; and in case a chartered city cannot pay said expenses, the internal revenue allotments which may be due to said city shall be withheld and applied in settlement of said indebtedness in accordance with section five hundred and eighty-eight of the Administrative Code.

Section Two. - *Execution of principal penalties.*

Article 81. *When and how the death penalty is to be executed.* - The death sentence shall be executed with preference to any other penalty and shall consist in putting the person under the sentence to death by lethal injection. The death sentence shall be executed under the authority of the Director of the Bureau of Corrections, endeavoring so far as possible to mitigate the sufferings of the person under the sentence during the lethal injection as well as during the proceedings prior to the execution.

The Director of the Bureau of Corrections shall take steps to ensure that the lethal injection to be administered is sufficient to cause the instantaneous death of the convict.

Pursuant to this, all personnel involved in the administration of lethal injection shall be trained prior to the performance of such task.

The authorized physician of the Bureau of Corrections, after thorough examination, shall officially make a pronouncement of the convict's death and shall certify thereto in the records of the Bureau of Corrections.

The death sentence shall be carried out not earlier than one (1) year nor later than eighteen (18) months after the judgment has become final and executory without prejudice to the exercise by the President of his executive clemency powers at all times.

(as amended by Republic Act No. 7659, [December 13, 1993], Republic Act No. 8177, [March 20, 1996])

Article 82. *Notification and execution of the sentence and assistance to the culprit.* - The court shall designate a working day for the execution but not the hour thereof; and such designation shall not be communicated to the offender before sunrise of said day, and the execution shall not take place until after the expiration of at least eight hours following the notification, but before sunset. During the interval between the notification and the execution, the culprit shall, in so far as possible, be furnished such assistance as he may request in order to be attended in his last moments by priests or ministers of the religion he professes and to consult lawyers, as well as in order to make a will and confer with members of his family or persons in charge of the management of his business, of the administration of his property, or of the care of his descendants.

Article 83. *Suspension of the execution of the death sentence.* - The death sentence shall not be inflicted upon a woman while she is pregnant or within one (1) year after delivery, nor upon any person over seventy years of age. In this last case, the death sentence shall be commuted to the penalty of reclusion perpetua with the accessory penalties provided in Article 40.

In all cases where the death sentence has become final, the records of the case shall be forwarded immediately by the Supreme Court to the Office of the President for possible exercise of the pardoning power.

(as amended by Republic Act No. 7659, [December 13, 1993])

Article 84. *Place of execution and persons who may witness the same.* - The execution shall take place in the penitentiary of Bilibid in a space closed to the public view and shall be witnessed only by the priests assisting the offender and by his lawyers, and by his relatives, not exceeding six, if he so request, by the physician and the necessary personnel of the penal establishment, and by such persons as the Director of Prisons may authorize.

Article 85. *Provisions relative to the corpse of the person executed and its burial.* - Unless claimed by his family, the corpse of the culprit shall, upon the completion of the legal proceedings subsequent to the execution, be turned over to the institute of learning or scientific research first applying for it, for the purpose of study and investigation, provided that such institute shall take charge of the decent burial of the remains. Otherwise, the Director of Prisons shall order the burial of the body of the culprit at government expense, granting permission to be present thereat to the members of the family of the culprit and the friends of the latter. In no case shall the burial of the body of a person sentenced to death be held with pomp.

Article 86. *Reclusión perpetua, reclusión temporal, prisión mayor, prision correccional and arresto mayor.* - The penalties of reclusion perpetua, reclusion temporal, prision mayor, prision correccional and *arresto mayor*, shall be executed and served in the places and penal establishments provided by the Administrative Code in force or which may be provided by law in the future.

Article 87. *Destierro.* - Any person sentenced to destierro shall not be permitted to enter the place or places designated in the sentence, nor within the radius therein specified, which shall be not more than 250 and not less than 25 kilometers from the place designated.

Article 88. *Arresto menor.* - The penalty of *arresto menor* shall be served in the municipal jail, or in the house of the defendant himself under the surveillance of an officer of

the law, when the court so provides in its decision, taking into consideration the health of the offender and other reasons which may seem satisfactory to it.

Title Four EXTINCTION OF CRIMINAL LIABILITY

Chapter One TOTAL EXTINCTION OF CRIMINAL LIABILITY

Article 89. *How criminal liability is totally extinguished.* - Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment.

2. By service of the sentence;

3. By amnesty, which completely extinguishes the penalty and all its effects;

4. By absolute pardon;

5. By prescription of the crime;

6. By prescription of the penalty;

7. By the marriage of the offended woman, as provided in Article 344 of this Code.

Article 90. *Prescription of crime.* - Crimes punishable by death, reclusion perpetua or reclusion temporal shall prescribe in twenty years.

Crimes punishable by other afflictive penalties shall prescribe in fifteen years.

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.

The crime of libel or other similar offenses shall prescribe in one year.

The crime of oral defamation and slander by deed shall prescribe in six months.

Light offenses prescribe in two months.

When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article. (As amended by RA 4661, approved June 19, 1966).

Article 91. *Computation of prescription of offenses.* - The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.

The term of prescription shall not run when the offender is absent from the Philippine Archipelago.

Article 92. *When and how penalties prescribe.* - The penalties imposed by final sentence prescribe as follows:

1. Death and reclusion perpetua, in twenty years;

2. Other afflictive penalties, in fifteen years;

3. Correctional penalties, in ten years; with the exception of the penalty of *arresto mayor*, which prescribes in five years;

4. Light penalties, in one year.

Article 93. *Computation of the prescription of penalties.* - The period of prescription of penalties shall commence to run from the date when the culprit should evade the service of his sentence, and it shall be interrupted if the defendant should give himself up, be captured, should go to some foreign country with which this Government has no extradition treaty, or should commit another crime before the expiration of the period of prescription.

Chapter Two PARTIAL EXTINCTION OF CRIMINAL LIABILITY

Article 94. *Partial Extinction of criminal liability.* - Criminal liability is extinguished partially:

1. By conditional pardon;
2. By commutation of the sentence; and
3. For good conduct allowances which the culprit may earn while he is undergoing preventive imprisonment or serving his sentence.

(amended by Republic Act No. 10592, [May 29, 2013])

Article 95. *Obligation incurred by person granted conditional pardon.* - Any person who has been granted conditional pardon shall incur the obligation of complying strictly with the conditions imposed therein otherwise, his non-compliance with any of the conditions specified shall result in the revocation of the pardon and the provisions of Article 159 shall be applied to him.

Article 96. *Effect of commutation of sentence.* - The commutation of the original sentence for another of a different length and nature shall have the legal effect of substituting the latter in the place of the former.

Article 97. *Allowance for good conduct.* - The good conduct of any offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted prisoner in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the following deductions from the period of his sentence:

1. During the first two years of imprisonment, he shall be allowed a deduction of twenty days for each month of good behavior during detention;
2. During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed a deduction of twenty-three days for each month of good behavior during detention;
3. During the following years until the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of twenty-five days for each month of good behavior during detention;
4. During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of thirty days for each month of good behavior during detention; and
5. At any time during the period of imprisonment, he shall be allowed another deduction of fifteen days, in addition to numbers one to four hereof, for each month of study, teaching or mentoring service time rendered.

An appeal by the accused shall not deprive him of entitlement to the above allowances for good conduct.

(as amended by Republic Act No. 10592, [May 29, 2013])

Article 98. *Special time allowance for loyalty.* - A deduction of one fifth of the period of his sentence shall be granted to any prisoner who, having evaded his preventive imprisonment or the service of his sentence under the circumstances mentioned in Article 158 of this Code, gives himself up to the authorities within 48 hours following the issuance of a proclamation announcing the passing away of the calamity or catastrophe referred to in said article. A deduction of two-fifths of the period of his sentence shall be granted in case said prisoner chose to stay in the place of his confinement notwithstanding the existence of a calamity or catastrophe enumerated in Article 158 of this Code.

This Article shall apply to any prisoner whether undergoing preventive imprisonment or serving sentence.

(as amended by Republic Act No. 10592, [May 29, 2013])

Article 99. *Who grants time allowances.* - Whenever lawfully justified, the Director of the Bureau of Corrections, the Chief of the Bureau of Jail Management and Penology and/or the Warden of a provincial, district,

municipal or city jail shall grant allowances for good conduct. Such allowances once granted shall not be revoked. *(as amended by Republic Act No. 10592, [May 29, 2013])*

Title Five CIVIL LIABILITY

Chapter One PERSON CIVILLY LIABLE FOR FELONIES

Article 100. *Civil liability of a person guilty of felony.* - Every person criminally liable for a felony is also civilly liable.

Article 101. *Rules regarding civil liability in certain cases.* - The exemption from criminal liability established in subdivisions 1, 2, 3, 5 and 6 of Article 12 and in subdivision 4 of Article 11 of this Code does not include exemption from civil liability, which shall be enforced subject to the following rules:

First. In cases of subdivisions 1, 2, and 3 of Article 12, the civil liability for acts committed by an imbecile or insane person, and by a person under nine years of age, or by one over nine but under fifteen years of age, who has acted without discernment, shall devolve upon those having such person under their legal authority or control, unless it appears that there was no fault or negligence on their part.

Should there be no person having such insane, imbecile or minor under his authority, legal guardianship or control, or if such person be insolvent, said insane, imbecile, or minor shall respond with their own property, except property exempt from execution, in accordance with the civil law.

Second. In cases falling within subdivision 4 of Article 11, the persons for whose benefit the harm has been prevented shall be civilly liable in proportion to the benefit which they may have received.

The courts shall determine, in sound discretion, the proportionate amount for which each one shall be liable.

When the respective shares cannot be equitably determined, even approximately, or when the liability also attaches to the Government, or to the majority of the inhabitants of the town, and, in all events, whenever the damages have been caused with the consent of the authorities or their agents, indemnification shall be made in the manner prescribed by special laws or regulations.

Third. In cases falling within subdivisions 5 and 6 of Article 12, the persons using violence or causing the fears shall be primarily liable and secondarily, or, if there be no such persons, those doing the act shall be liable, saving always to the latter that part of their property exempt from execution.

Article 102. *Subsidiary civil liability of innkeepers, tavern keepers and proprietors of establishments.* - In default of the persons criminally liable, innkeepers, tavern keepers, and any other persons or corporations shall be civilly liable for crimes committed in their establishments, in all cases where a violation of municipal ordinances or some general or special police regulation shall have been committed by them or their employees.

Innkeepers are also subsidiarily liable for the restitution of goods taken by robbery or theft within their houses from guests lodging therein, or for the payment of the value thereof, provided that such guests shall have notified in advance the innkeeper himself, or the person representing him, of the deposit of such goods within the inn; and shall furthermore have followed the directions which such innkeeper or his representative may have given them with respect to the care and vigilance over such goods. No liability shall attach in case of robbery with violence against or intimidation of persons unless committed by the innkeeper's employees.

Article 103. *Subsidiary civil liability of other persons.* - The subsidiary liability established in the next preceding article shall also apply to employers, teachers, persons, and corporations engaged in any kind of industry for felonies committed by their servants, pupils, workmen, apprentices, or employees in the discharge of their duties.

Chapter Two WHAT CIVIL LIABILITY INCLUDES

Article 104. *What is included in civil liability.* - The civil liability established in Articles 100, 101, 102, and 103 of this Code includes:

1. Restitution;

2. Reparation of the damage caused;

3. Indemnification for consequential damages.

Article 105. *Restitution; How made.* - The restitution of the thing itself must be made whenever possible, with allowance for any deterioration, or diminution of value as determined by the court.

The thing itself shall be restored, even though it be found in the possession of a third person who has acquired it by lawful means, saving to the latter his action against the proper person, who may be liable to him.

This provision is not applicable in cases in which the thing has been acquired by the third person in the manner and under the requirements which, by law, bar an action for its recovery.

Article 106. *Reparation; How made.* - The court shall determine the amount of damage, taking into consideration the price of the thing, whenever possible, and its special sentimental value to the injured party, and reparation shall be made accordingly.

Article 107. *Indemnification; What is included.* - Indemnification for consequential damages shall include not only those caused the injured party, but also those suffered by his family or by a third person by reason of the crime.

Article 108. *Obligation to make restoration, reparation for damages, or indemnification for consequential damages and actions to demand the same; Upon whom it devolves.* - The obligation to make restoration or reparation for damages and indemnification for consequential damages devolves upon the heirs of the person liable.

The action to demand restoration, reparation, and indemnification likewise descends to the heirs of the person injured.

Article 109. *Share of each person civilly liable.* - If there are two or more persons civilly liable for a felony, the courts shall determine the amount for which each must respond.

Article 110. *Several and subsidiary liability of principals, accomplices and accessories of a felony; Preference in payment.* - Notwithstanding the provisions of the next preceding article, the principals, accomplices, and accessories, each within their respective class, shall be liable severally (in solidum) among themselves for their quotas, and subsidiaries for those of the other persons liable.

The subsidiary liability shall be enforced, first against the property of the principals; next, against that of the accomplices, and, lastly, against that of the accessories.

Whenever the liability in solidum or the subsidiary liability has been enforced, the person by whom payment has been made shall have a right of action against the others for the amount of their respective shares.

Article 111. *Obligation to make restitution in certain cases.* - Any person who has participated gratuitously in the proceeds of a felony shall be bound to make restitution in an amount equivalent to the extent of such participation.

Chapter Three EXTINCTION AND SURVIVAL OF CIVIL LIABILITY

Article 112. *Extinction of civil liability.* - Civil liability established in Articles 100, 101, 102, and 103 of this Code shall be extinguished in the same manner as obligations, in accordance with the provisions of the Civil Law.

Article 113. *Obligation to satisfy civil liability.* - Except in case of extinction of his civil liability as provided in the next preceding article the offender shall continue to be obliged to satisfy the civil liability resulting from the crime committed by him, notwithstanding the fact that he has served his sentence consisting of deprivation of liberty or other rights, or has not been required to serve the same by reason of amnesty, pardon, commutation of sentence or any other reason.

BOOK TWO | Crimes and Penalties

Title One CRIMES AGAINST NATIONAL SECURITY AND THE LAW OF NATIONS

Chapter One CRIMES AGAINST NATIONAL SECURITY

Section One. - *Treason and espionage*

Article 114. *Treason.* - Any Filipino citizen who levies war against the Philippines or adheres to her enemies, giving them aid or comfort within the Philippines or elsewhere, shall be punished by *reclusion perpetua* to death and shall pay a fine not to exceed Four million pesos (P4,000,000).

No person shall be convicted of treason unless on the testimony of two witnesses at least to the same overt act or on confession of the accused in open court.

Likewise, an alien, residing in the Philippines, who commits acts of treason as defined in paragraph 1 of this Article shall be punished by *reclusion temporal* to death and shall pay a fine not to exceed Four million pesos (P4,000,000). *(As amended by E.O. No. 44, May 31, 1945; RA No 7659, December 13, 1993, Republic Act No. 10951, [August 29, 2017]).*

Article 115. *Conspiracy and proposal to commit treason; Penalty.* - The conspiracy or proposal to commit the crime of treason shall be punished respectively, by *prision mayor* and a fine not exceeding Two million pesos (P2,000,000), and *prision correccional* and a fine not exceeding One million pesos (P1,000,000).

Article 116. *Misprision of treason.* - Every person owing allegiance to (the United States) the Government of the Philippine Islands, without being a foreigner, and having knowledge of any conspiracy against them, conceals or does not disclose and make known the same, as soon as possible to the governor or fiscal of the province, or the mayor or fiscal of the city in which he resides, as the case may be, shall be punished as an accessory to the crime of treason.

Article 117. *Espionage.* - The penalty of prision correccional shall be inflicted upon any person who:

1. Without authority therefor, enters a warship, fort, or naval or military establishment or reservation to obtain any information, plans, photographs, or other data of a confidential nature relative to the defense of the Philippine Archipelago; or

2. Being in possession, by reason of the public office he holds, of the articles, data, or information referred to in the preceding paragraph, discloses their contents to a representative of a foreign nation.

The penalty next higher in degree shall be imposed if the offender be a public officer or employee.

Section Two. - *Provoking war and disloyalty in case of war*

Article 118. *Inciting to war or giving motives for reprisals.* - The penalty of reclusion temporal shall be imposed upon any public officer or employee, and that of prision mayor upon any private individual, who, by unlawful or unauthorized acts provokes or gives occasion for a war involving or liable to involve the Philippine Islands or exposes Filipino citizens to reprisals on their persons or property.

Article 119. *Violation of neutrality.* - The penalty of prision correccional shall be inflicted upon anyone who, on the occasion of a war in which the Government is not involved, violates any regulation issued by competent authority for the purpose of enforcing neutrality.

Article 120. *Correspondence with hostile country.* - Any person who in time of war, shall have correspondence with an enemy country or territory occupied by enemy troops shall be punished:

1. By prision correccional, if the correspondence has been prohibited by the Government;

2. By prision mayor, if such correspondence be carried on in ciphers or conventional signs; and

3. By reclusion temporal, if notice or information be given thereby which might be useful to the enemy. If the offender intended to aid the enemy by giving such notice or information, he shall suffer the penalty of reclusion temporal to death.

Article 121. *Flight to enemy country.* - The penalty of *arresto mayor* shall be inflicted upon any person who, owing allegiance to the Government, attempts to flee or go to an enemy country when prohibited by competent authority.

Section Three. - *Piracy and mutiny on the high seas or in Philippine waters*

Article 122. *Piracy in general and mutiny on the high seas.* - The penalty of *reclusion perpetua* shall be inflicted upon any person who, on the high seas, or in Philippine waters, shall attack or seize a vessel or, not being a member of its complement nor a passenger, shall seize the whole or part of the cargo of said vessel, its equipment, or personal belongings of its complements or passengers.

The same penalty shall be inflicted in case of mutiny on the high seas or in Philippine waters. *(as amended by Republic Act No. 7659, [December 13, 1993])*

Article 123. *Qualified piracy.* - The penalty of *reclusion perpetua* to death shall be imposed upon those who commit any of the crimes referred to in the preceding article, under any of the following circumstances:

1. Whenever they have seized a vessel by boarding or firing upon the same;

2. Whenever the pirates have abandoned their victims without means of saving themselves; or

3. Whenever the crime is accompanied by murder, homicide, physical injuries or rape.

(as amended by Republic Act No. 7659, [December 13, 1993])

Title Two CRIMES AGAINST THE FUNDAMENTAL LAWS OF THE STATE

Chapter One ARBITRARY DETENTION OR EXPULSION, VIOLATION OF DWELLING, PROHIBITION, INTERRUPTION, AND DISSOLUTION OF PEACEFUL MEETINGS AND CRIMES AGAINST RELIGIOUS WORSHIP

Section One. - *Arbitrary detention and expulsion*

Article 124. *Arbitrary detention.* - Any public officer or employee who, without legal grounds, detains a person, shall suffer;

1. The penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period, if the detention has not exceeded three days;

2. The penalty of prision correccional in its medium and maximum periods, if the detention has continued more than three but not more than fifteen days;

3. The penalty of prision mayor, if the detention has continued for more than fifteen days but not more than six months; and

4. That of reclusion temporal, if the detention shall have exceeded six months.

The commission of a crime, or violent insanity or any other ailment requiring the compulsory confinement of the patient in a hospital, shall be considered legal grounds for the detention of any person.

Article 125. *Delay in the delivery of detained persons to the proper judicial authorities.* - The penalties provided in the next preceding article shall be imposed upon the public officer or employee who shall detain any person for some legal ground and shall fail to deliver such person to the proper judicial authorities within the period of; twelve (12) hours, for crimes or offenses punishable by light penalties, or their equivalent; eighteen (18) hours, for crimes or offenses punishable by correctional penalties, or their equivalent and thirty-six (36) hours, for crimes, or offenses punishable by afflictive or capital penalties, or their equivalent. In every case, the person detained shall be informed of the cause of his detention and shall be allowed upon his request, to communicate and confer at any time with his attorney or counsel. (As amended by E.O. Nos. 59 and 272, Nov. 7, 1986 and July 25, 1987, respectively).

Article 126. *Delaying release.* - The penalties provided for in Article 124 shall be imposed upon any public officer or employee who delays for the period of time specified therein the performance of any judicial or executive order for the release of a prisoner or detention prisoner, or unduly delays the service of the notice of such order to said prisoner or the proceedings upon any petition for the liberation of such person.

Article 127. *Expulsion.* - The penalty of prision correccional shall be imposed upon any public officer or employee who, not being thereunto authorized by law, shall expel any person from the Philippine Islands or shall compel such person to change his residence.

Section Two. - *Violation of domicile*

Article 128. *Violation of domicile.* - The penalty of prision correccional in its minimum period shall be imposed upon any public officer or employee who, not being authorized by judicial order, shall enter any dwelling against the will of the owner thereof, search papers or other effects found therein without the previous consent of such owner, or having surreptitiously entered said dwelling, and being required to leave the premises, shall refuse to do so.

If the offense be committed in the night-time, or if any papers or effects not constituting evidence of a crime be not returned immediately after the search made by the offender, the penalty shall be prision correccional in its medium and maximum periods.

Article 129. *Search warrants maliciously obtained and abuse in the service of those legally obtained.* - In addition to the liability attaching to the offender for the commission of any other offense, the penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period and a fine not exceeding Two hundred thousand pesos (P200,000) shall be imposed upon any public officer or employee who shall procure a search warrant without just cause, or, having legally procured the same, shall exceed his authority or use unnecessary severity in executing the same.

Article 130. *Searching domicile without witnesses.* - The penalty of *arresto mayor* in its medium and maximum periods shall be imposed upon a public officer or employee who, in cases where a search is proper, shall search the domicile, papers or other belongings of any person, in the absence of the latter, any member of his family, or in their default, without the presence of two witnesses residing in the same locality.

Section Three. - *Prohibition, interruption and dissolution of peaceful meetings*

Article 131. *Prohibition, interruption and dissolution of peaceful meetings.* - The penalty of prision correccional in its minimum period shall be imposed upon any public officer or employee who, without legal ground, shall prohibit or interrupt the holding of a peaceful meeting, or shall dissolve the same.

The same penalty shall be imposed upon a public officer or employee who shall hinder any person from joining any lawful association or from attending any of its meetings.

The same penalty shall be imposed upon any public officer or employee who shall prohibit or hinder any person from addressing, either alone or together with others, any petition to the authorities for the correction of abuses or redress of grievances.

Section Four. - *Crimes against religious worship*

Article 132. *Interruption of religious worship.* - The penalty of prision correccional in its minimum period shall be imposed upon any public officer or employee who shall prevent or disturb the ceremonies or manifestations of any religion.

If the crime shall have been committed with violence or threats, the penalty shall be prision correccional in its medium and maximum periods.

Article 133. *Offending the religious feelings.* - The penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period shall be imposed upon anyone who, in a place devoted to religious worship or during the celebration of any religious ceremony shall perform acts notoriously offensive to the feelings of the faithful.

Title Three CRIMES AGAINST PUBLIC ORDER

Chapter One REBELLION, SEDITION AND DISLOYALTY

Article 134. *Rebellion or insurrection; How committed.* - The crime of rebellion or insurrection is committed by rising publicly and taking arms against the Government for the purpose of removing from the allegiance to said Government or its laws, the territory of the Philippine Islands or any part thereof, of any body of land, naval or other armed forces, depriving the Chief Executive or the

Legislature, wholly or partially, of any of their powers or prerogatives. (As amended by R.A. 6968).

Article 134-A. *Coup d'etat; How committed.* - The crime of coup d'etat is a swift attack accompanied by violence, intimidation, threat, strategy or stealth, directed against duly constituted authorities of the Republic of the Philippines, or any military camp or installation, communications network, public utilities or other facilities needed for the exercise and continued possession of power, singly or simultaneously carried out anywhere in the Philippines by any person or persons, belonging to the military or police or holding any public office of employment with or without civilian support or participation for the purpose of seizing or diminishing state power. (As amended by R.A. 6968).

Article 135. *Penalty for rebellion, insurrection or coup d'etat.* - Any person who promotes, maintains, or heads rebellion or insurrection shall suffer the penalty of reclusion perpetua.

Any person merely participating or executing the commands of others in a rebellion shall suffer the penalty of reclusion temporal.

Any person who leads or in any manner directs or commands others to undertake a coup d'etat shall suffer the penalty of reclusion perpetua.

Any person in the government service who participates, or executes directions or commands of others in undertaking a coup d'etat shall suffer the penalty of prision mayor in its maximum period.

Any person not in the government service who participates, or in any manner supports, finances, abets or aids in undertaking a coup d'etat shall suffer the penalty of reclusion temporal in its maximum period.

When the rebellion, insurrection, or coup d'etat shall be under the command of unknown leaders, any person who in fact directed the others, spoke for them, signed receipts and other documents issued in their name, as performed similar acts, on behalf or the rebels shall be deemed a leader of such a rebellion, insurrection, or coup d'etat. (As amended by R.A. 6968, approved on October 24, 1990).

Article 136. *Conspiracy and proposal to commit coup d'etat, rebellion or insurrection.* - The conspiracy and proposal to commit coup d'etat shall be punished by *prision mayor* in minimum period and a fine which shall not exceed One million pesos (P1,000,000)

The conspiracy and proposal to commit rebellion or insurrection shall be punished respectively, by *prision correccional* in its maximum period and a fine which shall not exceed One million pesos (P1,000,000) and by *prision correccional* in its medium period and a fine not exceeding Four hundred thousand pesos (P400,000). (As amended by R.A. 6968, approved October 24, 1990).

Article 137. *Disloyalty of public officers or employees.* - The penalty of prision correccional in its minimum period shall be imposed upon public officers or employees who have failed to resist a rebellion by all the means in their power, or shall continue to discharge the duties of their offices under the control of the rebels or shall accept appointment to office under them. (Reinstated by E.O. No. 187).

Article 138. *Inciting a rebellion or insurrection.* - The penalty of prision mayor in its minimum period shall be imposed upon any person who, without taking arms or being in open hostility against the Government, shall incite others to the execution of any of the acts specified in article 134 of this Code, by means of speeches, proclamations, writings, emblems, banners or other representations tending to the same end. (Reinstated by E.O. No. 187).

Article 139. *Sedition; How committed.* - The crime of sedition is committed by persons who rise publicly and tumultuously in order to attain by force, intimidation, or by other means outside of legal methods, any of the following objects:

1. To prevent the promulgation or execution of any law or the holding of any popular election;

2. To prevent the National Government, or any provincial or municipal government or any public officer thereof from freely exercising its or his functions, or prevent the execution of any administrative order;

3. To inflict any act of hate or revenge upon the person or property of any public officer or employee;

4. To commit, for any political or social end, any act of hate or revenge against private persons or any social class; and

5. To despoil, for any political or social end, any person, municipality or province, or the National Government (or the Government of the United States), of all its property or any part thereof.

Article 140. *Penalty for sedition.* - The leader of a sedition shall suffer the penalty of *prision mayor* in its minimum period and a fine not exceeding Two million pesos (P2,000,000)

Other persons participating therein shall suffer the penalty of *prision correccional* in its maximum period and a fine not exceeding One million pesos (P1,000,000). (Reinstated by E.O. No. 187).

Article 141. *Conspiracy to commit sedition.* - Persons conspiring to commit the crime of sedition shall be punished by *prision correccional* in its medium period and a fine not exceeding Four hundred thousand pesos (P400,000). (Reinstated by E.O. No. 187).

Article 142. *Inciting to sedition.* - The penalty of prision correccional in its maximum period and a fine not exceeding Four hundred thousand pesos (P400,000) shall be imposed upon any person who, without taking any direct part in the crime of sedition, should incite others to the accomplishment of any of the acts which constitute sedition, by means of speeches, proclamations, writings, emblems, cartoons, banners, or other representations tending to the same end, or upon any person or persons who shall utter seditious words or speeches, write, publish, or circulate scurrilous libels against the Government, or any of the duly constituted authorities thereof, or which tend to disturb or obstruct any lawful officer in executing the functions of his office, or which tend to instigate others to cabal and meet together for unlawful purposes, or which suggest or incite rebellious conspiracies or riots, or which lead or tend to stir up the people against the lawful authorities or to disturb the peace of the community, the safety and order of the Government, or who shall knowingly conceal such evil practices. *(Reinstated by E.O. No. 187, amended by Republic Act No. 10951, [August 29, 2017]).*

Chapter Two CRIMES AGAINST POPULAR REPRESENTATION

Section One. - *Crimes against legislative bodies and similar bodies*

Article 143. *Act tending to prevent the meeting of Congress and similar bodies.* - The penalty of *prisión correccional* or a fine ranging from Forty thousand pesos (P40,000) to Four hundred thousand pesos (P400,000), or both, shall be imposed upon any person who, by force or fraud, prevents the meeting of Congress or of any of its committees or subcommittees, Constitutional Commissions or committees or divisions thereof, or of any provincial board or city or municipal council or board. (*Reinstated by E.O. No. 187, amended by Republic Act No. 10951, [August 29, 2017]).*

Article 144. *Disturbance of proceedings.* - The penalty of *arresto mayor* or a fine from Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000) shall be imposed upon any person who disturbs the

meetings of Congress or of any of its committees or subcommittees, Constitutional Commissions or committees or divisions thereof, or of any provincial board or city or municipal council or board, or in the presence of any such bodies should behave in such manner as to interrupt its proceedings or to impair the respect due it. *(Reinstated by E.O. No. 187, Republic Act No. 10951, [August 29, 2017]).*

Section Two. - *Violation of parliamentary immunity*

Article 145. *Violation of parliamentary immunity.* - The penalty of prision mayor shall be imposed upon any person who shall use force, intimidation, threats, or fraud to prevent any member of the National Assembly (Congress of the Philippines) from attending the meetings of the Assembly (Congress) or of any of its committees or subcommittees, constitutional commissions or committees or divisions thereof, from expressing his opinions or casting his vote; and the penalty of prision correccional shall be imposed upon any public officer or employee who shall, while the Assembly (Congress) is in regular or special session, arrest or search any member thereof, except in case such member has committed a crime punishable under this Code by a penalty higher than prision mayor.

Chapter Three ILLEGAL ASSEMBLIES AND ASSOCIATIONS

Article 146. *Illegal assemblies.* - The penalty of *prision correccional* in its maximum period to prision mayor in its medium period shall be imposed upon the organizers or leaders of any meeting attended by armed persons for the purpose of committing any of the crimes punishable under this Code, or of any meeting in which the audience is incited to the commission of the crime of treason, rebellion or insurrection, sedition or assault upon a person in authority or his agents. Persons merely present at such meeting shall suffer the penalty of *arresto mayor*, unless they are armed, in which case the penalty shall be *prision correccional.*

If any person present at the meeting carries an unlicensed firearm, it shall be presumed that the purpose of said meeting, insofar as he is concerned, is to commit acts punishable under this Code, and he shall be considered a leader or organizer of the meeting within the purview of the preceding paragraph.

As used in this article, the word "meeting" shall be understood to include a gathering or group, whether in a fixed place or moving. (Reinstated by E.O. No. 187).

Article 147. *Illegal associations.* - The penalty of prision correccional in its minimum and medium periods and a fine not exceeding Two hundred thousand pesos (P200,000) shall be imposed upon the founders, directors, and presidents of associations totally or partially organized for the purpose of committing any of the crimes punishable under this Code or for some purpose contrary to public morals. Mere members of said associations shall suffer the penalty of *arresto mayor*. (Reinstated by E.O. No. 187).

Chapter Four ASSAULT UPON, AND RESISTANCE AND DISOBEDIENCE TO, PERSONS IN AUTHORITY AND THEIR AGENTS

Article 148. *Direct assaults.* - Any person or persons who, without a public uprising, shall employ force or intimidation for the attainment of any of the purpose enumerated in defining the crimes of rebellion and sedition, or shall attack, employ force, or seriously intimidate or resist any person in authority or any of his agents, while engaged in the performance of official duties, or on occasion of such performance, shall suffer the penalty of prision correccional in its medium and maximum periods and a fine not exceeding Two hundred thousand pesos (P200,000), when the assault is committed with a weapon or when the offender is a public officer or employee, or when the offender lays hands upon a person in authority. If none of these circumstances be present, the penalty of prision correccional in its minimum period and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed.

Article 149. *Indirect assaults.* - The penalty of *prision correccional* in its minimum and medium periods and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon any person who shall make use of force or intimidation upon any person coming to the aid of the authorities or their agents on occasion of the commission of any of the crimes defined in the next preceding article.

Article 150. *Disobedience to summons issued by the National Assembly, its committees or subcommittees, by the Constitutional Commissions, its committees, subcommittees or divisions.* - The penalty of *arresto mayor* or a fine ranging from Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000), or both such fine and imprisonment shall be imposed upon any person who, having been duly summoned to attend as a witness before Congress, its special or standing committees and subcommittees, the Constitutional Commissions and its committees, subcommittees, or divisions, or before any commission or committee chairman or member authorized to summon witnesses, refuses, without legal excuse, to obey such summons, or being present before any such legislative or constitutional body or official, refuses to be sworn or placed under affirmation or to answer any legal inquiry or to produce any books, papers, documents, or records in his possession, when required by them to do so in the exercise of their functions. The same penalty shall be imposed upon any person who shall restrain another from attending as a witness, or who shall induce disobedience to a summon or refusal to be sworn by any such body or official.

Article 151. *Resistance and disobedience to a person in authority or the agents of such person.* - The penalty of *arresto mayor* and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon any person who not being included in the provisions of the preceding articles shall resist or seriously disobey any person in authority, or the agents of such person, while engaged in the performance of official duties.

When the disobedience to an agent of a person in authority is not of a serious nature, the penalty of *arresto menor* or a fine ranging from Two thousand pesos (P2,000) to Twenty thousand pesos (P20,000) shall be imposed upon the offender.

Article 152. *Persons in authority and agents of persons in authority; Who shall be deemed as such.* - In applying the provisions of the preceding and other articles of this Code, any person directly vested with jurisdiction, whether as an individual or as a member of some court or governmental corporation, board, or commission, shall be deemed a person in authority. A barrio captain and a barangay chairman shall also be deemed a person in authority.

A person who, by direct provision of law or by election or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property, such as a barrio councilman, barrio policeman and barangay leader and any person who comes to the aid of persons in authority, shall be deemed an agent of a person in authority.

In applying the provisions of Articles 148 and 151 of this Code, teachers, professors and persons charged with the supervision of public or duly recognized private schools, colleges and universities, and lawyers in the actual performance of their professional duties or on the occasion of such performance, shall be deemed persons in authority. (As amended by PD No. 299, Sept. 19, 1973 and Batas Pambansa Blg. 873, June 12, 1985).

Chapter Five PUBLIC DISORDERS

Article 153. *Tumults and other disturbance of public orders; Tumultuous disturbance or interruption liable to cause disturbance.* - The penalty of *arresto mayor* in its medium period to prision correccional in its minimum period and a fine not exceeding Two hundred thousand pesos (P200,000) shall be imposed upon any person who shall cause any serious disturbance in a public place, office, or establishment, or shall interrupt or disturb public performances, functions or gatherings, or peaceful meetings, if the act is not included in the provisions of Articles 131 and 132.

The penalty next higher in degree shall be imposed upon persons causing any disturbance or interruption of a tumultuous character.

The disturbance or interruption shall be deemed to be tumultuous if caused by more than three persons who are armed or provided with means of violence.

The penalty of *arresto mayor* shall be imposed upon any person who in any meeting, association, or public place, shall make any outcry tending to incite rebellion or sedition or in such place shall display placards or emblems which provoke a disturbance of the public order.

The penalty of *arresto menor* and a fine not to exceed Forty thousand pesos (P40,000) shall be imposed upon these persons who in violation of the provisions contained in the last clause of Article 85, shall bury with pomp the body of a person who has been legally executed.

Article 154. *Unlawful use of means of publication and unlawful utterances.* - The penalty of *arresto mayor* and a fine ranging from Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000) shall be imposed upon:

1. Any person who by means of printing, lithography, or any other means of publication shall publish or cause to be published as news any false news which may endanger the public order, or cause damage to the interest or credit of the State;

2. Any person who by the same means, or by words, utterances or speeches shall encourage disobedience to the law or to the constituted authorities or praise, justify, or extol any act punished by law;

3. Any person who shall maliciously publish or cause to be published any official resolution or document without proper authority, or before they have been published officially; or

4. Any person who shall print, publish, or distribute or cause to be printed, published, or distributed books, pamphlets, periodicals, or leaflets which do not bear the real printer's name, or which are classified as anonymous.

Article 155. *Alarms and scandals.* - The penalty of *arresto menor* or a fine not exceeding Forty thousand pesos (P40,000) shall be imposed upon:

1. Any person who within any town or public place, shall discharge any firearm, rocket, firecracker, or other explosives calculated to cause alarm or danger;

2. Any person who shall instigate or take an active part in any charivari or other disorderly meeting offensive to another or prejudicial to public tranquility;

3. Any person who, while wandering about at night or while engaged in any other nocturnal amusements, shall disturb the public peace; or

4. Any person who, while intoxicated or otherwise, shall cause any disturbance or scandal in public places, provided that the circumstances of the case shall not make the provisions of Article 153 applicable.

Article 156. *Delivery of prisoners from jails.* - The penalty of *arresto mayor* in its maximum period of prision correccional in its minimum period shall be imposed upon any person who shall remove from any jail or penal establishment any person confined therein or shall help the escape of such person, by means of violence, intimidation, or bribery. If other means are used, the penalty of *arresto mayor* shall be imposed.

If the escape of the prisoner shall take place outside of said establishments by taking the guards by surprise, the same penalties shall be imposed in their minimum period.

Chapter Six EVASION OF SERVICE OF SENTENCE

Article 157. *Evasion of service of sentence.* - The penalty of prision correccional in its medium and maximum periods shall be imposed upon any convict who shall evade service of his sentence by escaping during the term of his imprisonment by reason of final judgment.

However, if such evasion or escape shall have taken place by means of unlawful entry, by breaking doors, windows, gates, walls, roofs, or floors, or by using picklocks, false keys, deceit, violence or intimidation, or through connivance with other convicts or employees of the penal institution, the penalty shall be prision correccional in its maximum period.

Article 158. *Evasion of service of sentence on the occasion of disorder, conflagrations, earthquakes, or other calamities.* - A convict who shall evade the service of his sentence, by leaving the penal institution where he shall have been confined, on the occasion of disorder resulting from a conflagration, earthquake, explosion, or similar catastrophe, or during a mutiny in which he has not participated, shall suffer an increase of one-fifth of the time still remaining to be served under the original sentence, which in no case shall exceed six months, if he shall fail to give himself up to the authorities within forty-eight hours following the issuance of a proclamation by the Chief Executive announcing the passing away of such calamity.

Convicts who, under the circumstances mentioned in the preceding paragraph, shall give themselves up to the authorities within the above mentioned period of 48 hours, shall be entitled to the deduction provided in Article 98.

Article 159. *Other cases of evasion of service of sentence.* - The penalty of prision correccional in its minimum period shall be imposed upon the convict who, having been granted conditional pardon by the Chief Executive, shall violate any of the conditions of such pardon. However, if the penalty remitted by the granting of such pardon be higher than six years, the convict shall then suffer the unexpired portion of his original sentence.

Chapter Seven COMMISSION OF ANOTHER CRIME DURING SERVICE OF PENALTY IMPOSED FOR ANOTHER PREVIOUS OFFENSE

Article 160. *Commission of another crime during service of penalty imposed for another offense; Penalty.* - Besides the provisions of Rule 5 of Article 62, any person who shall commit a felony after having been convicted by final judgment, before beginning to serve such sentence, or while serving the same, shall be punished by the maximum period of the penalty prescribed by law for the new felony.

Any convict of the class referred to in this article, who is not a habitual criminal, shall be pardoned at the age of seventy years if he shall have already served out his original sentence, or when he shall complete it after reaching the said age, unless by reason of his conduct or other circumstances he shall not be worthy of such clemency.

Title Four CRIMES AGAINST PUBLIC INTEREST

Chapter One FORGERIES

Section One. - *Forging the seal of the Government of the Philippine Islands, the signature or stamp of the Chief Executive.*

Article 161. *Counterfeiting the great seal of the Government of the Philippine Islands, forging the signature or stamp of the Chief Executive.* - The penalty of reclusion temporal shall be imposed upon any person who shall forge the Great Seal of the Government of the Philippine Islands or the signature or stamp of the Chief Executive.

Article 162. *Using forged signature or counterfeit seal or stamp.* - The penalty of prision mayor shall be imposed upon any person who shall knowingly make use of the counterfeit seal or forged signature or stamp mentioned in the preceding article.

Section Two. - *Counterfeiting Coins*

Article 163. *Making and importing and uttering false coins.* - Any person who makes, imports, or utters false coins, in connivance with counterfeiters, or importers, shall suffer:

1. *Prisión correccional* in its minimum and medium periods and a fine not to exceed Four hundred thousand pesos (P400,000), if the counterfeited coins be any of the coinage of the Philippines.

2. *Prisión correccional* in its minimum period and a fine not to exceed Two hundred thousand pesos (P200,000), if the counterfeited coin be currency of a foreign country.

(As amended by R.A. No. 4202, approved June 19, 1965, Republic Act No. 10951, [August 29, 2017]).

Article 164. *Mutilation of coins; Importation and utterance of mutilated coins.* - The penalty of *prisión correccional* in its minimum period and a fine not to exceed Four hundred thousand pesos (P400,000) shall be imposed upon any person who shall mutilate coins of the legal currency of the Philippines or import or utter mutilated current coins, or in connivance with mutilators or importers. *(as amended by Republic Act No. 10951, [August 29, 2017])*

Article 165. *Selling of false or mutilated coin, without connivance.* - The person who knowingly, although without the connivance mentioned in the preceding articles, shall possess false or mutilated coin with intent to utter the same, or shall actually utter such coin, shall suffer a penalty lower by one degree than that prescribed in said articles.

Section Three. - *Forging treasury or bank notes, obligations and securities; importing and uttering false or forged notes, obligations and securities.*

Article 166. *Forging treasury or bank notes on other documents payable to bearer; importing, and uttering such false or forged notes and documents.* - The forging or falsification of treasury or bank notes or certificates or other obligations and securities payable to bearer and the importation and uttering in connivance with forgers or importers of such false or forged obligations or notes, shall be punished as follows:

1. By *reclusion temporal* in its minimum period and a fine not to exceed Two million pesos (P2,000,000), if the document which has been falsified, counterfeited, or altered is an obligation or security of the Philippines.

The words 'obligation or security of the Philippines' shall mean all bonds, certificates of indebtedness, national bank notes, coupons, Philippine notes, treasury notes, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the Philippines, and other representatives of value, of whatever denomination, which have been or may be issued under any act of Congress.

2. By *prisión mayor* in its maximum period and a fine not to exceed One million pesos (P1,000,000), if the falsified or altered document is a circulating note issued by any banking association duly authorized by law to issue the same.

3. By *prisión mayor* in its medium period and a fine not to exceed One million pesos (P1,000,000), if the falsified or counterfeited document was issued by a foreign government.

4. By *prisión mayor* in its minimum period and a fine not to exceed Four hundred thousand pesos (P400,000), when the forged or altered document is a circulating note or bill issued by a foreign bank duly authorized therefor.

(as amended by Republic Act No. 10951, [August 29, 2017])

Article 167. *Counterfeiting, importing and uttering instruments not payable to bearer.* - Any person who shall forge, import or utter, in connivance with the forgers or importers, any instrument payable to order or other document of credit not payable to bearer, shall suffer the penalties of prision correccional in its medium and maximum periods and a fine not exceeding One million two hundred thousand pesos (P1,200,00).

Article 168. *Illegal possession and use of false treasury or bank notes and other instruments of credit.* - Unless the act be one of those coming under the provisions of any of the preceding articles, any person who shall knowingly use or have in his possession, with intent to use any of the false or falsified instruments referred to in this section, shall suffer the penalty next lower in degree than that prescribed in said articles.

Article 169. *How forgery is committed.* - The forgery referred to in this section may be committed by any of the following means:

1. By giving to a treasury or bank note or any instrument, payable to bearer or order mentioned therein, the appearance of a true genuine document.

2. By erasing, substituting, counterfeiting or altering by any means the figures, letters, words or signs contained therein.

Section Four. - *Falsification of legislative, public, commercial, and private documents, and wireless, telegraph, and telephone message.*

Article 170. *Falsification of legislative documents.* - The penalty of prision correccional in its maximum period and a fine not exceeding One million two hundred thousand pesos (P1,200,000) shall be imposed upon any person who, without proper authority therefor alters any bill, resolution, or ordinance enacted or approved or pending approval by either House of Congress or any provincial board or municipal council.

Article 171. *Falsification by public officer, employee or notary or ecclesiastical minister.* - The penalty of prision mayor and a fine not to exceed One million pesos (P1,000,000) shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;

4. Making untruthful statements in a narration of facts;

5. Altering true dates;

6. Making any alteration or intercalation in a genuine document which changes its meaning;

7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or

8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

Article 172. *Falsification by private individual and use of falsified documents.* - The penalty of *prision correccional* in its medium and maximum periods and a fine of not more than One million pesos (P1,000,000) shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; and

2. Any person who, to the damage of a third party, or with the intent to cause such damage, shall in any private document commit any of the acts of falsification enumerated in the next preceding article.

Any person who shall knowingly introduce in evidence in any judicial proceeding or to the damage of another or who, with the intent to cause such damage, shall use any of the false documents embraced in the next preceding article, or in any of the foregoing subdivisions of this article, shall be punished by the penalty next lower in degree.

Article 173. *Falsification of wireless, cable, telegraph and telephone messages, and use of said falsified messages.*- The penalty of prision correccional in its medium and maximum periods shall be imposed upon officer or employee of the Government or of any private corporation or concern engaged in the service of sending or receiving wireless, cable or telephone message who utters a fictitious wireless, telegraph or telephone message of any system or falsifies the same.

Any person who shall use such falsified dispatch to the prejudice of a third party or with the intent of cause such prejudice, shall suffer the penalty next lower in degree.

Section Five. - *Falsification of medical certificates, certificates of merit or services and the like.*

Article 174. *False medical certificates, false certificates of merits or service, etc.* - The penalties of *arresto mayor* in its maximum period to *prision correccional* in its minimum period and a fine not to exceed Two hundred thousand pesos (P200,000) shall be imposed upon:

1. Any physician or surgeon who, in connection, with the practice of his profession, shall issue a false certificate; and

2. Any public officer who shall issue a false certificate of merit of service, good conduct or similar circumstances.

The penalty of *arresto mayor* shall be imposed upon any private person who shall falsify a certificate falling within the classes mentioned in the two preceding subdivisions.

Article 175. *Using false certificates.* - The penalty of *arresto menor* shall be imposed upon any one who shall knowingly use any of the false certificates mentioned in the next preceding article.

Section Six. - Manufacturing, importing and possession of instruments or implements intended for the commission of falsification.

Article 176. *Manufacturing and possession of instruments or implements for falsification.* - The penalty of *prision correccional* in its medium and maximum periods and a fine not to exceed One million pesos (P1,000,000) shall be imposed upon any person who shall make or introduce into the Philippines any stamps, dies, marks, or other instruments or implements intended to be used in the commission of the offenses of counterfeiting or falsification mentioned in the preceding sections of this Chapter. Any person who, with the intention of using them, shall have in his possession any of the instruments or implements mentioned in the preceding paragraphs, shall suffer the penalty next lower in degree than that provided therein.

Chapter Two OTHER FALSITIES

Section One. - *Usurpation of authority, rank, title, and improper use of names, uniforms and insignia.*

Article 177. *Usurpation of authority or official functions.* - Any person who shall knowingly and falsely represent himself to be an officer, agent or representative of any department or agency of the Philippine Government or of any foreign government, or who, under pretense of official position, shall perform any act pertaining to any person in authority or public officer of the Philippine Government or any foreign government, or any agency thereof, without being lawfully entitled to do so, shall suffer the penalty of prision correccional in its minimum and medium periods.

Article 178. *Using fictitious name and concealing true name.* - The penalty of *arresto mayor* and a fine not to exceed One hundred thousand pesos (P100,000) shall be imposed upon any person who shall publicly use a fictitious name for the purpose of concealing a crime, evading the execution of a judgment or causing damage.

Any person who conceals his true name and other personal circumstances shall be punished by *arresto menor* or a fine not to exceed Forty thousand pesos (P40,000).

Article 179. *Illegal use of uniforms or insignia.* - The penalty of *arresto mayor* shall be imposed upon any person who shall publicly and improperly make use of insignia, uniforms or dress pertaining to an office not held by such person or to a class of persons of which he is not a member.

Section Two. - *False testimony*

Article 180. *False testimony against a defendant.* - Any person who shall give false testimony against the defendant in any criminal case shall suffer:

1. The penalty of *reclusion temporal,* if the defendant in said case shall have been sentenced to death;

2. The penalty of *prision mayor,* if the defendant shall have been sentenced to *reclusion temporal* or *reclusion perpetua;*

3. The penalty of *prision correccional,* if the defendant shall have been sentenced to any other afflictive penalty; and

4. The penalty of *arresto mayor*, if the defendant shall have been sentenced to a correctional penalty or a fine, or shall have been acquitted.

In cases provided in subdivisions 3 and 4 of this article the offender shall further suffer a fine not to exceed Two hundred thousand pesos (P200,000).

Article 181. *False testimony favorable to the defendants.* - Any person who shall give false testimony in favor of the defendant in a criminal case, shall suffer the penalties of

arresto mayor in its maximum period to prision correccional in its minimum period a fine not to exceed Two hundred thousand pesos (P200,000), if the prosecution is for a felony punishable by an afflictive penalty, and the penalty of *arresto mayor* in any other case.

Article 182. *False testimony in civil cases.* - Any person found guilty of false testimony in a civil case shall suffer the penalty of prision correccional in its minimum period and a fine not to exceed One million two hundred thousand pesos (P1,200,000), if the amount in controversy shall exceed One million pesos (P1,000,000), and the penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period and a fine not to exceed Two hundred thousand pesos (P200,000), if the amount in controversy shall not exceed said amount or cannot be estimated.

Article 183. *False testimony in other cases and perjury in solemn affirmation.* - The penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period shall be imposed upon any person, who knowingly makes untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

Any person who, in case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehoods mentioned in this and the three preceding articles of this section, shall suffer the respective penalties provided therein.

Article 184. *Offering false testimony in evidence.* - Any person who shall knowingly offer in evidence a false witness or testimony in any judicial or official proceeding, shall be punished as guilty of false testimony and shall suffer the respective penalties provided in this section.

Chapter Three FRAUDS

Section One. - *Machinations, monopolies and combinations*

Article 185. *Machinations in public auctions.* - Any person who shall solicit any gift or promise as a consideration for refraining from taking part in any public auction, and any person who shall attempt to cause bidders to stay away from an auction by threats, gifts, promises, or any other artifice, with intent to cause the reduction of the price of the thing auctioned, shall suffer the penalty of prision correccional in its minimum period and a fine ranging from 10 to 50 per centum of the value of the thing auctioned.

Article 186. *Monopolies and combinations in restraint of trade.* - [1]The penalty of prision correccional in its minimum period or a fine ranging from 200 to 6,000 pesos, or both, shall be imposed upon:

1. Any person who shall enter into any contract or agreement or shall take part in any conspiracy or combination in the form of a trust or otherwise, in restraint of trade or commerce or to prevent by artificial means free competition in the market;

2. Any person who shall monopolize any merchandise or object of trade or commerce, or shall combine with any other person or persons to monopolize and merchandise or object in order to alter the price thereof by spreading false rumors or making use of any other article to restrain free competition in the market;

3. Any person who, being a manufacturer, producer, or processor of any merchandise or object of commerce or an importer of any merchandise or object of commerce from any foreign country, either as principal or agent, wholesaler or retailer, shall combine, conspire or agree in any manner with any person likewise engaged in the manufacture, production, processing, assembling or importation of such merchandise or object of commerce or with any other persons not so similarly engaged for the purpose of making transactions prejudicial to lawful commerce, or of increasing the market price in any part of the Philippines, of any such merchandise or object of commerce manufactured, produced, processed, assembled in or imported into the Philippines, or of any article in the manufacture of which such manufactured, produced, or imported merchandise or object of commerce is used.

If the offense mentioned in this article affects any food substance, motor fuel or lubricants, or other articles of prime necessity, the penalty shall be that of prision mayor in its maximum and medium periods it being sufficient for the imposition thereof that the initial steps have been taken toward carrying out the purposes of the combination.

Any property possessed under any contract or by any combination mentioned in the preceding paragraphs, and being the subject thereof, shall be forfeited to the Government of the Philippines.

Whenever any of the offenses described above is committed by a corporation or association, the president and each one of its agents or representatives in the Philippines in case of a foreign corporation or association, who shall have knowingly permitted or failed to prevent the commission of such offense, shall be held liable as principals thereof.

Section Two. - *Frauds in commerce and industry*

Article 187. *Importation and disposition of falsely marked articles or merchandise made of gold, silver, or other precious metals or their alloys.* - The penalty of prision correccional or a fine ranging from Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000), or both, shall be imposed on any person who shall knowingly import or sell or dispose of any article or merchandise made of gold, silver, or other precious metals, or their alloys, with stamps, brands, or marks which fail to indicate the actual fineness or quality of said metals or alloys.

Any stamp, brand, label, or mark shall be deemed to fail to indicate the actual fineness of the article on which it is engraved, printed, stamped, labeled or attached, when the rest of the article shows that the quality or fineness thereof is less by more than one-half karat, if made of gold, and less by more than four one-thousandth, if made of silver, than what is shown by said stamp, brand, label or mark. But in case of watch cases and flatware made of gold, the actual fineness of such gold shall not be less by more than three one-thousandth than the fineness indicated by said stamp, brand, label, or mark.

Article 188. *Subsisting and altering trademark, trade-names, or service marks.* - The penalty of prision correccional in its minimum period or a fine ranging from 50 to 2,000 pesos, or both, shall be imposed upon:

1. Any person who shall substitute the trade name or trademark of some other manufacturer or dealer or a colorable imitation thereof, for the trademark of the real manufacturer or dealer upon any article of commerce and shall sell the same;

2. Any person who shall sell such articles of commerce or offer the same for sale, knowing that the trade-name or trade- mark has been fraudulently used in such goods as described in the preceding subdivision;

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[1] **Sec 55(a) of RA No 10667, July 21, 2015.**

Sec. 55. *Repealing Clause* — The following laws, and all other laws, decrees, executive orders and regulations, or part or parts thereof inconsistent with any provision of this Act, are hereby repealed, amended or otherwise modified accordingly:

(a) Article 186 of Act No. 3815, otherwise known as the Revised Penal Code: Provided, That violations of Article 186 of the Revised Penal Code committed before the effectivity of this Act may continue to be prosecuted unless the same have been barred by prescription, and subject to the procedure under Section 31 of this Act.

3. Any person who, in the sale or advertising of his services, shall use or substitute the service mark of some other person, or a colorable imitation of such mark; or

4. Any person who, knowing the purpose for which the trade-name, trademark, or service mark of a person is to be used, prints, lithographs, or in any way reproduces such trade-name, trademark, or service mark, or a colorable imitation thereof, for another person, to enable that other person to fraudulently use such trade-name, trademark, or service mark on his own goods or in connection with the sale or advertising of his services.

A trade-name or trademark as herein used is a word or words, name, title, symbol, emblem, sign or device, or any combination thereof used as an advertisement, sign, label, poster, or otherwise, for the purpose of enabling the public to distinguish the business of the person who owns and uses said trade-name or trademark.

A service mark as herein used is a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others and includes without limitation the marks, names, symbols, titles, designations, slogans, character names, and distinctive features of radio or other advertising.

Article 189. *Unfair competition, fraudulent registration of trademark, trade-name or service mark, fraudulent designation of origin, and false description.* - The penalty provided in the next proceeding article shall be imposed upon:

1. Any person who, in unfair competition and for the purposes of deceiving or defrauding another of his legitimate trade or the public in general, shall sell his goods giving them the general appearance of goods of another manufacturer or dealer, either as to the goods themselves, or in the wrapping of the packages in which they are contained or the device or words thereon or in any other features of their appearance which would be likely to induce the public to believe that the goods offered are those of a manufacturer or dealer other than the actual manufacturer or dealer or shall give other persons a chance or opportunity to do the same with a like purpose.

2. Any person who shall affix, apply, annex or use in connection with any goods or services or any container or containers for goods a false designation of origin or any false description or representation and shall sell such goods or services.

3. Any person who by means of false or fraudulent representation or declarations orally or in writing or by other fraudulent means shall procure from the patent office or from any other office which may hereafter be established by law for the purposes the registration of a trade-name, trademark or service mark or of himself as the owner of such trade-name, trademark or service mark or an entry respecting a trade-name, trademark or service mark.

Title Five CRIMES RELATIVE TO OPIUM AND OTHER PROHIBITED DRUGS[2]

Article 190. *Possession, preparation and use of prohibited drugs and maintenance of opium dens.* - The penalty of *arresto mayor* in its medium period to prision correccional in its minimum period and a fine ranging from 300 to 1,000 pesos shall be imposed upon:

1. Anyone who unless lawfully authorized shall possess, prepare, administer, or otherwise use any prohibited drug.

"Prohibited drug," as used herein includes opium, cocaine, alpha and beta eucaine,

Indian hemp, their derivatives, and all preparations made from them or any of them, and such other drugs, whether natural or synthetic, having physiological action as a narcotic drug.

"Opium" embraces every kind, class, and character of opium, whether crude or prepared; the ashes on refuse of the same; narcotic preparations thereof or therefrom; morphine or any alkaloid of opium, preparation in which opium, morphine or any kind of opium, enter as an ingredient, and also opium leaves or wrappings of opium leaves, whether prepared or not for their use.

"Indian hemp" otherwise known as marijuana, cannabis, Americana, hashish, bhang, guaza, churruz, and ganjah embraces every kind, class and character of Indian hemp, whether dried or fresh, flowering or fruiting tops of the pistillate plant cannabis sativa, from which the resin has not been extracted, including all other geographic varieties whether used as reefers, resin, extract, tincture or in any other form whatsoever.

By narcotic drug is meant a drug that produces a condition of insensibility and melancholy dullness of mind with delusions and may be habit-forming.

2. Anyone who shall maintain a dive or resort where any prohibited drug is used in any form, in violation of the law.

Article 191. *Keeper, watchman and visitor of opium den.* - The penalty of *arresto mayor* and a fine ranging from 100 to 300 pesos shall be imposed upon:

1. Anyone who shall act as a keeper or watchman of a dive or resort where any prohibited drug is used in any manner contrary to law; and

2. Any person who, not being included in the provisions of the next preceding article, shall knowingly visit any dive or resort of the character referred to above.

Article 192. *Importation and sale of prohibited drugs.* - The penalty of prision correccional in its medium and maximum periods and a fine ranging from 300 to 10,000 pesos shall be imposed upon any person who shall import or bring into the Philippine Islands any prohibited drug.

The same penalty shall be imposed upon any person who shall unlawfully sell or deliver to another prohibited drug.

Article 193. *Illegal possession of opium pipe or other paraphernalia for the use of any prohibited drug.* - The penalty of *arresto mayor* and a fine not exceeding 500 pesos shall be imposed upon any person who, not being authorized by law, shall possess any opium pipe or other paraphernalia for smoking, injecting, administering or using opium or any prohibited drug.

The illegal possession of an opium pipe or other paraphernalia for using any other prohibited drug shall be prima facie evidence that its possessor has used said drug.

Article 194. *Prescribing opium unnecessary for a patient.* - The penalty of prision correccional or a fine ranging from 300 to 10,000 pesos, or both shall be imposed upon any physician or dentist who shall prescribe opium for any person whose physical condition does not require the use of the same.

Title Six CRIMES AGAINST PUBLIC MORALS

Chapter One GAMBLING AND BETTING[3]

Article 195. *What acts are punishable in gambling.* - (a) The penalty of *arresto mayor* or a fine not exceeding two hundred pesos, and, in case of recidivism, the penalty of *arresto mayor* or a fine ranging from two hundred or six thousand pesos, shall be imposed upon:

[2] Repealed by RA No 6425, March 30, 1972, which was later superseded by RA No 9165, June 7, 2002.

[3] **Sec 3 of PD No 1602, June 11, 1978.** Provisions of Art. 195-199 of the Revised Penal Code, as amended, Republic Act No. 3063, Presidential Decrees Numbered 483, 449, 510 and 1306, letters of instructions, laws, executive orders, rules and regulations, city and municipal ordinances which are inconsistent with this Decree are hereby repealed.

1. Any person other than those referred to in subsections (b) and (c) who, in any manner shall directly, or indirectly take part in any game of monte, jueteng or any other form of lottery, policy, banking, or percentage game, dog races, or any other game of scheme the result of which depends wholly or chiefly upon chance or hazard; or wherein wagers consisting of money, articles of value or representative of value are made; or in the exploitation or use of any other mechanical invention or contrivance to determine by chance the loser or winner of money or any object or representative of value.

2. Any person who shall knowingly permit any form of gambling referred to in the preceding subdivision to be carried on in any unhabited or uninhabited place of any building, vessel or other means of transportation owned or controlled by him. If the place where gambling is carried on has the reputation of a gambling place or that prohibited gambling is frequently carried on therein, the culprit shall be punished by the penalty provided for in this article in its maximum period.

(b) The penalty of prision correccional in its maximum degree shall be imposed upon the maintainer, conductor, or banker in a game of jueteng or any similar game.

(c) The penalty of prision correccional in its medium degree shall be imposed upon any person who shall, knowingly and without lawful purpose, have in his possession and lottery list, paper or other matter containing letters, figures, signs or symbols which pertain to or are in any manner used in the game of jueteng or any similar game which has taken place or about to take place.

Article 196. *Importation, sale and possession of lottery tickets or advertisements.* - The penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period or a fine ranging from 200 to 2,000 pesos, or both, in the discretion of the court, shall be imposed upon any person who shall import into the Philippine Islands from any foreign place or port any lottery ticket or advertisement or, in connivance with the importer, shall sell or distribute the same.

Any person who shall knowingly and with intent to use them, have in his possession lottery tickets or advertisements, or shall sell or distribute the same without connivance with the importer of the same, shall be punished by *arresto menor*, or a fine not exceeding 200 pesos, or both, in the discretion of the court.

The possession of any lottery ticket or advertisement shall be prima facie evidence of an intent to sell, distribute or use the same in the Philippine Islands.

Article 197. *Betting in sports contests.* - The penalty of *arresto menor* or a fine not exceeding 200 pesos, or both, shall be imposed upon any person who shall bet money or any object or article of value or representative of value upon the result of any boxing or other sports contests.

Article 198. *Illegal betting on horse race.* - The penalty of *arresto menor* or a fine not exceeding 200 pesos, or both, shall be imposed upon any person who except during the period allowed by law, shall be on horse races. The penalty of *arresto mayor* or a fine ranging from 200 to 2,000 pesos, or both, shall be imposed upon any person who, under the same circumstances, shall maintain or employ a totalizer or other device or scheme for betting on horse races or realizing any profit therefrom.

For the purposes of this article, any race held in the same day at the same place shall be held punishable as a separate offense, and if the same be committed by any partnership, corporation or association, the president and the directors or managers thereof shall be deemed to be principals in the offense if they have consented to or knowingly tolerated its commission.

Article 199. *Illegal cockfighting.* - The penalty of *arresto menor* or a fine not exceeding 200 pesos, or both, in the discretion of the court, shall be imposed upon:

1. Any person who directly or indirectly participates in cockfights, by betting money or other valuable things, or who organizes cockfights at which bets are made, on a day other than those permitted by law.

2. Any person who directly or indirectly participates in cockfights, at a place other than a licensed cockpit.

Chapter Two OFFENSES AGAINST DECENCY AND GOOD CUSTOMS

Article 200. *Grave scandal.* - The penalties of *arresto mayor* and public censure shall be imposed upon any person who shall offend against decency or good customs by any highly scandalous conduct not expressly falling within any other article of this Code.

Article 201. *Immoral doctrines, obscene publications and exhibitions and indecent shows.* - The penalty of prision mayor or a fine ranging from Twenty thousand pesos (P20,000) to Two hundred thousand pesos (P200,000), or both such imprisonment and fine, shall be imposed upon:

(1) Those who shall publicly expound or proclaim doctrines openly contrary to public morals;

(2) (a) the authors of obscene literature, published with their knowledge in any form; the editors publishing such literature; and the owners/operators of the establishment selling the same;

(b) Those who, in theaters, fairs, cinematographs or any other place, exhibit, indecent or immoral plays, scenes, acts or shows, whether live or in film, which are prescribed by virtue hereof, shall include those which (1) glorify criminals or condone crimes; (2) serve no other purpose but to satisfy the market for violence, lust or pornography; (3) offend any race or religion; (4) tend to abet traffic in and use of prohibited drugs; and (5) are contrary to law, public order, morals, and good customs, established policies, lawful orders, decrees and edicts;

(3) Those who shall sell, give away or exhibit films, prints, engravings, sculpture or literature which are offensive to morals. (As amended by PD Nos. 960 and 969).

Article 202. *Prostitutes; Penalty.* [4]- For the purposes of this article, women who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct, are deemed to be prostitutes.

Any person found guilty of any of the offenses covered by this article shall be punished by *arresto menor* or a fine not exceeding Twenty thousand pesos (P20,000), and in case of recidivism, by *arresto mayor* in its medium period to *prision correccional* in its minimum period or a fine ranging from Twenty thousand pesos (P20,000) to Two hundred thousand pesos (P200,000), or both, in the discretion of the court.

(as amended by Republic Act No. 10158, [March 27, 2012])

Title Seven CRIMES COMMITTED BY PUBLIC OFFICERS

Chapter One PRELIMINARY PROVISIONS

Article 203. *Who are public officers.* - For the purpose of applying the provisions of this and the preceding titles of this book, any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, of shall perform in said Government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class, shall be deemed to be a public officer.

[4]**Sec 17 of RA No 10364, February 6, 2013.** Victims of trafficking for purposes of prostitution as defined under Section 4 of this Act are not covered by Article 202 of the Revised Penal Code and as such, shall not be prosecuted, fined, or otherwise penalized under the said law.

Chapter Two MALFEASANCE AND MISFEASANCE IN OFFICE

Section One. - *Dereliction of duty*

Article 204. *Knowingly rendering unjust judgment.* - Any judge who shall knowingly render an unjust judgment in any case submitted to him for decision, shall be punished by prision mayor and perpetual absolute disqualification.

Article 205. *Judgment rendered through negligence.* - Any judge who, by reason of inexcusable negligence or ignorance shall render a manifestly unjust judgment in any case submitted to him for decision shall be punished by *arresto mayor* and temporary special disqualification.

Article 206. *Unjust interlocutory order.* - Any judge who shall knowingly render an unjust interlocutory order or decree shall suffer the penalty of *arresto mayor* in its minimum period and suspension; but if he shall have acted by reason of inexcusable negligence or ignorance and the interlocutory order or decree be manifestly unjust, the penalty shall be suspension.

Article 207. *Malicious delay in the administration of justice.* - The penalty of prision correccional in its minimum period shall be imposed upon any judge guilty of malicious delay in the administration of justice.

Article 208. *Prosecution of offenses; negligence and tolerance.* - The penalty of prision correccional in its minimum period and suspension shall be imposed upon any public officer, or officer of the law, who, in dereliction of the duties of his office, shall maliciously refrain from instituting prosecution for the punishment of violators of the law, or shall tolerate the commission of offenses.

Article 209. *Betrayal of trust by an attorney or solicitor.* - Revelation of secrets. - In addition to the proper administrative action, the penalty of prision correccional in its minimum period, or a fine ranging from Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000), or both, shall be imposed upon any attorney-at-law or solicitor (procurador judicial) who, by any malicious breach of professional duty or of inexcusable negligence or ignorance, shall prejudice his client, or reveal any of the secrets of the latter learned by him in his professional capacity.

The same penalty shall be imposed upon an attorney-at-law or solicitor (procurador judicial) who, having undertaken the defense of a client or having received confidential information from said client in a case, shall undertake the defense of the opposing party in the same case, without the consent of his first client.

Section Two. - *Bribery*

Article 210. *Direct bribery.* - Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of this official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision mayor in its medium and maximum periods and a fine of not less than the value of the gift and] not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.

If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of prision correccional, in its medium period and a fine of not less than twice the value of such gift.

If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of prision correccional in its maximum period and a fine of not less than the value of the gift and not less than three times the value of such gift.

In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.

The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties. (As amended by Batas Pambansa Blg. 871, approved May 29, 1985).

Article 211. *Indirect bribery.* - The penalties of prision correccional in its medium and maximum periods, and public censure shall be imposed upon any public officer who shall accept gifts offered to him by reason of his office. (As amended by Batas Pambansa Blg. 871, approved May 29, 1985).

Article 211-A. *Qualified bribery.* - If any public officer is entrusted with law enforcement and he refrains from arresting or prosecuting an offender who has committed a crime punishable by reclusion perpetua and/or death in consideration of any offer, promise, gift or present, he shall suffer the penalty for the offense which was not prosecuted.

If it is the public officer who asks or demands such gift or present, he shall suffer the penalty of death. *(As added by Sec. 4, RA No. 7659).*

Article 212. *Corruption of public officials.* - The same penalties imposed upon the officer corrupted, except those of disqualification and suspension, shall be imposed upon any person who shall have made the offers or promises or given the gifts or presents as described in the preceding articles.

Chapter Three FRAUDS AND ILLEGAL EXACTIONS AND TRANSACTIONS

Article 213. *Frauds against the public treasury and similar offenses.* - The penalty of *prision correccional* in its medium period to *prision mayor* in its minimum period, or a fine ranging from Forty thousand (P40,000) to Two million pesos (P2,000,000), or both, shall be imposed upon any public officer who:

1. In his official capacity, in dealing with any person with regard to furnishing supplies, the making of contracts, or the adjustment or settlement of accounts relating to public property or funds, shall enter into an agreement with any interested party or speculator or make use of any other scheme, to defraud the Government;

2. Being entrusted with the collection of taxes, licenses, fees and other imposts, shall be guilty or any of the following acts or omissions:

(a) Demanding, directly, or indirectly, the payment of sums different from or larger than those authorized by law.

(b) Failing voluntarily to issue a receipt, as provided by law, for any sum of money collected by him officially.

(c) Collecting or receiving, directly or indirectly, by way of payment or otherwise things or objects of a nature different from that provided by law.

When the culprit is an officer or employee of the Bureau of Internal Revenue or the Bureau of Customs, the provisions of the Administrative Code shall be applied.

Article 214. *Other frauds.* - In addition to the penalties prescribed in the provisions of Chapter Six, Title Ten, Book Two, of this Code, the penalty of temporary special disqualification in its maximum period to perpetual special disqualification shall be imposed upon any public officer who, taking advantage of his official position, shall commit any of the frauds or deceits enumerated in said provisions.

Article 215. *Prohibited transactions.* - The penalty of prision correccional in its maximum period or a fine

ranging from Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000), or both, shall be imposed upon any appointive public officer who, during his incumbency, shall directly or indirectly become interested in any transaction of exchange or speculation within the territory subject to his jurisdiction.

Article 216. *Possession of prohibited interest by a public officer.* - The penalty of *arresto mayor* in its medium period to *prision correccional* in its minimum period, or a fine ranging from Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000, or both, shall be imposed upon a public officer who directly or indirectly, shall become interested in any contract or business in which it is his official duty to intervene.

This provisions is applicable to experts, arbitrators and private accountants who, in like manner, shall take part in any contract or transaction connected with the estate or property in appraisal, distribution or adjudication of which they shall have acted, and to the guardians and executors with respect to the property belonging to their wards or estate.

Chapter Four MALVERSATION OF PUBLIC FUNDS OR PROPERTY

Article 217. *Malversation of public funds or property; Presumption of malversation.* - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

1. The penalty of prisión correccional in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed Forty thousand pesos (P40,000).

2. The penalty of prisión mayor in its minimum and medium periods, if the amount involved is more than Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000).

3. The penalty of prisión mayor in its maximum period to reclusion temporal in its minimum period, if the amount involved is more than One million two hundred thousand pesos (P1,200,000) but does not exceed Two million four hundred thousand pesos (P2,400,000).

4. The penalty of reclusion temporal, in its medium and maximum periods, if the amount involved is more than Two million four hundred thousand pesos (P2,400,000) but does not exceed Four million four hundred thousand pesos (P4,400,000).

5. The penalty of reclusion temporal in its maximum period, if the amount involved is more than Four million four hundred thousand pesos (P4,400,000) but does not exceed Eight million eight hundred thousand pesos (P8,800,000). If the amount exceeds the latter, the penalty shall be reclusion perpetua.

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses.

(As amended by RA 1060, Republic Act No. 10951, [August 29, 2017]).

Article 218. *Failure of accountable officer to render accounts.* - Any public officer, whether in the service or separated therefrom by resignation or any other cause, who is required by law or regulation to render account to the Insular Auditor, or to a provincial auditor and who fails to do so for a period of two months after such accounts should be rendered, shall be punished by prision correccional in its minimum period, or by a fine ranging from Forty thousand pesos (P40,000) to One million pesos (P1,000,000), or both.

Article 219. *Failure of a responsible public officer to render accounts before leaving the country.* - Any public officer who unlawfully leaves or attempts to leave the Philippine Islands without securing a certificate from the Insular Auditor showing that his accounts have been finally settled, shall be punished by *arresto mayor*, or a fine ranging from Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000) or both.

Article 220. *Illegal use of public funds or property.* - Any public officer who shall apply any public fund or property under his administration to any public use other than for which such fund or property were appropriated by law or ordinance shall suffer the penalty of prision correccional in its minimum period or a fine ranging from one-half to the total of the sum misapplied, if by reason of such misapplication, any damages or embarrassment shall have resulted to the public service. In either case, the offender shall also suffer the penalty of temporary special disqualification.

If no damage or embarrassment to the public service has resulted, the penalty shall be a fine from 5 to 50 per cent of the sum misapplied.

Article 221. *Failure to make delivery of public funds or property.* - Any public officer under obligation to make payment from Government funds in his possession, who shall fail to make such payment, shall be punished by *arresto mayor* and a fine from 5 to 25 percent of the sum which he failed to pay.

This provision shall apply to any public officer who, being ordered by competent authority to deliver any property in his custody or under his administration, shall refuse to make such delivery.

The fine shall be graduated in such case by the value of the thing, provided that it shall not less than Ten thousand pesos (P10,000).

Article 222. *Officers included in the preceding provisions.* - The provisions of this chapter shall apply to private individuals who in any capacity whatever, have charge of any insular, provincial or municipal funds, revenues, or property and to any administrator or depository of funds or property attached, seized or deposited by public authority, even if such property belongs to a private individual.

Chapter Five INFIDELITY OF PUBLIC OFFICERS

Section One. - *Infidelity in the custody of prisoners*

Article 223. *Conniving with or consenting to evasion.* - Any public officer who shall consent to the escape of a prisoner in his custody or charge, shall be punished:

1. By prision correccional in its medium and maximum periods and temporary special disqualification in its maximum period to perpetual special disqualification, if the fugitive shall have been sentenced by final judgment to any penalty.

2. By prision correccional in its minimum period and temporary special disqualification, in case the fugitive shall not have been finally convicted but only held as a detention prisoner for any crime or violation of law or municipal ordinance.

Article 224. *Evasion through negligence.* - If the evasion of the prisoner shall have taken place through the negligence of the officer charged with the conveyance or custody of the escaping prisoner, said officer shall suffer the penalties of *arresto mayor* in its maximum period to prision correccional in its minimum period and temporary special disqualification.

Article 225. *Escape of prisoner under the custody of a person not a public officer.* - Any private person to whom the conveyance or custody or a prisoner or person under arrest shall have been confided, who shall commit any of the offenses mentioned in the two preceding articles, shall suffer the penalty next lower in degree than that prescribed for the public officer.

Section Two. - *Infidelity in the custody of document*

Article 226. *Removal, concealment or destruction of documents.* - Any public officer who shall remove, destroy or conceal documents or papers officially entrusted to him, shall suffer:

1. The penalty of prision mayor and a fine not exceeding Two hundred thousand pesos (P200,000) o, whenever serious damage shall have been caused thereby to a third party or to the public interest.

2. The penalty of prision correccional in its minimum and medium period and a fine not exceeding Two hundred thousand pesos (P200,000), whenever the damage to a third party or to the public interest shall not have been serious.

In either case, the additional penalty of temporary special disqualification in its maximum period to perpetual disqualification shall be imposed.

Article 227. *Officer breaking seal.* - Any public officer charged with the custody of papers or property sealed by proper authority, who shall break the seals or permit them to be broken, shall suffer the penalties of prision correccional in its minimum and medium periods, temporary special disqualification and a fine not exceeding Four hundred thousand pesos (P400,000).

Article 228. *Opening of closed documents.* - Any public officer not included in the provisions of the next preceding article who, without proper authority, shall open or shall permit to be opened any closed papers, documents or objects entrusted to his custody, shall suffer the penalties or *arresto mayor*, temporary special disqualification and a fine of not exceeding Four hundred thousand pesos (P400,000).

Section Three. - *Revelation of secrets*

Article 229. *Revelation of secrets by an officer.* - Any public officer who shall reveal any secret known to him by reason of his official capacity, or shall wrongfully deliver papers or copies of papers of which he may have charge and which should not be published, shall suffer the penalties of prision correccional in its medium and maximum periods, perpetual special disqualification and a fine not exceeding Four hundred thousand pesos (P400,000) if the revelation of such secrets or the delivery of such papers shall have caused serious damage to the public interest; otherwise, the penalties of *prision correccional* in its minimum period, temporary special disqualification and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed.

Article 230. *Public officer revealing secrets of private individual.* - Any public officer to whom the secrets of any private individual shall become known by reason of his office who shall reveal such secrets, shall suffer the penalties of *arresto mayor* and a fine not exceeding Two hundred thousand pesos (P200,000).

Chapter Six OTHER OFFENSES OR IRREGULARITIES BY PUBLIC OFFICERS

Section One. - Disobedience, Refusal of Assistance and Maltreatment of Prisoners

Article 231. *Open disobedience.* - Any judicial or executive officer who shall openly refuse to execute the judgment, decision or order of any superior authority made within the scope of the jurisdiction of the latter and issued with all the legal formalities, shall suffer the penalties of *arresto mayor* in its medium period to prision correccional in its minimum period, temporary special disqualification in its maximum period and a fine not exceeding Two hundred thousand pesos (P200,000).

Article 232. *Disobedience to order of superior officers, when said order was suspended by inferior officer.* - Any public officer who, having for any reason suspended the execution of the orders of his superiors, shall disobey such superiors after the latter have disapproved the suspension, shall suffer the penalties of prision correccional in its minimum and medium periods and perpetual special disqualification.

Article 233. *Refusal of assistance.* - The penalties of *arresto mayor* in its medium period to prision correccional in its minimum period, perpetual special disqualification and a fine not exceeding Two hundred thousand pesos (P200,000), shall be imposed upon a public officer who, upon demand from competent authority, shall fail to lend his cooperation towards the administration of justice or other public service, if such failure shall result in serious damage to the public interest, or to a third party; otherwise, *arresto mayor* in its medium and maximum periods and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed.

Article 234. *Refusal to discharge elective office.* - The penalty of *arresto mayor* or a fine not exceeding Two hundred thousand pesos (P200,000), or both, shall be imposed upon any person who, having been elected by popular election to a public office, shall refuse without legal motive to be sworn in or to discharge the duties of said office.

Article 235. *Maltreatment of prisoners.* - The penalty of *arresto mayor* in its medium period to prision correccional in its minimum period, in addition to his liability for the physical injuries or damage caused, shall be imposed upon any public officer or employee who shall overdo himself in the correction or handling of a prisoner or detention prisoner under his charge, by the imposition of punishment not authorized by the regulations, or by inflicting such punishment in a cruel and humiliating manner.

If the purpose of the maltreatment is to extort a confession, or to obtain some information from the prisoner, the offender shall be punished by prision correccional in its minimum period, temporary special disqualification and a fine not exceeding One hundred thousand pesos (P100,000), in addition to his liability for the physical injuries or damage caused.

Section Two. - Anticipation, prolongation and abandonment of the duties and powers of public office.

Article 236. *Anticipation of duties of a public office.* - Any person who shall assume the performance of the duties and powers of any public officer or employment without first being sworn in or having given the bond required by law, shall be suspended from such office or employment until he shall have complied with the respective formalities and shall be fined from Forty thousand pesos (P40,000) to One hundred thousand pesos (P100,000).

Article 237. *Prolonging performance of duties and powers.* - Any public officer shall continue to exercise the duties and powers of his office, employment or commission, beyond the period provided by law, regulation or special provisions applicable to the case, shall suffer the penalties of prision correccional in its minimum period, special temporary disqualification in its minimum period and a fine not exceeding One hundred thousand pesos (P100,000).

Article 238. *Abandonment of office or position.* - Any public officer who, before the acceptance of his resignation, shall abandon his office to the detriment of the public service shall suffer the penalty of *arresto mayor*.

If such office shall have been abandoned in order to evade the discharge of the duties of preventing, prosecuting or punishing any of the crime falling within Title One, and Chapter One of Title Three of Book Two of this Code, the offender shall be punished by prision correccional in its minimum and medium periods, and by *arresto mayor* if the purpose of such abandonment is to evade the duty of preventing, prosecuting or punishing any other crime.

Section Three. - *Usurpation of powers and unlawful appointments*

Article 239. *Usurpation of legislative powers.* - The penalties of prision correccional in its minimum period, temporary special disqualification and a fine not exceeding Two hundred thousand pesos (P200,000), shall be imposed upon any public officer who shall encroach upon the powers of the legislative branch of the Government, either by making general rules or regulations beyond the scope of his authority, or by attempting to repeal a law or suspending the execution thereof.

Article 240. *Usurpation of executive functions.* - Any judge who shall assume any power pertaining to the executive authorities, or shall obstruct the latter in the lawful exercise of their powers, shall suffer the penalty of *arresto mayor* in its medium period to prision correccional in its minimum period.

Article 241. *Usurpation of judicial functions.* - The penalty of *arresto mayor* in its medium period to prision correccional in its minimum period and shall be imposed upon any officer of the executive branch of the Government who shall assume judicial powers or shall obstruct the execution of any order or decision rendered by any judge within its jurisdiction.

Article 242. *Disobeying request for disqualification.* - Any public officer who, before the question of jurisdiction is decided, shall continue any proceeding after having been lawfully required to refrain from so doing, shall be punished by *arresto mayor* and a fine not exceeding One hundred thousand pesos only (P100,000).

Article 243. *Orders or requests by executive officers to any judicial authority.* - Any executive officer who shall address any order or suggestion to any judicial authority with respect to any case or business coming within the exclusive jurisdiction of the courts of justice shall suffer the penalty of *arresto mayor* and a fine not exceeding One hundred thousand pesos (P100,000).

Article 244. *Unlawful appointments.* - Any public officer who shall knowingly nominate or appoint to any public office any person lacking the legal qualifications therefor, shall suffer the penalty of *arresto mayor* and a fine not exceeding Two hundred thousand pesos (P200,000).

Section Four. - *Abuses against chastity*

Article 245. *Abuses against chastity; Penalties.* - The penalties of prision correccional in its medium and maximum periods and temporary special disqualification shall be imposed:

1. Upon any public officer who shall solicit or make immoral or indecent advances to a woman interested in matters pending before such officer for decision, or with respect to which he is required to submit a report to or consult with a superior officer;

2. Any warden or other public officer directly charged with the care and custody of prisoners or persons under arrest who shall solicit or make immoral or indecent advances to a woman under his custody.

If the person solicited be the wife, daughter, sister of relative within the same degree by affinity of any person in the custody of such warden or officer, the penalties shall be prision correccional in its minimum and medium periods and temporary special disqualification.

Title Eight **CRIMES AGAINST PERSONS**

Chapter One DESTRUCTION OF LIFE

Section One. - *Parricide, murder, homicide*

Article 246. *Parricide.* - Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua to death.

Article 247. *Death or physical injuries inflicted under exceptional circumstances.* - Any legally married person who having surprised his spouse in the act of committing sexual intercourse with another person, shall kill any of them or both of them in the act or immediately thereafter, or shall inflict upon them any serious physical injury, shall suffer the penalty of destierro.

If he shall inflict upon them physical injuries of any other kind, he shall be exempt from punishment.

These rules shall be applicable, under the same circumstances, to parents with respect to their daughters under eighteen years of age, and their seducer, while the daughters are living with their parents.

Any person who shall promote or facilitate the prostitution of his wife or daughter, or shall otherwise have consented to the infidelity of the other spouse shall not be entitled to the benefits of this article.

Article 248. *Murder.* - Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua* to death, if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

2. In consideration of a price, reward, or promise.

3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.

4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity.

5. With evident premeditation.

6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

(as amended by Republic Act No. 7659, [December 13, 1993])

Article 249. *Homicide.* - Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal.

Article 250. *Penalty for frustrated parricide, murder or homicide.* - The courts, in view of the facts of the case, may impose upon the person guilty of the frustrated crime of parricide, murder or homicide, defined and penalized in the preceding articles, a penalty lower by one degree than that which should be imposed under the provision of Article 50.

The courts, considering the facts of the case, may likewise reduce by one degree the penalty which under Article 51 should be imposed for an attempt to commit any of such crimes.

Article 251. *Death caused in a tumultuous affray.* - When, while several persons, not composing groups organized for the common purpose of assaulting and attacking each other reciprocally, quarrel and assault each other in a confused and tumultuous manner, and in the course of the affray someone is killed, and it cannot be ascertained who actually killed the deceased, but the person or persons who inflicted serious physical injuries can be identified, such person or persons shall be punished by prision mayor.

If it cannot be determined who inflicted the serious physical injuries on the deceased, the penalty of prision correccional in its medium and maximum periods shall be imposed upon all those who shall have used violence upon the person of the victim.

Article 252. *Physical injuries inflicted in a tumultuous affray.* - When in a tumultuous affray as referred to in the preceding article, only serious physical injuries are inflicted upon the participants thereof and the person responsible thereof cannot be identified, all those who appear to have used violence upon the person of the offended party shall suffer the penalty next lower in degree than that provided for the physical injuries so inflicted.

When the physical injuries inflicted are of a less serious nature and the person responsible therefor cannot be identified, all those who appear to have used any violence upon the person of the offended party shall be punished by *arresto mayor* from five to fifteen days.

Article 253. *Giving assistance to suicide.* - Any person who shall assist another to commit suicide shall suffer the penalty of prision mayor; if such person leads his assistance to another to the extent of doing the killing himself, he shall suffer the penalty of reclusion temporal.

However, if the suicide is not consummated, the penalty of *arresto mayor* in its medium and maximum periods, shall be imposed.

Article 254. *Discharge of firearms.* - Any person who shall shoot at another with any firearm shall suffer the penalty of prision correccional in its minimum and medium periods, unless the facts of the case are such that the act can be held to constitute frustrated or attempted parricide, murder, homicide or any other crime for which a higher penalty is prescribed by any of the articles of this Code.

Section Two. - *Infanticide and abortion.*

Article 255. *Infanticide.* - The penalty provided for parricide in Article 246 and for murder in Article 248 shall be imposed upon any person who shall kill any child less than three days of age.

If the crime penalized in this article be committed by the mother of the child for the purpose of concealing her dishonor, she shall suffer the penalty of *prision mayor* in its medium and maximum periods, and if said crime be committed for the same purpose by the maternal grandparents or either of them, the penalty shall be *reclusion temporal. (as amended by Republic Act No. 7659, [December 13, 1993])*

Article 256. *Intentional abortion.* - Any person who shall intentionally cause an abortion shall suffer:

1. The penalty of reclusion temporal, if he shall use any violence upon the person of the pregnant woman.

2. The penalty of prision mayor if, without using violence, he shall act without the consent of the woman.

3. The penalty of prision correccional in its medium and maximum periods, if the woman shall have consented.

Article 257. *Unintentional abortion.* - The penalty of prision correccional in its minimum and medium period shall be imposed upon any person who shall cause an abortion by violence, but unintentionally.

Article 258. *Abortion practiced by the woman herself of by her parents.* - The penalty of prision correccional in its medium and maximum periods shall be imposed upon a woman who shall practice abortion upon herself or shall consent that any other person should do so.

Any woman who shall commit this offense to conceal her dishonor, shall suffer the penalty of prision correccional in its minimum and medium periods.

If this crime be committed by the parents of the pregnant woman or either of them, and they act with the consent of said woman for the purpose of concealing her dishonor, the offenders shall suffer the penalty of prision correccional in its medium and maximum periods.

Article 259. *Abortion practiced by a physician or midwife and dispensing of abortives.* - The penalties provided in Article 256 shall be imposed in its maximum period, respectively, upon any physician or midwife who, taking advantage of their scientific knowledge or skill, shall cause an abortion or assist in causing the same.

Any pharmacist who, without the proper prescription from a physician, shall dispense any abortive shall suffer *arresto mayor* and a fine not exceeding One hundred thousand pesos (P100,000).

Section Three. - *Duel*

Article 260. *Responsibility of participants in a duel.* - The penalty of reclusion temporal shall be imposed upon any person who shall kill his adversary in a duel.

If he shall inflict upon the latter physical injuries only, he shall suffer the penalty provided therefor, according to their nature.

In any other case, the combatants shall suffer the penalty of *arresto mayor*, although no physical injuries have been inflicted.

The seconds shall in all events be punished as accomplices.

Article 261. *Challenging to a duel.* - The penalty of prision correccional in its minimum period shall be imposed upon any person who shall challenge another, or incite another to give or accept a challenge to a duel, or shall scoff at or decry another publicly for having refused to accept a challenge to fight a duel.

Chapter Two PHYSICAL INJURIES

Article 262. *Mutilation.* - The penalty of reclusion temporal to reclusion perpetua shall be imposed upon any person who shall intentionally mutilate another by depriving him, either totally or partially, or some essential organ of reproduction.

Any other intentional mutilation shall be punished by prision mayor in its medium and maximum periods.

Article 263. *Serious physical injuries.* - Any person who shall wound, beat, or assault another, shall be guilty of the crime of serious physical injuries and shall suffer:

1. The penalty of prision mayor, if in consequence of the physical injuries inflicted, the injured person shall become insane, imbecile, impotent, or blind;

2. The penalty of prision correccional in its medium and maximum periods, if in consequence of the physical injuries inflicted, the person injured shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm, or a leg or shall have lost the use of any such member, or shall have become incapacitated for the work in which he was therefor habitually engaged;

3. The penalty of prision correccional in its minimum and medium periods, if in consequence of the physical injuries inflicted, the person injured shall have become deformed, or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated for the performance of the work in which he as habitually engaged for a period of more than ninety days;

4. The penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period, if the physical injuries inflicted shall have caused the illness or incapacity for labor of the injured person for more than thirty days.

If the offense shall have been committed against any of the persons enumerated in Article 246, or with attendance of any of the circumstances mentioned in Article 248, the case covered by subdivision number 1 of this Article shall be punished by reclusion temporal in its medium and maximum periods; the case covered by subdivision number 2 by prision correccional in its maximum period to prision mayor in its minimum period; the case covered by subdivision number 3 by prision correccional in its medium and maximum periods; and the case covered by subdivision number 4 by prision correccional in its minimum and medium periods.

The provisions of the preceding paragraph shall not be applicable to a parent who shall inflict physical injuries upon his child by excessive chastisement.

Article 264. *Administering injurious substances or beverages.* - The penalties established by the next preceding article shall be applicable in the respective case to any person who, without intent to kill, shall inflict upon another any serious, physical injury, by knowingly administering to him any injurious substance or beverages or by taking advantage of his weakness of mind or credulity.

Article 265. *Less serious physical injuries.* - Any person who shall inflict upon another physical injuries not described in the preceding articles, but which shall incapacitate the offended party for labor for ten days or more, or shall require medical assistance for the same period, shall be guilty of less serious physical injuries and shall suffer the penalty of *arresto mayor*.

Whenever less serious physical injuries shall have been inflicted with the manifest intent to kill or offend the injured person, or under circumstances adding ignominy to the offense in addition to the penalty of *arresto mayor*, a fine not exceeding Fifty thousand pesos (P50,000) shall be imposed.

Any less serious physical injuries inflicted upon the offender's parents, ascendants, guardians, curators, teachers, or persons of rank, or persons in authority, shall be punished by prision correccional in its minimum and medium periods, provided that, in the case of persons in authority, the deed does not constitute the crime of assault upon such person.

Article 266. *Slight physical injuries and maltreatment.* - The crime of slight physical injuries shall be punished:

1. By *arresto menor* when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period.

2. By *arresto menor* or a fine not exceeding Forty thousand pesos (P40,000) and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical assistance.

3. By *arresto menor* in its minimum period or a fine not exceeding Five thousand pesos (P5,000) when the offender shall ill-treat another by deed without causing any injury.

Article 266-A. *Rape; When And How Committed. — Rape is Committed —*

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation;

b) When the offended party is deprived of reason or otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

Article 266-B. *Penalties.* — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be *reclusion perpetua* to death.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, homicide is committed, the penalty shall be death.

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

2) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution;

3) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;

4) When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime;

5) When the victim is a child below seven (7) years old;

6) When the offender knows that he is afflicted with Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;

7) When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime;

8) When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability;

9) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and

10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

Rape under paragraph 2 of the next preceding article shall be punished by *prision mayor*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *prision mayor* to *reclusion temporal*.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be *reclusion temporal*.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion temporal* to *reclusion perpetua*.

When by reason or on the occasion of the rape, homicide is committed, the penalty shall be *reclusion perpetua*.

Reclusion temporal shall also be imposed if the rape is committed with any of the ten aggravating/qualifying circumstances mentioned in this article.

Article 266-C. *Effect of Pardon.* — The subsequent valid marriage between the offender and the offended party shall extinguish the criminal action or the penalty imposed.

In case it is the legal husband who is the offender, the subsequent forgiveness by the wife as the offended party shall extinguish the criminal action or the penalty: Provided, That the crime shall not be extinguished or the penalty shall not be abated if the marriage is void ab initio.

Article 266-D. *Presumptions.* — Any physical overt act manifesting resistance against the act of rape in any degree from the offended party, or where the offended party is so situated as to render her/him incapable of giving valid consent, may be accepted as evidence in the prosecution of the acts punished under Article 266-A.

(as created by The Anti-Rape Law of 1997, Republic Act No. 8353, [September 30, 1997])

Title Nine CRIMES AGAINST PERSONAL LIBERTY AND SECURITY

Chapter One CRIMES AGAINST LIBERTY

Section One. - *Illegal Detention*

Article 267. *Kidnapping and serious illegal detention.* - Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusion perpetua* to death:

1. If the kidnapping or detention shall have lasted more than five days.

2. If it shall have been committed simulating public authority.

3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.

4. If the person kidnapped or detained shall be a minor, female or a public officer.

The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense.

When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed. *(as amended by Republic Act No. 7659, [December 13, 1993])*

Article 268. *Slight illegal detention.* - The penalty of reclusion temporal shall be imposed upon any private individual who shall commit the crimes described in the next preceding article without the attendance of any of circumstances enumerated therein.

The same penalty shall be incurred by anyone who shall furnish the place for the perpetration of the crime.

If the offender shall voluntarily release the person so kidnapped or detained within three days from the commencement of the detention, without having attained the purpose intended, and before the institution of criminal proceedings against him, the penalty shall be prision mayor in its minimum and medium periods and a fine not exceeding One hundred thousand pesos (P100,000)

Article 269. *Unlawful arrest.* - The penalty of *arresto mayor* and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon any person who, in any case other than those authorized by law, or without reasonable ground therefor, shall arrest or detain another for the purpose of delivering him to the proper authorities.

Section Two. - *Kidnapping of minors*

Article 270. *Kidnapping and failure to return a minor.* - The penalty of reclusion perpetua shall be imposed upon any person who, being entrusted with the custody of a minor person, shall deliberately fail to restore the latter to his parents or guardians.

Article 271. *Inducing a minor to abandon his home.* - The penalty of prision correccional and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon anyone who shall induce a minor to abandon the home of his parent or guardians or the persons entrusted with his custody.

If the person committing any of the crimes covered by the two preceding articles shall be the father or the mother of the minor, the penalty shall be *arresto mayor* or a fine not exceeding Forty thousand pesos (P40,000), or both.

Section Three. - *Slavery and Servitude*

Article 272. *Slavery.* - The penalty of prision mayor and a fine of not exceeding 10,000 pesos shall be imposed upon anyone who shall purchase, sell, kidnap or detain a human being for the purpose of enslaving him.

If the crime be committed for the purpose of assigning the offended party to some immoral traffic, the penalty shall be imposed in its maximum period.

Article 273. *Exploitation of child labor.* - The penalty of prision correccional in its minimum and medium periods and a fine not exceeding 500 pesos shall be imposed upon anyone who, under the pretext of reimbursing himself of a debt incurred by an ascendant, guardian or person entrusted with the custody of a minor, shall, against the latter's will, retain him in his service.

Article 274. *Services rendered under compulsion in payment of debt.* - The penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period shall be imposed upon any person who, in order to require or enforce the payment of a debt, shall compel the debtor to work for him, against his will, as household servant or farm laborer.

Chapter Two CRIMES AGAINST SECURITY

Section One. - *Abandonment of helpless persons and exploitation of minors.*

Article 275. *Abandonment of person in danger and abandonment of one's own victim.* - The penalty of *arresto mayor* shall be imposed upon:

1. Any one who shall fail to render assistance to any person whom he shall find in an uninhabited place wounded or in danger of dying, when he can render such assistance without detriment to himself, unless such omission shall constitute a more serious offense.

2. Anyone who shall fail to help or render assistance to another whom he has accidentally wounded or injured.

3. Anyone who, having found an abandoned child under seven years of age, shall fail to deliver said child to the authorities or to his family, or shall fail to take him to a safe place.

Article 276. *Abandoning a minor.* - The penalty of *arresto mayor* and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon any one who

shall abandon a child under seven years of age, the custody of which is incumbent upon him.

When the death of the minor shall result from such abandonment, the culprit shall be punished by prision correccional in its medium and maximum periods; but if the life of the minor shall have been in danger only, the penalty shall be prision correccional in its minimum and medium periods.

The provisions contained in the two preceding paragraphs shall not prevent the imposition of the penalty provided for the act committed, when the same shall constitute a more serious offense.

Article 277. *Abandonment of minor by person entrusted with his custody; indifference of parents.* - The penalty of *arresto mayor* and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon anyone who, having charge of the rearing or education of a minor, shall deliver said minor to a public institution or other persons, without the consent of the one who entrusted such child to his care or in the absence of the latter, without the consent of the proper authorities.

The same penalty shall be imposed upon the parents who shall neglect their children by not giving them the education which their station in life require and financial conditions permit.

Article 278. *Exploitation of minors.* - The penalty of prision correccional in its minimum and medium periods and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon:

1. Any person who shall cause any boy or girl under sixteen years of age to perform any dangerous feat of balancing, physical strength, or contortion.

2. Any person who, being an acrobat, gymnast, rope-walker, diver, wild-animal tamer or circus manager or engaged in a similar calling, shall employ in exhibitions of these kinds children under sixteen years of age who are not his children or descendants.

3. Any person engaged in any of the callings enumerated in the next paragraph preceding who shall employ any descendant of his under twelve years of age in such dangerous exhibitions.

4. Any ascendant, guardian, teacher or person entrusted in any capacity with the care of a child under sixteen years of age, who shall deliver such child gratuitously to any person following any of the callings enumerated in paragraph 2 hereof, or to any habitual vagrant or beggar.

If the delivery shall have been made in consideration of any price, compensation, or promise, the penalty shall in every case be imposed in its maximum period.

In either case, the guardian or curator convicted shall also be removed from office as guardian or curator; and in the case of the parents of the child, they may be deprived, temporarily or perpetually, in the discretion of the court, of their parental authority.

5. Any person who shall induce any child under sixteen years of age to abandon the home of its ascendants, guardians, curators, or teachers to follow any person engaged in any of the callings mentioned in paragraph 2 hereof, or to accompany any habitual vagrant or beggar.

Article 279. *Additional penalties for other offenses.* - The imposition of the penalties prescribed in the preceding articles, shall not prevent the imposition upon the same person of the penalty provided for any other felonies defined and punished by this Code.

Section Two. - *Trespass to dwelling*

Article 280. *Qualified trespass to dwelling.* - Any private person who shall enter the dwelling of another against the latter's will shall be punished by *arresto mayor* and a fine not exceeding Two hundred thousand pesos (P200,000) .

If the offense be committed by means of violence or intimidation, the penalty shall be prision correccional in its medium and maximum periods and a fine not exceeding Two hundred thousand pesos (P200,000).

The provisions of this article shall not be applicable to any person who shall enter another's dwelling for the purpose of preventing some serious harm to himself, the occupants of the dwelling or a third person, nor shall it be applicable to any person who shall enter a dwelling for the purpose of rendering some service to humanity or justice, nor to anyone who shall enter cafes, taverns, inn and other public houses, while the same are open.

Article 281. *Other forms of trespass.* - The penalty of *arresto menor* or a fine not exceeding Forty thousand pesos (P40,000), or both, shall be imposed upon any person who shall enter the closed premises or the fenced estate of another, while either or them are uninhabited, if the prohibition to enter be manifest and the trespasser has not secured the permission of the owner or the caretaker thereof.

Section Three. - *Threats and Coercion*

Article 282. *Grave threats.* - Any person who shall threaten another with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime, shall suffer:

1. The penalty next lower in degree than that prescribed by law for the crime be threatened to commit, if the offender shall have made the threat demanding money or imposing any other condition, even though not unlawful, and said offender shall have attained his purpose. If the offender shall not have attained his purpose, the penalty lower by two degrees shall be imposed.

If the threat be made in writing or through a middleman, the penalty shall be imposed in its maximum period.

2. The penalty of *arresto mayor* and a fine not exceeding One hundred thousand pesos (P100,000), if the threat shall not have been made subject to a condition.

Article 283. *Light threats.* - Any threat to commit a wrong not constituting a crime, made in the manner expressed in subdivision 1 of the next preceding article, shall be punished by *arresto mayor*.

Article 284. *Bond for good behavior.* - In all cases falling within the two next preceding articles, the person making the threats may also be required to give bail not to molest the person threatened, or if he shall fail to give such bail, he shall be sentenced to destierro.

Article 285. *Other light threats.* - The penalty of *arresto menor* in its minimum period or a fine not exceeding Forty thousand pesos (P40,000) shall be imposed upon:

1. Any person who, without being included in the provisions of the next preceding article, shall threaten another with a weapon or draw such weapon in a quarrel, unless it be in lawful self-defense.

2. Any person who, in the heat of anger, shall orally threaten another with some harm not constituting a crime, and who by subsequent acts show that he did not persist in the idea involved in his threat, provided that the circumstances of the offense shall not bring it within the provisions of Article 282 of this Code.

3. Any person who shall orally threaten to do another any harm not constituting a felony.

Article 286. *Grave coercions.* - The penalty of *prision correccional* and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon any person who, without any authority of law, shall, by means of violence, threats or intimidation, prevent another from doing something not prohibited by law, or compel him to do something against his will, whether it be right or wrong.

If the coercion be committed in violation of the exercise of the right of suffrage, or for the purpose of compelling another to perform any religious act, to prevent him from exercising such right or from so doing such act, the

penalty next higher in degree shall be imposed. ***(Republic Act No. 7890, [February 20, 1995])***

Article 287. *Light coercions.* - Any person who, by means of violence, shall seize anything belonging to his debtor for the purpose of applying the same to the payment of the debt, shall suffer the penalty of *arresto mayor* in its minimum period and a fine equivalent to the value of the thing, but in no case less than Fifteen thousand pesos (P15,000).

Any other coercions or unjust vexations shall be punished by *arresto menor* or a fine ranging from One thousand pesos (P1,000) to Forty thousand pesos (P40,000), or both.

Article 288. *Other similar coercions; (Compulsory purchase of merchandise and payment of wages by means of tokens.)* - The penalty of *arresto mayor* or a fine ranging from Forty thousand pesos (P40,000) to One hundred thousand pesos (P100,000), or both, shall be imposed upon any person, agent or officer, of any association or corporation who shall force or compel, directly or indirectly, or shall knowingly permit any laborer or employee employed by him or by such firm or corporation to be forced or compelled, to purchase merchandise or commodities of any kind.

The same penalties shall be imposed upon any person who shall pay the wages due a laborer or employee employed by him, by means of tokens or objects other than the legal tender currency of the laborer or employee.

Article 289. *Formation, maintenance and prohibition of combination of capital or labor through violence or threats.* - The penalty of *arresto mayor* and a fine not exceeding Sixty thousand pesos (P60,000) shall be imposed upon any person who, for the purpose of organizing, maintaining or preventing coalitions or capital or labor, strike of laborers or lock-out of employees, shall employ violence or threats in such a degree as to compel or force the laborers or employers in the free and legal exercise of their industry or work, if the act shall not constitute a more serious offense in accordance with the provisions of this Code.

Chapter Three DISCOVERY AND REVELATION OF SECRETS

Article 290. *Discovering secrets through seizure of correspondence.* - The penalty of prision correccional in its minimum and medium periods and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon any private individual who in order to discover the secrets of another, shall seize his papers or letters and reveal the contents thereof.

If the offender shall not reveal such secrets, the penalty shall be *arresto mayor* and a fine not exceeding One hundred thousand pesos (P100,000).

The provision shall not be applicable to parents, guardians, or persons entrusted with the custody of minors with respect to the papers or letters of the children or minors placed under their care or study, nor to spouses with respect to the papers or letters of either of them.

Article 291. *Revealing secrets with abuse of office.* - The penalty of *arresto mayor* and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon any manager, employee, or servant who, in such capacity, shall learn the secrets of his principal or master and shall reveal such secrets.

Article 292. *Revelation of industrial secrets.* - The penalty of prision correccional in its minimum and medium periods and a fine not exceeding One hundred thousand pesos (P100,000) shall be imposed upon the person in charge, employee or workman of any manufacturing or industrial establishment who, to the prejudice of the owner thereof, shall reveal the secrets of the industry of the latter.

Title Ten CRIMES AGAINST PROPERTY

Chapter One ROBBERY IN GENERAL

Article 293. *Who are guilty of robbery.* - Any person who, with intent to gain, shall take any personal property belonging to another, by means of violence or intimidation of any person, or using force upon anything shall be guilty of robbery.

Section One. - *Robbery with violence or intimidation of persons.*

Article 294. *Robbery with violence against or intimidation of persons; Penalties.* - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

2. The penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, when or if by reason or on occasion of such robbery, any of the physical injuries penalized in subdivision 1 of Article 263 shall have been inflicted.

3. The penalty of *reclusion temporal*, when by reason or on occasion of the robbery, any of the physical injuries penalized in subdivision 2 of the article mentioned in the next preceding paragraph, shall have been inflicted.

4. The penalty of *prision mayor* in its maximum period to *reclusion temporal* in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when in the course of its execution, the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries covered by subdivisions 3 and 4 of said Article 263.

5. The penalty of *prision correccional* in its maximum period to prision mayor in its medium period in other cases.

(as amended by Republic Act No. 7659, [December 13, 1993])

Article 295. *Robbery with physical injuries, committed in an uninhabited place and by a band, or with the use of firearm on a street, road or alley.* - If the offenses mentioned in subdivisions three, four, and five of the next preceding article shall have been committed in an uninhabited place or by a band, or by attacking a moving train, street car, motor vehicle or airship, or by entering the passenger's compartments in a train or, in any manner, taking the passengers thereof by surprise in the respective conveyances, or on a street, road, highway, or alley, and the intimidation is made with the use of a firearm, the offender shall be punished by the maximum period of the proper penalties.

In the same cases, the penalty next higher in degree shall be imposed upon the leader of the band.

Article 296. *Definition of a band and penalty incurred by the members thereof.* - When more than three armed malefactors take part in the commission of a robbery, it shall be deemed to have been committed by a band. When any of the arms used in the commission of the offense be an unlicensed firearm, the penalty to be imposed upon all the malefactors shall be the maximum of the corresponding penalty provided by law, without prejudice of the criminal liability for illegal possession of such unlicensed firearms.

Any member of a band who is present at the commission of a robbery by the band, shall be punished as principal of any of the assaults committed by the band, unless it be shown that he attempted to prevent the same.

Article 297. *Attempted and frustrated robbery committed under certain circumstances.* - When by reason or on occasion of an attempted or frustrated robbery a homicide is committed, the person guilty of such offenses shall be punished by reclusion temporal in its maximum period to reclusion perpetua, unless the homicide committed shall deserve a higher penalty under the provisions of this Code.

Article 298. *Execution of deeds by means of violence or intimidation.* - Any person who, with intent to defraud another, by means of violence or intimidation, shall compel him to sign, execute or deliver any public instrument or documents, shall be held guilty of robbery and punished by the penalties respectively prescribed in this Chapter.

Section Two. - *Robbery by the use of force upon things*

Article 299. *Robbery in an inhabited house or public building or edifice devoted to worship.* - Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by reclusion temporal, if the value of the property taken shall exceed Fifty thousand pesos (P50,000), and if:

(a) The malefactors shall enter the house or building in which the robbery was

committed, by any of the following means:

1. Through a opening not intended for entrance or egress.

2. By breaking any wall, roof, or floor or breaking any door or window.

3. By using false keys, picklocks or similar tools.

4. By using any fictitious name or pretending the exercise of public authority.

Or if -

(b) The robbery be committed under any of the following circumstances:

1. By the breaking of doors, wardrobes, chests, or any other kind of locked or sealed furniture or receptacle;

2. By taking such furniture or objects to be broken or forced open outside the place of the robbery.

When the offenders do not carry arms, and the value of the property taken exceeds Fifty thousand pesos (P50,000), the penalty next lower in degree shall be imposed.

The same rule shall be applied when the offenders are armed, but the value of the property taken does not exceed Fifty thousand pesos (P50,000).

When said offenders do not carry arms and the value of the property taken does not exceed Fifty thousand pesos (P50,000), they shall suffer the penalty prescribed in the two next preceding paragraphs, in its minimum period.

If the robbery be committed in one of the dependencies of an inhabited house, public building, or building dedicated to religious worship, the penalties next lower in degree than those prescribed in this article shall be imposed.

Article 300. *Robbery in an uninhabited place and by a band.* - The robbery mentioned in the next preceding article, if committed in an uninhabited place and by a band, shall be punished by the maximum period of the penalty provided therefor.

Article 301. *What is an inhabited house, public building or building dedicated to religious worship and their dependencies.* - Inhabited house means any shelter, ship or vessel constituting the dwelling of one or more persons, even though the inhabitants thereof shall temporarily be absent therefrom when the robbery is committed.

All interior courts, corrals, waterhouses, granaries, barns, coach-houses, stables or other departments or inclosed places contiguous to the building or edifice, having an interior entrance connected therewith, and which form part of the whole, shall be deemed dependencies of an inhabited house, public building or building dedicated to religious worship.

Orchards and other lands used for cultivation or production are not included in the terms of the next preceding paragraph, even if closed, contiguous to the building and having direct connection therewith.

The term "public building" includes every building owned by the Government or belonging to a private person not included used or rented by the Government, although temporarily unoccupied by the same.

Article 302. *Robbery is an uninhabited place or in a private building.* - Any robbery committed in an uninhabited place or in a building other than those mentioned in the first paragraph of Article 299, if the value of the property taken exceeds Fifty thousand pesos (P50,000), shall be punished by prision correccional if any of the following circumstances is present:

1. If the entrance has been effected through any opening not intended for entrance or egress.

2. If any wall, roof, flour or outside door or window has been broken.

3. If the entrance has been effected through the use of false keys, picklocks or other similar tools.

4. If any dorm, wardrobe, chest or by sealed or closed furniture or receptacle has been broken.

5. If any closed or sealed receptacle, as mentioned in the preceding paragraph, has been removed even if the same to broken open elsewhere.

When the value of the property takes does not exceed Fifty thousand pesos (P50,000), the penalty next lower in degree shall be imposed.

In the cases specified in Articles 294, 295, 297, 299, 300, and 302 of this Code, when the property taken is mail matter or large cattle, the offender shall suffer the penalties next higher in degree than those provided in said articles.

Article 303. *Robbery of cereals, fruits, or firewood in an uninhabited place or private building.* - In the cases enumerated in Articles 299 and 302, when the robbery consists in the taking of cereals, fruits, or firewood, the culprit shall suffer the penalty next lower in degree than that prescribed in said articles.

Article 304. *Possession of picklocks or similar tools.* - Any person who shall without lawful cause have in his possession picklocks or similar tools especially adopted to the commission of the crime of robbery, shall be punished by *arresto mayor* in its maximum period to prision correccional in its minimum period.

The same penalty shall be imposed upon any person who shall make such tools. If the offender be a locksmith, he shall suffer the penalty of prision correccional in its medium and maximum periods.

Article 305. *False keys.* - The term "false keys" shall be deemed to include:

1. The tools mentioned in the next preceding articles.

2. Genuine keys stolen from the owner.

3. Any keys other than those intended by the owner for use in the lock forcibly opened by the offender.

Chapter Two BRIGANDAGE

Article 306. *Who are brigands; Penalty.* - When more than three armed persons form a band of robbers for the purpose of committing robbery in the highway, or kidnapping persons for the purpose of extortion or to obtain ransom or for any other purpose to be attained by means of force and violence, they shall be deemed highway robbers or brigands.

Persons found guilty of this offense shall be punished by prision mayor in its medium period to reclusion temporal

in its minimum period if the act or acts committed by them are not punishable by higher penalties, in which case, they shall suffer such high penalties.

If any of the arms carried by any of said persons be an unlicensed firearms, it shall be presumed that said persons are highway robbers or brigands, and in case of convictions the penalty shall be imposed in the maximum period.

Article 307. *Aiding and abetting a band of brigands.* - Any person knowingly and in any manner aiding, abetting or protecting a band of brigands as described in the next preceding article, or giving them information of the movements of the police or other peace officers of the Government (or of the forces of the United States Army), when the latter are acting in aid of the Government, or acquiring or receiving the property taken by such brigands shall be punished by prision correccional in its medium period to prision mayor in its minimum period.

It shall be presumed that the person performing any of the acts provided in this article has performed them knowingly, unless the contrary is proven.

Chapter Three THEFT

Article 308. *Who are liable for theft.* - Theft is committed by any person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent.

Theft is likewise committed by:

1. Any person who, having found lost property, shall fail to deliver the same to the local authorities or to its owner;

2. Any person who, after having maliciously damaged the property of another, shall remove or make use of the fruits or object of the damage caused by him; and

3. Any person who shall enter an inclosed estate or a field where trespass is forbidden or which belongs to another and without the consent of its owner, shall hunt or fish upon the same or shall gather cereals, or other forest or farm products.

Article 309. *Penalties.* - 1. The penalty of prisión mayor in its minimum and medium periods, if the value of the thing stolen is more than One million two hundred thousand pesos (P1,200,000) but does not exceed Two million two hundred thousand pesos (P2,200,000); but if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one (1) year for each additional One million pesos (P1,000,000), but the total of the penalty which may be imposed shall not exceed twenty (20) years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prisión mayor or reclusion temporal, as the case may be.

2. The penalty of prisión correccional in its medium and maximum periods, if the value of the thing stolen is more than Six hundred thousand pesos (P600,000) but does not exceed One million two hundred thousand pesos (P1,200,000).

3. The penalty of prisión correccional in its minimum and medium periods, if the value of the property stolen is more than Twenty thousand pesos (P20,000) but does not exceed Six hundred thousand pesos (P600,000).

4. Arresto mayor in its medium period to prisión correccional in its minimum period, if the value of the property stolen is over Five thousand pesos (P5,000) but does not exceed Twenty thousand pesos (P20,000).

5. Arresto mayor to its full extent, if such value is over Five hundred pesos (P500) but does not exceed Five thousand pesos (P5,000).

6. Arresto mayor in its minimum and medium periods, if such value does not exceed Five hundred pesos (P500).

7. Arresto menor or a fine not exceeding Twenty thousand pesos (P20,000), if the theft is committed under the circumstances enumerated in paragraph 3 of the next preceding article and the value of the thing stolen does not exceed Five hundred pesos (P500). If such value exceeds said amount, the provisions of any of the five preceding subdivisions shall be made applicable.

8. Arresto menor in its minimum period or a fine of not exceeding Five thousand pesos (P5,000), when the value of the thing stolen is not over Five hundred pesos (P500), and the offender shall have acted under the impulse of hunger, poverty, or the difficulty of earning a livelihood for the support of himself or his family.

(as amended by Republic Act No. 10951, [August 29, 2017])

Article 310. *Qualified theft.* - The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of the plantation or fish taken from a fishpond or fishery, or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance. (As amended by R.A. 120 and B.P. Blg. 71. May 1, 1980).

Article 311. *Theft of the property of the National Library and National Museum.* - If the property stolen be any property of the National Library or the National Museum, the penalty shall be *arresto mayor* or a fine ranging from Forty thousand pesos (P40,000) to One hundred thousand pesos (P100,000), or both, unless a higher penalty should be provided under other provisions of this Code, in which case, the offender shall be punished by such higher penalty.

Chapter Four USURPATION

Article 312. *Occupation of real property or usurpation of real rights in property.* - Any person who, by means of violence against or intimidation of persons, shall take possession of any real property or shall usurp any real rights in property belonging to another, in addition to the penalty incurred for the acts of violence executed by him, shall be punished by a fine from 50 to 100 per centum of the gain which he shall have obtained, but not less than Fifteen thousand pesos (P15,000).

If the value of the gain cannot be ascertained, a fine of from Forty thousand pesos (P40,000) to One hundred thousand pesos (P100,000) shall be imposed.

Article 313. *Altering boundaries or landmarks.* - Any person who shall alter the boundary marks or monuments of towns, provinces, or estates, or any other marks intended to designate the boundaries of the same, shall be punished by *arresto menor* or a fine not exceeding Twenty thousand pesos (P20,000), or both.

Chapter Five CULPABLE INSOLVENCY

Article 314. *Fraudulent insolvency.* - Any person who shall abscond with his property to the prejudice of his creditors, shall suffer the penalty of prision mayor, if he be a merchant and the penalty of prision correccional in its maximum period to prision mayor in its medium period, if he be not a merchant.

Chapter Six SWINDLING AND OTHER DECEITS

Article 315. *Swindling (estafa).* - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

1st. The penalty of prisión correccional in its maximum period to prisión mayor in its minimum period, if the amount of the fraud is over Two million four hundred thousand pesos (P2,400,000) but does not exceed Four million four hundred thousand pesos (P4,400,000), and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional Two million pesos (P2,000,000); but the total penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prisión mayor or reclusion temporal, as the case may be.

2nd. The penalty of prisión correccional in its minimum and medium periods, if the amount of the fraud is over One million two hundred thousand pesos (P1,200,000) but does not exceed Two million four hundred thousand pesos (P2,400,000).

3rd. The penalty of arresto mayor in its maximum period to prisión correccional in its minimum period, if such amount is over Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000).

4th. By arresto mayor in its medium and maximum periods, if such amount does not exceed Forty thousand pesos (P40,000):

(as amended by Republic Act No. 10951, [August 29, 2017]), provided that in the four cases mentioned, the fraud be committed by any of the following means:

1. With unfaithfulness or abuse of confidence, namely:

(a) By altering the substance, quantity, or quality or anything of value which the offender shall deliver by virtue of an obligation to do so, even though such obligation be based on an immoral or illegal consideration.

(b) By misappropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property.

(c) By taking undue advantage of the signature of the offended party in blank, and by writing any document above such signature in blank, to the prejudice of the offended party or of any third person.

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.

(b) By altering the quality, fineness or weight of anything pertaining to his art or business.

(c) By pretending to have bribed any Government employee, without prejudice to the action for calumny which the offended party may deem proper to bring against the offender. In this case, the offender shall be punished by the maximum period of the penalty.

(d) By post-dating a check, or issuing a check in payment of an obligation when the offender therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or the payee or holder that said check has been dishonored for lack of insufficiency of funds shall be prima facie evidence of deceit constituting false pretense or fraudulent act. (As amended by R.A. 4885, approved June 17, 1967.)

Any person who shall defraud another by means of false pretenses or fraudulent acts as defined in paragraph 2(d) hereof shall be punished by:

1st. The penalty of reclusion temporal in its maximum period, if the amount of fraud is over Four million four hundred thousand pesos (P4,400,000) but does not exceed Eight million eight hundred thousand pesos (P8,800,000). If the amount exceeds the latter, the penalty shall be reclusion perpetua.

2nd. The penalty of reclusion temporal in its minimum and medium periods, if the amount of the fraud is over Two million four hundred thousand pesos (P2,400,000) but does not exceed Four million four hundred thousand pesos (P4,400,000).

3rd. The penalty of prisión mayor in its maximum period, if the amount of the fraud is over One million two hundred thousand pesos (P1,200,000) but does not exceed Two million four hundred thousand pesos (P2,400,000).

4th. The penalty of prisión mayor in its medium period, if such amount is over Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000).

5th. By prisión mayor in its minimum period, if such amount does not exceed Forty thousand pesos (P40,000).

(as amended by Republic Act No. 10951, [August 29, 2017])

3. Through any of the following fraudulent means:

(a) By inducing another, by means of deceit, to sign any document.

(b) By resorting to some fraudulent practice to insure success in a gambling game.

(c) By removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.

Article 316. *Other forms of swindling.* - The penalty of *arresto mayor* in its minimum and medium period and a fine of not less than the value of the damage caused and not more than three times such value, shall be imposed upon:

1. Any person who, pretending to be owner of any real property, shall convey, sell, encumber or mortgage the same.

2. Any person, who, knowing that real property is encumbered, shall dispose of the same, although such encumbrance be not recorded.

3. The owner of any personal property who shall wrongfully take it from its lawful possessor, to the prejudice of the latter or any third person.

4. Any person who, to the prejudice of another, shall execute any fictitious contract.

5. Any person who shall accept any compensation given him under the belief that it was in payment of services rendered or labor performed by him, when in fact he did not actually perform such services or labor.

6. Any person who, while being a surety in a bond given in a criminal or civil action, without express authority from the court or before the cancellation of his bond or before being relieved from the obligation contracted by him, shall sell, mortgage, or, in any other manner, encumber the real property or properties with which he guaranteed the fulfillment of such obligation.

Article 317. *Swindling a minor.* - Any person who taking advantage of the inexperience or emotions or feelings of a minor, to his detriment, shall induce him to assume any obligation or to give any release or execute a transfer of any property right in consideration of some loan of money, credit or other personal property, whether the loan clearly appears in the document or is shown in any other form, shall suffer the penalty of *arresto mayor* and a fine of a sum ranging from 10 to 50 per cent of the value of the obligation contracted by the minor.

Article 318. *Other deceits.* - The penalty of *arresto mayor* and a fine of not less than the amount of the damage caused and not more than twice such amount shall be imposed upon any person who shall defraud or damage another by any other deceit not mentioned in the preceding articles of this chapter.

Any person who, for profit or gain, shall interpret dreams, make forecasts, tell fortunes, or take advantage of the credulity of the public in any other similar manner, shall suffer the penalty of *arresto mayor* or a fine not exceeding Forty thousand pesos (P40,000).

Chapter Seven CHATTEL MORTGAGE

Article 319. *Removal, sale or pledge of mortgaged property.* - The penalty or *arresto mayor* or a fine amounting to twice the value of the property shall be imposed upon:

1. Any person who shall knowingly remove any personal property mortgaged under the Chattel Mortgage Law to any province or city other than the one in which it was located at the time of the execution of the mortgage, without the written consent of the mortgagee, or his executors, administrators or assigns.

2. Any mortgagor who shall sell or pledge personal property already pledged, or any part thereof, under the terms of the Chattel Mortgage Law, without the consent of the mortgagee written on the back of the mortgage and noted on the record hereof in the office of the Register of Deeds of the province where such property is located.

Chapter Eight ARSON AND OTHER CRIMES INVOLVING DESTRUCTIONS[5]

Article 320. *Destructive arson.* - The penalty of *reclusion perpetua* to death shall be imposed upon any person who shall burn:

1. One (1) or more buildings or edifices, consequent to one single act of burning, or as a result of simultaneous burnings, or committed on several or different occasions.

2. Any building of public or private ownership, devoted to the public in general or where people usually gather or congregate for a definite purpose such as, but not limited to official governmental function or business, private transaction, commerce, trade, workshop, meetings and conferences, or merely incidental to a definite purpose such as but not limited to hotels, motels, transient dwellings, public conveyances or stops or terminals, regardless of whether the offender had knowledge that there are persons in said building or edifice at the time it is set on fire and regardless also of whether the building is actually inhabited or not.

3. Any train or locomotive, ship or vessel, airship or airplane, devoted to transportation or conveyance, or for public use, entertainment or leisure.

4. Any building, factory, warehouse installation and any appurtenances thereto, which are devoted to the service of public utilities.

5. Any building the burning of which is for the purpose of concealing or destroying evidence of another violation of law, or for the purpose of concealing bankruptcy or defrauding creditors or to collect from insurance.

Irrespective of the application of the above enumerated qualifying circumstances, the penalty of *reclusion perpetua* to death shall likewise be imposed when the arson is perpetrated or committed by two (2) or more persons or by a group of persons, regardless of whether their purpose is merely to burn or destroy the building or the burning merely constitutes an overt act in the commission or another violation of law.

The penalty of reclusion perpetua to death shall also be imposed upon any person who shall burn:

1. Any arsenal, shipyard, storehouse or military powder or fireworks factory, ordnance storehouse, archives or general museum of the Government.

2. In an inhabited place, any storehouse or factory of inflammable or explosive materials.

If as a consequence of the commission of any of the acts penalized under this Article, death results, the mandatory penalty of death shall be imposed.

(as amended by Republic Act No. 7659, [December 13, 1993])

Article 321. *Other forms of arson.* - When the arson consists in the burning of other property and under the circumstances given hereunder, the offender shall be punishable:

1. By reclusion temporal or reclusion perpetua:

(a) if the offender shall set fire to any building, farmhouse, warehouse, hut, shelter, or vessel in port, knowing it to be occupied at the time by one or more persons;

(b) If the building burned is a public building and value of the damage caused exceeds 6,000 pesos;

(c) If the building burned is a public building and the purpose is to destroy evidence kept therein to be used in instituting prosecution for the punishment of violators of the law, irrespective of the amount of the damage;

(d) If the building burned is a public building and the purpose is to destroy evidence kept therein to be used in legislative, judicial or administrative proceedings, irrespective of the amount of the damage; Provided, however, That if the evidence destroyed is to be used against the defendant for the prosecution of any crime punishable under existing laws, the penalty shall be reclusion perpetua;

(e) If the arson shall have been committed with the intention of collecting under an insurance policy against loss or damage by fire.

2. By reclusion temporal:

(a) If an inhabited house or any other building in which people are accustomed to meet is set on fire, and the culprit did not know that such house or building was occupied at the time, or if he shall set fire to a moving freight train or motor vehicle, and the value of the damage caused exceeds 6,000 pesos;

(b) If the value of the damage caused in paragraph (b) of the preceding subdivision does not exceed 6,000 pesos;

(c) If a farm, sugar mill, cane mill, mill central, bamboo groves or any similar plantation is set on fire and the damage caused exceeds 6,000 pesos; and

(d) If grain fields, pasture lands, or forests, or plantings are set on fire, and the damage caused exceeds 6,000 pesos.

3. By prision mayor:

(a) If the value of the damage caused in the case mentioned in paragraphs (a),

(c), and (d) in the next preceding subdivision does not exceed 6,000 pesos;

(b) If a building not used as a dwelling or place of assembly, located in a populated place, is set on fire, and the damage caused exceeds 6,000 pesos;

4. By prision correccional in its maximum period to prision mayor in its medium period:

(a) If a building used as dwelling located in an uninhabited place is set on fire and the damage caused exceeds 1,000 pesos;

(b) If the value or the damage caused in the case mentioned in paragraphs (c) and (d) of subdivision 2 of this article does not exceed 200 pesos.

[5] Sec 9 of PD No 1613. March 9, 1979. The provisions of Articles 320 to 326-B of the Revised Penal Code and all laws, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Decree are hereby repealed or amended accordingly.

5. By prision correccional in its medium period to prision mayor in its minimum period, when the damage caused is over 200 pesos but does not exceed 1,000 pesos, and the property referred to in paragraph (a) of the preceding subdivision is set on fire; but when the value of such property does not exceed 200 pesos, the penalty next lower in degree than that prescribed in this subdivision shall be imposed.

6. The penalty of prision correccional in its medium and maximum periods, if the damage caused in the case mentioned in paragraph (b) of subdivision 3 of this article does not exceed 6,000 pesos but is over 200 pesos.

7. The penalty of prision correccional in its minimum and medium periods, if the damage caused in the case mentioned paragraph (b) subdivision 3 of this article does not exceed 200 pesos.

8. The penalty of *arresto mayor* and a fine ranging from fifty to one hundred per centum if the damage caused shall be imposed, when the property burned consists of grain fields, pasture lands, forests, or plantations when the value of such property does not exceed 200 pesos. (As amended by R.A. 5467, approved May 12, 1969).

Article 322. *Cases of arson not included in the preceding articles.* - Cases of arson not included in the next preceding articles shall be punished:

1. By *arresto mayor* in its medium and maximum periods, when the damage caused does not exceed 50 pesos;

2. By *arresto mayor* in its maximum period to prision correccional in its minimum period, when the damage caused is over 50 pesos but does not exceed 200 pesos;

3. By prision correccional in its minimum and medium periods, if the damage caused is over 200 pesos but does not exceed 1,000 pesos; and

4. By prision correccional in its medium and maximum periods, if it is over 1,000 pesos.

Article 323. *Arson of property of small value.* - The arson of any uninhabited hut, storehouse, barn, shed, or any other property the value of which does not exceed 25 pesos, committed at a time or under circumstances which clearly exclude all danger of the fire spreading, shall not be punished by the penalties respectively prescribed in this chapter, but in accordance with the damage caused and under the provisions of the following chapter.

Article 324. *Crimes involving destruction.* - Any person who shall cause destruction by means of explosion, discharge of electric current, inundation, sinking or stranding of a vessel, intentional damaging of the engine of said vessel, taking up the rails from a railway track, maliciously changing railway signals for the safety of moving trains, destroying telegraph wires and telegraph posts, or those of any other system, and, in general, by using any other agency or means of destruction as effective as those above enumerated, shall be punished by reclusion temporal if the commission has endangered the safety of any person, otherwise, the penalty of prision mayor shall be imposed.

Article 325. *Burning one's own property as means to commit arson.* - Any person guilty of arson or causing great destruction of the property belonging to another shall suffer the penalties prescribed in this chapter, even though he shall have set fire to or destroyed his own property for the purposes of committing the crime.

Article 326. *Setting fire to property exclusively owned by the offender.* - If the property burned shall be the exclusive property of the offender, he shall be punished by *arresto mayor* in its maximum period to prision correccional in its minimum period, if the arson shall have been committed for the purpose of defrauding or causing damage to another, or prejudice shall actually have been caused, or if the thing burned shall have been a building in an inhabited place.

Article 326-A. *In cases where death resulted as a consequence of arson.* - If death resulted as a consequence of arson committed on any of the properties and under any of the circumstances mentioned in the preceding articles, the court shall impose the death penalty.

Article 326-B. *Prima facie evidence of arson.* - Any of the following circumstances shall constitute prima facie evidence of arson:

1. If after the fire, are found materials or substances soaked in gasoline, kerosene, petroleum, or other inflammables, or any mechanical, electrical chemical or traces or any of the foregoing.

2. That substantial amount of inflammable substance or materials were stored within the building not necessary in the course of the defendant's business; and

3. That the fire started simultaneously in more than one part of the building or locale under circumstances that cannot normally be due to accidental or unintentional causes: Provided, however, That at least one of the following is present in any of the three above-mentioned circumstances:

(a) That the total insurance carried on the building and/or goods is more than 80 per cent of the value of such building and/or goods at the time of the fire;

(b) That the defendant after the fire has presented a fraudulent claim for loss.

The penalty of prision correccional shall be imposed on one who plants the articles above-mentioned, in order to secure a conviction, or as a means of extortion or coercion. (As amended by R.A. 5467, approved May 12, 1969).

Chapter Nine MALICIOUS MISCHIEF

Article 327. *Who are liable for malicious mischief.* - Any person who shall deliberately cause the property of another any damage not falling within the terms of the next preceding chapter shall be guilty of malicious mischief.

Article 328. *Special cases of malicious mischief.* - Any person who shall cause damage to obstruct the performance of public functions, or using any poisonous or corrosive substance; or spreading any infection or contagion among cattle; or who cause damage to the property of the National Museum or National Library, or to any archive or registry, waterworks, road, promenade, or any other thing used in common by the public, shall be punished:

1. By prision correccional in its minimum and medium periods, if the value of the damage caused exceeds Two hundred thousand pesos (P200,000);

2. By *arresto mayor*, if such value does not exceed the above mentioned amount but it is over Forty thousand pesos (P40,000); and

3. By *arresto menor*, in such value does not exceed Forty thousand pesos (P40,000).

Article 329. *Other mischiefs.* - The mischiefs not included in the next preceding article shall be punished:

1. By *arresto mayor* in its medium and maximum periods, if the value of the damage caused exceeds Two hundred thousand pesos (P200,000);

2. By *arresto mayor* in its minimum and medium periods, if such value is over Forty thousand pesos (P40,000) but does not exceed Two hundred thousand pesos (P200,000); and

3. By *arresto menor* or fine of not less than the value of the damage caused and not more than Forty thousand pesos (P40,000), if the amount involved does not exceed Forty thousand pesos (P40,000) or cannot be estimated.

Article 330. *Damage and obstruction to means of communication.* - The penalty of prision correccional in its medium and maximum periods shall be imposed

upon any person who shall damage any railway, telegraph or telephone lines.

If the damage shall result in any derailment of cars, collision or other accident, the penalty of prision mayor shall be imposed, without prejudice to the criminal liability of the offender for the other consequences of his criminal act.

For the purpose of the provisions of the article, the electric wires, traction cables, signal system and other things pertaining to railways, shall be deemed to constitute an integral part of a railway system.

Article 331. *Destroying or damaging statues, public monuments or paintings.* - Any person who shall destroy or damage statues or any other useful or ornamental public monument shall suffer the penalty of *arresto mayor* in its medium period to prision correccional in its minimum period.

Any person who shall destroy or damage any useful or ornamental painting of a public nature shall suffer the penalty of *arresto menor* or a fine not exceeding Forty thousand pesos (P40,000), or both such fine and imprisonment, in the discretion of the court.

Chapter Ten EXEMPTION FROM CRIMINAL LIABILITY IN CRIMES AGAINST PROPERTY

Article 332. *Persons exempt from criminal liability.* - No criminal, but only civil liability, shall result from the commission of the crime of theft, swindling or malicious mischief committed or caused mutually by the following persons:

1. Spouses, ascendants and descendants, or relatives by affinity in the same line.

2. The widowed spouse with respect to the property which belonged to the deceased spouse before the same shall have passed into the possession of another; and

3. Brothers and sisters and brothers-in-law and sisters-in-law, if living together.

The exemption established by this article shall not be applicable to strangers participating in the commission of the crime.

Title Eleven CRIMES AGAINST CHASTITY

Chapter One ADULTERY AND CONCUBINAGE

Article 333. *Who are guilty of adultery.* - Adultery is committed by any married woman who shall have sexual intercourse with a man not her husband and by the man who has carnal knowledge of her knowing her to be married, even if the marriage be subsequently declared void.

Adultery shall be punished by prision correccional in its medium and maximum periods.

If the person guilty of adultery committed this offense while being abandoned without justification by the offended spouse, the penalty next lower in degree than that provided in the next preceding paragraph shall be imposed.

Article 334. *Concubinage.* - Any husband who shall keep a mistress in the conjugal dwelling, or shall have sexual intercourse, under scandalous circumstances, with a woman who is not his wife, or shall cohabit with her in any other place, shall be punished by prision correccional in its minimum and medium periods.

The concubine shall suffer the penalty of destierro.

Chapter Two RAPE AND ACTS OF LASCIVIOUSNESS

Article 335. *When and how rape is committed.* - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;

2. When the woman is deprived of reason or otherwise unconscious; and

3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by *reclusion perpetua*.

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law-spouse of the parent of the victim.

2. when the victim is under the custody of the police or military authorities.

3. when the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.

4. when the victim is a religious or a child below seven (7) years old.

5. when the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.

6. when committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.

7. when by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation.

(As amended by R.A. 2632, approved June 18, 1960, and R.A. 4111, approved June 20, 1964, Republic Act No. 7659, [December 13, 1993]).

(deemed repealed by The Anti-Rape Law of 1997, Republic Act No. 8353, [September 30, 1997])

Article 336. *Acts of lasciviousness.* - Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by prision correccional.

Chapter Three SEDUCTION, CORRUPTION OF MINORS AND WHITE SLAVE TRADE

Article 337. *Qualified seduction.* - The seduction of a virgin over twelve years and under eighteen years of age, committed by any person in public authority, priest, home-servant, domestic, guardian, teacher, or any person who, in any capacity, shall be entrusted with the education or custody of the woman seduced, shall be punished by prision correccional in its minimum and medium periods.

The penalty next higher in degree shall be imposed upon any person who shall seduce his sister or descendant, whether or not she be a virgin or over eighteen years of age.

Under the provisions of this Chapter, seduction is committed when the offender has carnal knowledge of any of the persons and under the circumstances described herein.

Article 338. *Simple seduction.* - The seduction of a woman who is single or a widow of good reputation, over twelve but under eighteen years of age, committed by means of deceit, shall be punished by *arresto mayor*.

Article 339. *Acts of lasciviousness with the consent of the offended party.* - The penalty of *arresto mayor* shall be imposed to punish any other acts of lasciviousness committed by the same persons and the same circumstances as those provided in Articles 337 and 338.

Article 340. *Corruption of minors.* - Any person who shall promote or facilitate the prostitution or corruption of persons underage to satisfy the lust of another, shall be punished by prision mayor, and if the culprit is a public officer or employee, including those in government-owned or controlled corporations, he shall also suffer the penalty of temporary absolute disqualification. (As amended by Batas Pambansa Blg. 92).

Article 341. *White slave trade.* - The penalty of prision mayor in its medium and maximum period shall be imposed upon any person who, in any manner, or under any pretext, shall engage in the business or shall profit by prostitution or shall enlist the services of any other for the purpose of prostitution (As amended by Batas Pambansa Blg. 186.)

Chapter Four ABDUCTION

Article 342. *Forcible abduction.* - The abduction of any woman against her will and with lewd designs shall be punished by reclusion temporal.

The same penalty shall be imposed in every case, if the female abducted be under twelve years of age.

Article 343. *Consented abduction.* - The abduction of a virgin over twelve years and under eighteen years of age, carried out with her consent and with lewd designs, shall be punished by the penalty of prision correccional in its minimum and medium periods.

Chapter Five PROVISIONS RELATIVE TO THE PRECEDING CHAPTERS OF TITLE ELEVEN

Article 344. *Prosecution of the crimes of adultery, concubinage, seduction, abduction, rape and acts of lasciviousness.* - The crimes of adultery and concubinage shall not be prosecuted except upon a complaint filed by the offended spouse.

The offended party cannot institute criminal prosecution without including both the guilty parties, if they are both alive, nor, in any case, if he shall have consented or pardoned the offenders.

The offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian, nor, in any case, if the offender has been expressly pardoned by the above named persons, as the case may be.

In cases of seduction, abduction, acts of lasciviousness and rape, the marriage of the offender with the offended party shall extinguish the criminal action or remit the penalty already imposed upon him. The provisions of this paragraph shall also be applicable to the co-principals, accomplices and accessories after the fact of the above-mentioned crimes.

Article 345. *Civil liability of persons guilty of crimes against chastity.* - Person guilty of rape, seduction or abduction, shall also be sentenced:

1. To indemnify the offended woman.

2. To acknowledge the offspring, unless the law should prevent him from so doing.

3. In every case to support the offspring.

The adulterer and the concubine in the case provided for in Articles 333 and 334 may also be sentenced, in the same proceeding or in a separate civil proceeding, to indemnify for damages caused to the offended spouse.

Article 346. *Liability of ascendants, guardians, teachers, or other persons entrusted with the custody of the offended party.* - The ascendants, guardians, curators, teachers and any person who, by abuse of authority or confidential relationships, shall cooperate as accomplices in the perpetration of the crimes embraced in chapters, second, third and fourth, of this title, shall be punished as principals.

Teachers or other persons in any other capacity entrusted with the education and guidance of youth, shall also suffer the penalty of temporary special disqualification in its maximum period to perpetual special disqualification.

Any person falling within the terms of this article, and any other person guilty of corruption of minors for the benefit of another, shall be punished by special disqualification from filling the office of guardian.

Title Twelve CRIMES AGAINST THE CIVIL STATUS OF PERSONS

Chapter One SIMULATION OF BIRTHS AND USURPATION OF CIVIL STATUS

Article 347. *Simulation of births, substitution of one child for another and concealment or abandonment of a legitimate child.* - The simulation of births and the substitution of one child for another shall be punished by prision mayor and a fine of not exceeding Two hundred thousand pesos (P200,000).

The same penalties shall be imposed upon any person who shall conceal or abandon any legitimate child with intent to cause such child to lose its civil status.

Any physician or surgeon or public officer who, in violation of the duties of his profession or office, shall cooperate in the execution of any of the crimes mentioned in the two next preceding paragraphs, shall suffer the penalties therein prescribed and also the penalty of temporary special disqualification.

Article 348. *Usurpation of civil status.* - The penalty of prision mayor shall be imposed upon any person who shall usurp the civil status of another, should he do so for the purpose of defrauding the offended party or his heirs; otherwise, the penalty of prision correccional in its medium and maximum periods shall be imposed.

Chapter Two ILLEGAL MARRIAGES

Article 349. *Bigamy.* - The penalty of prision mayor shall be imposed upon any person who shall contract a second or subsequent marriage before the former marriage has been legally dissolved, or before the absent spouse has been declared presumptively dead by means of a judgment rendered in the proper proceedings.

Article 350. *Marriage contracted against provisions of laws.* - The penalty of prision correccional in its medium and maximum periods shall be imposed upon any person who, without being included in the provisions of the next proceeding article, shall have not been complied with or that the marriage is in disregard of a legal impediment.

If either of the contracting parties shall obtain the consent of the other by means of violence, intimidation or fraud, he shall be punished by the maximum period of the penalty provided in the next preceding paragraph.

Article 351. *Premature marriages.* - ~~Any widow who shall marry within three hundred and one day from the date of the death of her husband, or before having delivered if she shall have been pregnant at the time of his death, shall be punished by *arresto mayor* and a fine not exceeding 500 pesos.~~

~~The same penalties shall be imposed upon any woman whose marriage shall have been annulled or dissolved, if~~

~~she shall marry before her delivery or before the expiration of the period of three hundred and one day after the legal separation.~~ ***(repealed by RA No 10655, March 13, 2015)***

Article 352. *Performance of illegal marriage ceremony.* - Priests or ministers of any religious denomination or sect, or civil authorities who shall perform or authorize any illegal marriage ceremony shall be punished in accordance with the provisions of the Marriage Law.

Title Thirteen CRIMES AGAINST HONOR

Chapter One LIBEL

Section One. - *Definitions, forms, and punishment of this crime.*

Article 353. *Definition of libel.* - A libel is public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.

Article 354. *Requirement for publicity.* - Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and

2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

Article 355. *Libel means by writings or similar means.* - A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by prision correccional in its minimum and medium periods or a fine ranging from Forty thousand pesos (P40,000) to One million two hundred thousand pesos (P1,200,000), or both, in addition to the civil action which may be brought by the offended party.

Article 356. *Threatening to publish and offer to present such publication for a compensation.* - The penalty of *arresto mayor* or a fine from Forty thousand pesos (P40,000) to Four hundred thousand pesos (P400,000), or both, shall be imposed upon any person who threatens another to publish a libel concerning him or the parents, spouse, child, or other members of the family of the latter or upon anyone who shall offer to prevent the publication of such libel for a compensation or money consideration.

Article 357. *Prohibited publication of acts referred to in the course of official proceedings.* - The penalty of *arresto mayor* or a fine of from Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000), or both, shall be imposed upon any reporter, editor or manager or a newspaper, daily or magazine, who shall publish facts connected with the private life of another and offensive to the honor, virtue and reputation of said person, even though said publication be made in connection with or under the pretext that it is necessary in the narration of any judicial or administrative proceedings wherein such facts have been mentioned.

Article 358. *Slander.* - Oral defamation shall be punished by *arresto mayor* in its maximum period to prision correccional in its minimum period if it is of a serious and insulting nature; otherwise the penalty shall be *arresto menor* or a fine not exceeding Twenty thousand pesos (P20,000).

Article 359. *Slander by deed.* - The penalty of *arresto mayor* in its maximum period to prision correccional in its minimum period or a fine ranging from Twenty thousand pesos (P20,000) to One hundred thousand pesos (P100,000) shall be imposed upon any person who shall perform any act not included and punished in this title, which shall cast dishonor, discredit or contempt upon another person. If said act is not of a serious nature, the penalty shall be *arresto menor* or a fine not exceeding Twenty thousand pesos (P20,000).

Section Two. - *General provisions*

Article 360. *Persons responsible.* - Any person who shall publish, exhibit, or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same.

The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication, shall be responsible for the defamations contained therein to the same extent as if he were the author thereof.

The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the court of first instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense: Provided, however, That where one of the offended parties is a public officer whose office is in the City of Manila at the time of the commission of the offense, the action shall be filed in the Court of First Instance of the City of Manila, or of the city or province where the libelous article is printed and first published, and in case such public officer does not hold office in the City of Manila, the action shall be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense or where the libelous article is printed and first published and in case one of the offended parties is a private individual, the action shall be filed in the Court of First Instance of the province or city where he actually resides at the time of the commission of the offense or where the libelous matter is printed and first published: Provided, further, That the civil action shall be filed in the same court where the criminal action is filed and vice versa: Provided, furthermore, That the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts: And, provided, finally, That this amendment shall not apply to cases of written defamations, the civil and/or criminal actions which have been filed in court at the time of the effectivity of this law.

Preliminary investigation of criminal action for written defamations as provided for in the chapter shall be conducted by the provincial or city fiscal of the province or city, or by the municipal court of the city or capital of the province where such action may be instituted in accordance with the provisions of this article.

No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted de oficio shall be brought except at the instance of and upon complaint expressly filed by the offended party. (As amended by R.A. 1289, approved June 15, 1955, R.A. 4363, approved June 19, 1965).

Article 361. *Proof of the truth.* - In every criminal prosecution for libel, the truth may be given in evidence to the court and if it appears that the matter charged as libelous is true, and, moreover, that it was published with good motives and for justifiable ends, the defendants shall be acquitted.

Proof of the truth of an imputation of an act or omission not constituting a crime shall not be admitted, unless the imputation shall have been made against Government employees with respect to facts related to the discharge of their official duties.

In such cases if the defendant proves the truth of the imputation made by him, he shall be acquitted.

Article 362. *Libelous remarks.* - Libelous remarks or comments connected with the matter privileged under the provisions of Article 354, if made with malice, shall not exempt the author thereof nor the editor or managing editor of a newspaper from criminal liability.

Chapter Two INCRIMINATORY MACHINATIONS

Article 363. *Incriminating innocent person.* - Any person who, by any act not constituting perjury, shall directly incriminate or impute to an innocent person the commission of a crime, shall be punished by *arresto menor*.

Article 364. *Intriguing against honor.* - The penalty of *arresto menor* or fine not exceeding Twenty thousand pesos (P20,000) shall be imposed for any intrigue which has for its principal purpose to blemish the honor or reputation of a person.

Title Fourteen **QUASI-OFFENSES**

Sole Chapter CRIMINAL NEGLIGENCE

Article 365. *Imprudence and negligence.* -Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of arresto mayor in its maximum period to prisión correccional in its medium period; if it would have constituted a less grave felony, the penalty of arresto mayor in its minimum and medium periods shall be imposed; if it would have constituted a light felony, the penalty of arresto menor in its maximum period shall be imposed.

Any person who, by simple imprudence or negligence, shall commit an act which would otherwise constitute a grave felony, shall suffer the penalty of arresto mayor in its medium and maximum periods; if it would have constituted a less serious felony, the penalty of arresto mayor in its minimum period shall be imposed.

When the execution of the act covered by this article shall have only resulted in damage to the property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damages to three (3) times such value, but which shall in no case be less than Five thousand pesos (P5,000).

A fine not exceeding Forty thousand pesos (P40,000) and censure shall be imposed upon any person, who, by simple imprudence or negligence, shall cause some wrong which, if done maliciously, would have constituted a light felony.

In the imposition of these penalties, the court shall exercise their sound discretion, without regard to the rules prescribed in Article 64.

The provisions contained in this article shall not be applicable:

1. When the penalty provided for the offense is equal to or lower than those provided in the first two (2) paragraphs of this article, in which case the court shall impose the penalty next lower in degree than that which should be imposed in the period which they may deem proper to apply.

2. When, by imprudence or negligence and with violation of the Automobile Law, the death of a person shall be caused, in which case the defendant shall be punished by prisión correccional in its medium and maximum periods.

Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.

Simple imprudence consists in the lack of precaution displayed in those cases in which the damage impending to be caused is not immediate nor the danger clearly manifest.

The penalty next higher in degree to those provided for in this article shall be imposed upon the offender who fails to lend on the spot to the injured parties such help as may be in his hands to give.

(As amended by R.A. 1790, approved June 21, 1957, Republic Act No. 10951, [August 29, 2017]).

Title Fifteen **FINAL PROVISIONS**

Article 366. *Application of laws enacted prior to this Code.* - Without prejudice to the provisions contained in Article 22 of this Code, felonies and misdemeanors, committed prior to the date of effectiveness of this Code shall be punished in accordance with the Code or Acts in force at the time of their commission.

Article 367. *Repealing Clause.* - Except as is provided in the next preceding article, the present Penal Code, the Provisional Law for the application of its provisions, and Acts Nos. 277, 282 ,480, 518, 519, 899, 1121, 1438, 1523, 1559, 1692, 1754, 1955, 1773, 2020, 2036, 2071, 2142, 2212, 2293, 2298, 2300, 2364, 2549, 2557, 2595, 2609, 2718, 3103, 3195, 3244, 3298, 3309, 3313, 3397, 3559, and 3586, are hereby repealed.

The provisions of the Acts which are mentioned hereunder are also repealed, namely:

Act 666, Sections 6 and 18.

Act 1508, Sections 9, 10, 11, and 12.

Act 1524, Sections 1, 2, and 6.

Act 1697, Sections 3 and 4.

Act 1757, Sections 1, 2, 3, 4, 5, 6, 7, (first clause), 11, and 12.

Act 2381, Sections 2, 3, 4, 6, 8, and 9.

Act 2711, Sections 102, 2670, 2671, and 2672.

Act 3247, Sections 1, 2, 3, and 5; and General Order, No. 58, series of 1900, Section 106.

And all laws and parts of laws which are contrary to the provisions of this Code are hereby repealed.

Approved: December 8, 1930

SPECIAL PENAL LAWS

SPL | *Related to Book One of the RPC*

PD No 1612 **ANTI-FENCING LAW OF 1979**

WHEREAS, reports from law enforcement agencies reveal that there is rampant robbery and thievery of government and private properties;

WHEREAS, such robbery and thievery have become profitable on the part of the lawless elements because of the existence of ready buyers, commonly known as fence, of stolen properties;

WHEREAS, under existing law, a fence can be prosecuted only as an accessory after the fact and punished lightly;

WHEREAS, is imperative to impose heavy penalties on persons who profit by the effects of the crimes of robbery and theft.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines by virtue of the powers vested in me by the Constitution, do hereby order and decree as part of the law of the land the following:

Section 1. Title. This decree shall be known as the Anti-Fencing Law.

Section 2. Definition of Terms. The following terms shall mean as follows:

(a) "Fencing" is the act of any person who, with intent to gain for himself or for another, shall buy, receive, possess, keep, acquire, conceal, sell or dispose of, or shall buy and sell, or in any other manner deal in any article, item, object or anything of value which he knows, or should be known to him, to have been derived from the proceeds of the crime of robbery or theft.

(b) "Fence" includes any person, firm, association corporation or partnership or other organization who/which commits the act of fencing.

Section 3. Penalties. Any person guilty of fencing shall be punished as hereunder indicated:

(a) The penalty of prision mayor, if the value of the property involved is more than 12,000 pesos but not exceeding 22,000 pesos; if the value of such property exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such cases, the penalty shall be termed reclusion temporal and the accessory penalty pertaining thereto provided in the Revised Penal Code shall also be imposed.

(b) The penalty of prision correccional in its medium and maximum periods, if the value of the property robbed or stolen is more than 6,000 pesos but not exceeding 12,000 pesos.

(c) The penalty of prision correccional in its minimum and medium periods, if the value of the property involved is more than 200 pesos but not exceeding 6,000 pesos.

(d) The penalty of arresto mayor in its medium period to prision correccional in its minimum period, if the value of the property involved is over 50 pesos but not exceeding 200 pesos.

(e) The penalty of arresto mayor in its medium period if such value is over five (5) pesos but not exceeding 50 pesos.

(f) The penalty of arresto mayor in its minimum period if such value does not exceed 5 pesos.

Section 4. Liability of Officials of Juridical Persons. If the fence is a partnership, firm, corporation or association, the president or the manager or any officer thereof who knows or should have known the commission of the offense shall be liable.

Section 5. Presumption of Fencing. Mere possession of any good, article, item, object, or anything of value which has been the subject of robbery or thievery shall be prima facie evidence of fencing.

Section 6. Clearance/Permit to Sell/Used Second Hand Articles. For purposes of this Act, all stores, establishments or entities dealing in the buy and sell of any good, article item, object of anything of value obtained from an unlicensed dealer or supplier thereof, shall before offering the same for sale to the public, secure the necessary clearance or permit from the station commander of the Integrated National Police in the town or city where such store, establishment or entity is located. The Chief of Constabulary/Director General, Integrated National Police shall promulgate such rules and regulations to carry out the provisions of this section. Any person who fails to secure the clearance or permit required by this section or who violates any of the provisions of the rules and regulations promulgated thereunder shall upon conviction be punished as a fence.

Section 7. Repealing Clause. All laws or parts thereof, which are inconsistent with the provisions of this Decree are hereby repealed or modified accordingly.

Section 8. Effectivity. This Decree shall take effect upon approval.

Done in the City of Manila, this 2nd day of March, in the year of Our Lord, nineteen hundred and seventy-nine.

RULES AND REGULATIONS TO CARRY OUT THE PROVISIONS OF SECTION 6 OF PRESIDENTIAL DECREE NO. 1612, KNOWN AS THE ANTI-FENCING LAW.

Pursuant to Section 6 of Presidential Decree No. 1612, known as the Anti-Fencing Law, the following rules and regulations are hereby promulgated to govern the issuance of clearances/permits to sell used secondhand articles obtained from an unlicensed dealer or supplier thereof:

I. Definition of Terms

1. "Used secondhand article" shall refer to any goods, article, item, object or anything of value obtained from an unlicensed dealer or supplier, regardless of whether the same has actually or in fact been used.

2. "Unlicensed dealer/supplier" shall refer to any persons, partnership, firm, corporation, association or any other entity or establishment not licensed by the government to engage in the business of dealing in or of supplying the articles defined in the preceding paragraph.

3. "Store", "establishment" or "entity" shall be construed to include any individual dealing in the buying and selling used secondhand articles, as defined in paragraph hereof.

4. "Buy and Sell" refer to the transaction whereby one purchases used secondhand articles for the purpose of resale to third persons.

5. "Station Commander" shall refer to the Station Commander of the Integrated National Police within the territorial limits of the town or city district where the store, establishment or entity dealing in the buying and selling of used secondhand articles is located.

II. Duty to Procure Clearance or Permit

1. No person shall sell or offer to sell to the public any used secondhand article as defined herein without first securing a clearance or permit for the purpose from the proper Station Commander of the Integrated National Police.

2. If the person seeking the clearance or permit is a partnership, firm, corporation, or association or group of individuals, the clearance or permit shall be obtained by or in the name of the president, manager or other responsible officer-in-charge thereof.

3. If a store, firm, corporation, partnership, association or other establishment or entity has a branch or subsidiary and the used secondhand article is acquired by such branch or subsidiary for sale to the public, the said branch or subsidiary shall secure the required clearance or permit.

4. Any goods, article, item, or object or anything of value acquired from any source for which no receipt or equivalent document evidencing the legality of its acquisition could be presented by the present possessor or holder thereof, or the covering receipt, or equivalent document, of which is fake, falsified or irregularly obtained, shall be presumed as having been acquired from an unlicensed dealer or supplier and the possessor or holder thereof must secure the required clearance or permit before the same can be sold or offered for sale to the public.

III. Procedure for Procurement of Clearances or Permits

1. The Station Commanders concerned shall require the owner of a store or the president, manager or responsible officer-in-charge of a firm, establishment or other entity located within their respective jurisdictions and in possession of or having in stock used secondhand articles as defined herein, to submit an initial affidavit within thirty (30) days from receipt of notice for the purpose thereof and subsequent affidavits once every fifteen (15)

days within five (5) days after the period covered, which shall contain:

(a) A complete inventory of such articles acquired daily from whatever source and the names and addresses of the persons from whom such articles were acquired.

(b) A full list of articles to be sold or offered for sale as well as the place where the date when the sale or offer for sale shall commence.

(c) The place where the articles are presently deposited or kept in stock.

The Station Commander may, at his discretion when the circumstances of each case warrant, require that the affidavit submitted be accompanied by other documents showing proof of legitimacy of the acquisition of the articles.

2. A party required to secure a clearance or permit under these rules and regulations shall file an application therefor with the Station Commander concerned. The application shall state:

(a) The name, address and other pertinent circumstances of the persons, in case of an individual or, in the case of a firm, corporation, association, partnership or other entity, the name, address and other pertinent circumstances of the president, manager or officer-in-charge.

(b) The article to be sold or offered for sale to the public and the name and address of the unlicensed dealer or supplier from whom such article was acquired.

In support of the application, there shall be attached to it the corresponding receipt or other equivalent document to show proof of the legitimacy of acquisition of the article.

3. The Station Commander shall examine the documents attached to the application and may require the presentation of other additional documents, if necessary, to show satisfactory proof of the legitimacy of acquisition of the article, subject to the following conditions:

(a) If the legitimacy of acquisition of any article from an unlicensed source cannot be satisfactorily established by the documents presented, the Station Commander shall, upon approval of the INP Superintendent in the district and at the expense of the party seeking the clearance/permit, cause the publication of a notice in a newspaper of general circulation for two (2) successive days enumerating therein the articles acquired from an unlicensed dealer or supplier, the names and addresses of the persons from whom they were acquired and shall state that such articles are to be sold or offered for sale to the public at the address of the store, establishment or other entity seeking the clearance/permit. In places where no newspapers are in general circulation, the party seeking the clearance or permit shall, instead, post a notice daily for one week on the bulletin board of the municipal building of the town where the store, firm, establishment or entity concerned is located or, in the case of an individual, where the articles in his possession are to be sold or offered for sale.

(b) If after 15 days, upon expiration of the period of publication or of the notice referred to in the preceding paragraph, no claim is made with respect to any of the articles enumerated in the notice, the Station Commander shall issue the clearance or permit sought.

(c) If, before expiration of the same period for publication of the notice or its posting, it shall appear that any of the articles in question is stolen property, the Station Commander shall hold the article in restraint as evidence in any appropriate case to be filed. Articles held in restraint shall be kept and disposed of as the circumstances of each case permit, taking into account all considerations of right and justice in the case. In any case where any article is held in restraint, it shall be the duty of the Station Commander concerned to advise/notify the Commission on Audit of the case and comply with such procedure as may be proper under applicable existing laws, rules and regulations.

4. The Station Commander concerned shall, within seventy-two (72) hours from receipt of the application, act thereon by either issuing the clearance/permit requested or denying the same. Denial of an application shall be in writing and shall state in brief the reason/s therefor.

5. The application, clearance/permit or the denial thereof, including such other documents as may be pertinent in the implementation of Section 6 of P.D. No. 1612 shall be in the forms prescribed in Annexes "A", "B", "C", "D", and "E" hereof, which are made integral parts of these rules and regulations.

6. For the issuance of clearances/permit required under Section 6 of P.D. No. 1612, no fee shall be charged.

IV. Appeals

Any party aggrieved by the action taken by the Station Commander may elevate the decision taken in the case to the proper INP District Superintendent and, if he is still dissatisfied therewith may take the same on appeal to the INP Director. The decision of the INP Director may also be appealed to the INP Director-General whose decision may likewise be appealed to the Minister of National Defense. The decision of the Minister of National Defense on the case shall be final. The appeal against the decision taken by a Commander lower than the INP Director-General should be filed to the next higher Commander within ten (10) days from receipt of notice of the decision. The decision of the INP Director-General should be appealed within fifteen (15) days from receipt of notice of the decision.

V. Penalties

1. Any person who fails to secure the clearance or permit required by Section 6 of P.D. 1612 or who violates any of the provisions of these rules and regulations shall upon conviction be punished as a fence.

2. The INP Director-General shall recommend to the proper authority the cancellation of the business license of the erring individual, store, establishment or the entity concerned.

3. Articles obtained from unlicensed sources for sale or offered for sale without prior compliance with the provisions of Section 6 of P.D. No. 1612 and with these rules and regulations shall be held in restraint until satisfactory evidence or legitimacy of acquisition has been established.

4. Articles for which no satisfactory evidence of legitimacy of acquisition is established and which are found to be stolen property shall likewise be held under restraint and shall, furthermore, be subject to confiscation as evidence in the appropriate case to be filed. If, upon termination of the case, the same is not claimed by their legitimate owners, the article/s shall be forfeited in favor of the government and made subject to disposition as the circumstances warrant in accordance with applicable existing laws, rules and regulations. The Commission on Audit shall, in all cases, be notified.

5. Any personnel of the Integrated National Police found violating the provisions of Section 6 of P.D. No. 1612 or any of its implementing rules and regulations or who, in any manner whatsoever, connives with or through his negligence or inaction makes possible the commission of such violations by any party required to comply with the law and its implementing rules and regulations, shall be prosecuted criminally without prejudice to the imposition of administrative penalties.

VI. Visitorial Power

It shall be the duty of the owner of the store or of the president, manager or responsible officer-in-charge of any firm, establishment or other entity or of an individual having in his premises articles to be sold or offered for sale to the public to allow the Station Commander or his authorized representative to exercise visitorial powers. For this purpose, however, the power to conduct visitations shall be exercise only during office or business hours and upon authority in writing from and by the INP

Superintendent in the district and for the sole purpose of determining whether articles are kept in possession or stock contrary to the intents of Section 6 of P.D. No. 1612 and of these rules and regulations.

VII. Other Duties Imposed Upon Station Commanders and INP District Superintendent and Directors Following Action on Applications for Clearances or Permits

1. At the end of each month, it shall be the duty of the Station Commander concerned to:

(a) Make and maintain a file in his office of all clearances/permit issued by him.

(b) Submit a full report to the INP District Superintendent on the number of applications for clearances or permits processed by his office, indicating therein the number of clearances/permits issued and the number of applications denied. The report shall state the reasons for denial of an application and the corresponding follow-up actions taken and shall be accompanied by an inventory of the articles to be sold or offered for sale in his jurisdiction.

2. The INP District Superintendent shall, on the basis of the reports submitted by the Station Commander, in turn submit quarterly reports to the appropriate INP Director containing a consolidation of the information stated in the reports of Station Commanders in his jurisdiction.

3. Reports from INP District Superintendent shall serve as basis for a consolidated report to be submitted semi-annually by INP Directors to the Director-General, Integrated National Police.

4. In all cases, reports emanating from the different levels of the Integrated National Police shall be accompanied with full and accurate inventories of the articles acquired from unlicensed dealers or suppliers and proposed to be sold or offered for sale in the jurisdictions covered by the report.

These implementing rules and regulations, having been published in a newspaper of national circulation, shall take effect on June 15, 1979.

Act No 4103 | **Indeterminate Sentence Law**

December 5, 1933

ACT NO. 4103

AN ACT TO PROVIDE FOR AN INDETERMINATE SENTENCE AND PAROLE FOR ALL PERSONS CONVICTED OF CERTAIN CRIMES BY THE COURTS OF THE PHILIPPINE ISLANDS; TO CREATE A BOARD OF INDETERMINATE SENTENCE AND TO PROVIDE FUNDS THEREFOR; AND FOR OTHER PURPOSES

SECTION 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and to a minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. ***(as amended by Act No. 4225, [August 8, 1935])i***

SECTION 2. This Act shall not apply to persons convicted of offenses punished with death penalty or life-imprisonment; to those convicted of treason, conspiracy or proposal to commit treason; to those convicted of misprision of treason, rebellion, sedition or espionage; to those convicted of piracy; to those who are habitual delinquents; to those who have escaped from confinement or evaded sentence; to those who having been granted conditional pardon by the Chief Executive shall have violated the terms thereof; to those whose maximum term of imprisonment does not exceed one year, nor to those already sentenced by final judgment at the time of approval of this Act, except as provided in Section 5 hereof. ***(as amended by Act No. 4225, [August 8, 1935])i***

SECTION 3. There is hereby created a Board of Pardons and Parole to be composed of the Secretary of Justice who shall be its chairman, and four members to be appointed by the President, with the consent of the Commission on Appointments who shall hold office for a term of six years: *Provided*, That one member of the board shall be a trained sociologist, one a clergyman or educator, one psychiatrist unless a trained psychiatrist be employed by the board, and the other members shall be persons qualified for such work by training and experience. At least one member of the board shall be a woman. Of the members of the present board, two shall be designated by the President to continue until December thirty, nineteen hundred and sixty-six and the other two shall continue until December thirty, nineteen hundred and sixty-nine. In case of any vacancy in the membership of the Board, a successor may be appointed to serve only for the unexpired portion of the term of the respective members. ***(as amended by Republic Act No. 4203, [June 19, 1965])***

SECTION 4. The Board of Pardons and Parole is authorized to adopt such rules and regulations as may be necessary for carrying out its functions and duties. The Board is empowered to call upon any bureau, office, branch, subdivision, agency, or instrumentality of the Government for such assistance as it may need in connection with the performance of its functions. A majority of all the members shall constitute a quorum and a majority vote shall be necessary to arrive at a decision. Any dissent from the majority opinion shall be reduced to writing and filed with the records of the proceedings. Each member of the Board, including the Chairman and the Executive Officer, shall be entitled to receive as compensation fifty pesos for each meeting actually attended by him, notwithstanding the provisions of section two hundred and fifty-nine of the Revised Administrative Code, and in addition thereto, reimbursement of actual and necessary traveling expenses incurred in the performance of duties: Provided, however, That the Board meetings will not be more than three times a week. ***(as amended by Republic Act No. 4203, [June 19, 1965])***

SECTION 5. It shall be the duty of the Board of Indeterminate Sentence to look into the physical, mental and moral record of the prisoners who shall be eligible to parole and to determine the proper time of release of such prisoners. Whenever any prisoner shall have served the minimum penalty imposed on him, and it shall appear to the Board of Indeterminate Sentence, from the reports of the prisoner's work and conduct which may be received in accordance with the rules and regulations prescribed, and from the study and investigation made by the Board itself, that such prisoner is fitted by his training for release, that there is a reasonable probability that such prisoner will live and remain at liberty without violating the law, and that such release will not be incompatible with the welfare of society, the Board of Indeterminate Sentence may, in its discretion, and in accordance with the rules and regulations adopted hereunder, authorize the release of such prisoner on parole, upon such terms and conditions as are herein prescribed and as may be prescribed by the Board. The said Board of Indeterminate Sentence shall also examine the records and status of prisoners who shall have been convicted of any offense other than those named in Section two hereof, and have been sentenced for more than one year by final judgment prior to the date on which this Act shall take effect, and shall make recommendation in all such cases to the Governor-General with regard to the parole of such prisoners as they shall deem qualified for parole as herein

provided, after they shall have served a period of imprisonment not less than the minimum period for which they might have been sentenced under this Act for the same offense.

SECTION 6. Every prisoner released from confinement on parole by virtue of this Act shall, at such times and in such manner as may be required by the conditions of his parole, as may be designated by the said Board for such purpose, report personally to such government officials or other parole officers hereafter appointed by the Board of Indeterminate Sentence for a period of surveillance equivalent to the remaining portion of the maximum sentence imposed upon him or until final release and discharge by the Board of Indeterminate Sentence as herein provided. The officials so designated shall keep such records and make such reports and perform such other duties hereunder as may be required by said Board. The limits of residence of such paroled prisoner during his parole may be fixed and from time to time changed by the said Board in its discretion. If during the period of surveillance such paroled prisoner shall show himself to be a law-abiding citizen and shall not violate any of the laws of the Philippine Islands, the Board of Indeterminate Sentence may issue a final certificate of release in his favor, which shall entitle him to final release and discharge.

SECTION 7. The Board shall file with the court which passed judgment on the case, and with the Chief of Constabulary, a certified copy of each order of conditional or final release and discharge issued in accordance with the provisions of the next preceding two sections.

SECTION 8. Whenever any prisoner released on parole by virtue of this Act shall, during the period of surveillance, violate any of the conditions of his parole, the Board of Indeterminate Sentence may issue an order for his re-arrest which may be served in any part of the Philippine Islands by any police officer. In such case the prisoner so re-arrested shall serve the remaining unexpired portion of the maximum sentence for which he was originally committed to prison, unless the Board of Indeterminate Sentence shall, in its discretion, grant a new parole to the said prisoner. ***(as amended by Act No. 4225, [August 8, 1935])***

SECTION 9. Nothing in this Act shall be construed to impair or interfere with the powers of the Governor-General as set forth in Section 64(i) of the Revised Administrative Code or the Act of Congress approved August twenty-nine, nineteen hundred and sixteen entitled "An Act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those Islands."

SECTION 10. Whenever any prisoner shall be released on parole hereunder he shall be entitled to receive the benefits provided in Section one thousand seven hundred and fifty-one of the Revised Administrative Code.

SECTION 11. The sum of twenty-five thousand pesos is hereby appropriated out of any funds in the Insular Treasury, not otherwise appropriated, for the purpose of carrying out the provisions of this Act, to be disbursed by the Secretary of Justice.

SECTION 12. This Act shall take effect upon its approval.

Approved: December 5, 1933

(Indeterminate Sentence Law, Act No. 4103, [December 5, 1933])

PD No 968 | **Probation Law of 1976**

PRESIDENTIAL DECREE No. 968 July 24, 1976

ESTABLISHING A PROBATION SYSTEM, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

WHEREAS, one of the major goals of the government is to establish a more enlightened and humane correctional systems that will promote the reformation of offenders and thereby reduce the incidence of recidivism;

WHEREAS, the confinement of all offenders prisons and other institutions with rehabilitation programs constitutes an onerous drain on the financial resources of the country; and

WHEREAS, there is a need to provide a less costly alternative to the imprisonment of offenders who are likely to respond to individualized, community-based treatment programs;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree the following:

Section 1. *Title and Scope of the Decree.* This Decree shall be known as the Probation Law of 1976. It shall apply to all offenders except those entitled to the benefits under the provisions of Presidential Decree numbered Six Hundred and three and similar laws.

Section 2. *Purpose.* This Decree shall be interpreted so as to:

(a) promote the correction and rehabilitation of an offender by providing him with individualized treatment;

(b) provide an opportunity for the reformation of a penitent offender which might be less probable if he were to serve a prison sentence; and

(c) prevent the commission of offenses.

Section 3. *Meaning of Terms.* As used in this Decree, the following shall, unless the context otherwise requires, be construed thus:

(a) "Probation" is a disposition under which a defendant, after conviction and sentence, is released subject to conditions imposed by the court and to the supervision of a probation officer.

(b) "Probationer" means a person placed on probation.

(c) "Probation Officer" means one who investigates for the court a referral for probation or supervises a probationer or both.

Section 4. *Grant of Probation.* Subject to the provisions of this Decree, the trial court may, after it shall have convicted and sentenced a defendant for a probationable penalty and upon application by said defendant within the period for perfecting an appeal, suspend the execution of the sentence and place the defendant on probation for such period and upon such terms and conditions as it may deem best. No application for probation shall be entertained or granted if the defendant has perfected the appeal from the judgment of conviction: Provided, That when a judgment of conviction imposing a non-probationable penalty is appealed or reviewed, and such judgment is modified through the imposition of a probationable penalty, the defendant shall be allowed to apply for probation based on the modified decision before such decision becomes final. The application for probation based on the modified decision shall be filed in the trial court where the judgment of conviction imposing a non-probationable penalty was rendered, or in the trial court where such case has since been re-raffled. In a case involving several defendants where some have taken further appeal, the other defendants may apply for probation by submitting

a written application and attaching thereto a certified true copy of the judgment of conviction.

The trial court shall, upon receipt of the application filed, suspend the execution of the sentence imposed in the judgment.

This notwithstanding, the accused shall lose the benefit of probation should he seek a review of the modified decision which already imposes a probationable penalty.

Probation may be granted whether the sentence imposes a term of imprisonment or a fine only. The filing of the application shall be deemed a waiver of the right to appeal.

An order granting or denying probation shall not be appealable.

(as amended by PD No 1257, PD No 1990, RA No 10707)

Section 5. *Post-sentence Investigation.* No person shall be placed on probation except upon prior investigation by the probation officer and a determination by the court that the ends of justice and the best interest of the public as well as that of the defendant will be served thereby.

Section 6. *Form of Investigation Report.* The investigation report to be submitted by the probation officer under Section 5 hereof shall be in the form prescribed by the Probation Administrator and approved by the Secretary of Justice.

Section 7. *Period for Submission of Investigation Report.* The probation officer shall submit to the court the investigation report on a defendant not later than sixty days from receipt of the order of said court to conduct the investigation. The court shall resolve the application for probation not later than fifteen days after receipts of said report. ***(as amended by PD No 1257)***

Pending submission of the investigation report and the resolution of the petition, the defendant may be allowed on temporary liberty under his bail filed in the criminal case; Provided, That, in case where no bail was filed or that the defendant is incapable of filing one, the court may allow the release of the defendant on recognize the custody of a responsible member of the community who shall guarantee his appearance whenever required by the court.

Section 8. *Criteria for Placing an Offender on Probation.* In determining whether an offender may be placed on probation, the court shall consider all information relative, to the character, antecedents, environment, mental and physical condition of the offender, and available institutional and community resources. Probation shall be denied if the court finds that:

(a) the offender is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or

(b) there is undue risk that during the period of probation the offender will commit another crime; or

(c) probation will depreciate the seriousness of the offense committed.

Section 9. *Disqualified Offenders.* The benefits of this Decree shall not be extended to those:

a. sentenced to serve a maximum term of imprisonment of more than six (6) years;

b. convicted of any crime against the national security;

c. who have previously been convicted by final judgment of an offense punished by imprisonment of more than six (6) months and one (1) day and/or a fine of more than one thousand pesos (P1,000.00);

d. who have been once on probation under the provisions of this Decree; and

e. who are already serving sentence at the time the substantive provisions of this Decree became applicable pursuant to Section 33 hereof

(as amended by Batas Pambansa Blg. 76, [June 13, 1980], Presidential Decree No. 1990, [October 5, 1985], RA No 10707, November 26, 2015)

Section 10. *Conditions of Probation.* Every probation order issued by the court shall contain conditions requiring that the probationer shall:

(a) present himself to the probation officer designated to undertake his supervision at such place as may be specified in the order within seventy-two hours from receipt of said order;

(b) report to the probation officer at least once a month at such time and place as specified by said officer.

The court may also require the probationer to:

(a) cooperate with a program of supervision;

(b) meet his family responsibilities;

(c) devote himself to a specific employment and not to change said employment without the prior written approval of the probation officer;

(d) undergo medical, psychological or psychiatric examination and treatment and enter and remain in a specified institution, when required for that purpose;

(e) pursue a prescribed secular study or vocational training;

(f) attend or reside in a facility established for instruction, recreation or residence of persons on probation;

(g) refrain from visiting houses of ill-repute;

(h) abstain from drinking intoxicating beverages to excess;

(i) permit to probation officer or an authorized social worker to visit his home and place or work;

(j) reside at premises approved by it and not to change his residence without its prior written approval; or

(k) satisfy any other condition related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience.

Section 11. *Effectivity of Probation Order.* A probation order shall take effect upon its issuance, at which time the court shall inform the offender of the consequences thereof and explain that upon his failure to comply with any of the conditions prescribed in the said order or his commission of another offense, he shall serve the penalty imposed for the offense under which he was placed on probation.

Section 12. *Modification of Condition of Probation.* During the period of probation, the court may, upon application of either the probationer or the probation officer, revise or modify the conditions or period of probation. The court shall notify either the probationer or the probation officer of the filing such an application so as to give both parties an opportunity to be heard thereon.

The court shall inform in writing the probation officer and the probationer of any change in the period or conditions of probation.

Section 13. *Control and Supervision of Probationer.* The probationer and his probation program shall be under the control of the court who placed him on probation subject to actual supervision and visitation by a probation officer.

Whenever a probationer is permitted to reside in a place under the jurisdiction of another court, control over him shall be transferred to the Executive Judge of the Court of First Instance of that place, and in such a case, a copy of the probation order, the investigation report and other pertinent records shall be furnished said Executive Judge. Thereafter, the Executive Judge to whom jurisdiction over the probationer is transferred shall have the power with respect to him that was previously possessed by the court which granted the probation.

Section 14. *Period of Probation.*

(a) The period of probation of a defendant sentenced to a term of imprisonment of not more than one year shall not exceed two years, and in all other cases, said period shall not exceed six years.

(b) When the sentence imposes a fine only and the offender is made to serve subsidiary imprisonment in case of insolvency, the period of probation shall not be less than nor to be more than twice the total number of days of subsidiary imprisonment as computed at the rate established, in Article thirty-nine of the Revised Penal Code, as amended.

Section 15. *Arrest of Probationer; Subsequent Disposition.* At any time during probation, the court may issue a warrant for the arrest of a probationer for any serious violation of the conditions of probation. The probationer, once arrested and detained, shall immediately be brought before the court for a hearing of the violation charged. The defendant may be admitted to bail pending such hearing. In such case, the provisions regarding release on bail of persons charged with a crime shall be applicable to probationers arrested under this provision.

In the hearing, which shall be summary in nature, the probationer shall have the right to be informed of the violation charged and to adduce evidence in his favor. The court shall not be bound by the technical rules of evidence but may be inform itself of all the facts which are material and relevant to ascertain the veracity of the charge. The State shall be represented by a prosecuting officer in any contested hearing. If the violation is established, the court may revoke or continue his probation and modify conditions thereof. If revoked, the court shall order the probationer to serve the sentence originally imposed. An order revoking the grant of probation or modifying the terms and conditions thereof shall not be appealable. ***(as amended by PD No 1257)***

Section 16. *Termination of Probation.* After the period of probation and upon consideration of the report and recommendation of the probation officer, the court may order the final discharge of the probationer upon finding that he has fulfilled the terms and conditions of his probation and thereupon the case is deemed terminated.

The final discharge of the probationer shall operate to restore to him all civil rights lost or suspended as a result of his conviction and to totally extinguish his criminal liability as to the offense for which probation was granted.

The probationer and the probation officer shall each be furnished with a copy of such order. ***(as amended by RA No 10707, November 26, 2015)***

Section 17. *Confidentiality of Records.* The investigation report and the supervision history of a probationer obtained under this Decree shall be privileged and shall not be disclosed directly or indirectly to anyone other than the Probation Administration or the court concerned, except that the court, in its discretion, may permit the probationer of his attorney to inspect the aforementioned documents or parts thereof whenever the best interest of the probationer make such disclosure desirable or helpful: Provided, Further, That, any government office or agency engaged in the correction or rehabilitation of offenders may, if necessary, obtain copies of said documents for its official use from the proper court or the Administration.

Section 18. *The Probation Administration.* There is hereby created under the Department of Justice an agency to be known as the Probation Administration herein referred to as the Administration, which shall exercise general supervision over all probationers.

The Administration shall have such staff, operating units and personnel as may be necessary for the proper execution of its functions.

Section 19. *Probation Administration.* The Administration shall be headed by the Probation Administrator, hereinafter referred to as the Administrator, who shall be appointed by the President of the Philippines. He shall hold office during good behavior and shall not be removed except for cause.

The Administrator shall receive an annual salary of at least forty thousand pesos. His powers and duties shall be to:

(a) act as the executive officer of the Administration;

(b) exercise supervision and control over all probation officers;

(c) make annual reports to the Secretary of Justice, in such form as the latter may prescribe, concerning the operation, administration and improvement of the probation system;

(d) promulgate, subject to the approval of the Secretary of Justice, the necessary rules relative to the methods and procedures of the probation process;

(e) recommend to the Secretary of Justice the appointment of the subordinate personnel of his Administration and other offices established in this Decree; and

(f) generally, perform such duties and exercise such powers as may be necessary or incidental to achieve the objectives of this Decree.

Section 20. *Assistant Probation Administrator.* There shall be an Assistant Probation Administrator who shall assist the Administrator perform such duties as may be assigned to him by the latter and as may be provided by law. In the absence of the Administrator, he shall act as head of the Administration.

He shall be appointed by the President of the Philippines and shall receive an annual salary of at least thirty-six thousand pesos.

Section 21. *Qualifications of the Administrator and Assistant Probation Administrator.* To be eligible for Appointment as Administrator or Assistant Probation Administrator, a person must be at least thirty-five years of age, holder of a master's degree or its equivalent in either criminology, social work, corrections, penology, psychology, sociology, public administration, law, police science, police administration, or related fields, and should have at least five years of supervisory experience, or be a member of the Philippine Bar with at least seven years of supervisory experience.

Section 22. *Regional Office; Regional Probation Officer.* The Administration shall have regional offices organized in accordance with the field service area patterns established under the Integrated Reorganization Plan.

Such regional offices shall be headed by a Regional Probation Officer who shall be appointed by President of the Philippines in accordance with the Integrated Reorganization Plan and upon the recommendation of the Secretary of Justice.

The Regional Probation Officer shall exercise supervision and control over all probation officer within his jurisdiction and such duties as may assigned to him by the Administrator. He shall have an annual salary of at least twenty-four thousand pesos.

He shall, whenever necessary, be assisted by an Assistant Regional Probation Officer who shall also be appointed by the President of the Philippines, upon recommendation of the Secretary of Justice, with an annual salary of at least twenty thousand pesos.

Section 23. *Provincial and City Probation Officers.* There shall be at least one probation officer in each province and city who shall be appointed by the Secretary of Justice upon recommendation of the Administrator and in accordance with civil service law and rules.

The Provincial or City Probation Officer shall receive an annual salary of at least eighteen thousand four hundred pesos.

His duties shall be to:

(a) investigate all persons referred to him for investigation by the proper court or the Administrator;

(b) instruct all probationers under his supervision of that of the probation aide on the terms and conditions of their probations;

(c) keep himself informed of the conduct and condition of probationers under his charge and use all suitable methods to bring about an improvement in their conduct and conditions;

(d) maintain a detailed record of his work and submit such written reports as may be required by the Administration or the court having jurisdiction over the probationer under his supervision;

(e) prepare a list of qualified residents of the province or city where he is assigned who are willing to act as probation aides;

(f) supervise the training of probation aides and oversee the latter's supervision of probationers;

(g) exercise supervision and control over all field assistants, probation aides and other personnel; and

(h) perform such duties as may be assigned by the court or the Administration.

Section 24. Miscellaneous Powers of Regional, Provincial and City Probation Officers. Regional, Provincial or City Probation Officers shall have the authority within their territorial jurisdiction to administer oaths and acknowledgments and to take depositions in connection with their duties and functions under this Decree. They shall also have, with respect to probationers under their care, the powers of a police officer. They shall be considered as persons in authority. ***(as amended by RA No 10707, November 26, 2015)***

Section 25. Qualifications of Regional, Assistant Regional, Provincial, and City Probation Officers. No person shall be appointed Regional or Assistant Regional or Provincial or City Probation Officer unless he possesses at least a bachelor's degree with a major in social work, sociology, psychology, criminology, penology, corrections, police science, administration, or related fields and has at least three years of experience in work requiring any of the abovementioned disciplines, or is a member of the Philippine Bar with at least three years of supervisory experience.

Whenever practicable, the Provincial or City Probation Officer shall be appointed from among qualified residents of the province or city where he will be assigned to work.

Section 26. *Organization*. Within twelve months from the approval of this Decree, the Secretary of Justice shall organize the administrative structure of the Administration and the other agencies created herein. During said period, he shall also determine the staffing patterns of the regional, provincial and city probation offices with the end in view of achieving maximum efficiency and economy in the operations of the probation system.

Section 27. *Field Assistants, Subordinate Personnel.* – Regional, Provincial or City Probation Officers shall be assisted by such field assistants and subordinate personnel as may be necessary to enable them to carry out their duties effectively. ***(as amended by RA No 10707, November 26, 2015)***

Section 28. *Volunteer Probation Assistants (VPAs).* — To assist the Chief Probation and Parole Officers in the supervised treatment program of the probationers, the Probation Administrator may appoint citizens of good repute and probity, who have the willingness, aptitude, and capability to act as VPAs.

VPAs shall not receive any regular compensation except for reasonable transportation and meal allowances, as may be determined by the Probation Administrator, for services rendered as VPAs.

They shall hold office for a two (2)-year term which may be renewed or recalled anytime for a just cause. Their functions, qualifications, continuance in office and maximum case loads shall be further prescribed under the implementing rules and regulations of this Act.

There shall be a reasonable number of VPAs in every regional, provincial, and city probation office. In order to strengthen the functional relationship of VPAs and the Probation Administrator, the latter shall encourage and support the former to organize themselves in the national, regional, provincial, and city levels for effective utilization, coordination, and sustainability of the volunteer program. ***(as amended by RA No 10707, November 26, 2015)***

Section 29. *Violation of Confidential Nature of Probation Records.* The penalty of imprisonment ranging from six months and one day to six years and a fine ranging from hundred to six thousand pesos shall be imposed upon any person who violates Section 17 hereof.

Section 30. *Appropriations.* There is hereby authorized the appropriation of the sum of Six Million Five Hundred Thousand Pesos or so much as may be necessary, out of any funds in the National Treasury not otherwise appropriated, to carry out the purposes of this Decree. Thereafter, the amount of at least Ten Million Five Hundred Thousand Pesos or so much as may be necessary shall be included in the annual appropriations of the national government.

Section 31. *Repealing Clause.* All provisions of existing laws, orders and regulations contrary to or inconsistent with this Decree are hereby repealed or modified accordingly.

Section 32. *Separability of Provisions.* If any part, section or provision of this Decree shall be held invalid or unconstitutional, no other parts, sections or provisions hereof shall be affected thereby.

Section 33. *Effectivity.* This Decree shall take effect upon its approval: Provided, However, That the application of its substantive provisions concerning the grant of probation shall only take effect on January 3, 1978. ***(as amended by PD No 1257)***

DONE in the City of Manila, this 24th day of July in the year of Our Lord, nineteen hundred and seventy-six.

RA No 9346 | **Prohibiting the Death Penalty**

Republic Act No. 9346 **June 24, 2006**

AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The imposition of the penalty of death is hereby prohibited. Accordingly, Republic Act No. Eight Thousand One Hundred Seventy-Seven (R.A. No. 8177), otherwise known as the Act Designating Death by Lethal Injection is hereby repealed. Republic Act No. Seven Thousand Six Hundred Fifty-Nine (R.A. No. 7659), otherwise known as the Death Penalty Law, and all other laws, executive orders and decrees, insofar as they impose the death penalty are hereby repealed or amended accordingly.

SEC. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

SEC. 3. Person convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be

eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

SEC. 4. The Board of Pardons and Parole shall cause the publication at least one a week for three consecutive weeks in a newspaper of general circulation of the names of persons convicted of offenses punished with *reclusion perpetua* or life imprisonment by reason of this Act who are being considered or recommend for commutation or pardon; *Provided, however*, That nothing herein shall limit the power of the President to grant executive clemency under Section 19, Article VII of the Constitutions.

SEC. 5. This Act shall take effect immediately after its publication in two national newspapers of general circulation.

RA No 9344 | **Juvenile Justice Welfare Act of 2006**

Republic Act No. 9344 as amended by Republic Act No. 10630

AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE JUSTICE AND WELFARE SYSTEM, CREATING THE JUVENILE JUSTICE AND WELFARE COUNCIL UNDER THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

TITLE I GOVERNING PRINCIPLES

CHAPTER 1 TITLE, POLICY AND DEFINITION OF TERMS

Section 1. ***Short Title and Scope.*** - This Act shall be known as the **"Juvenile Justice and Welfare Act of 2006."**It shall cover the different stages involving children at risk and children in conflict with the law from prevention to rehabilitation and reintegration.

SEC. 2. ***Declaration of State Policy.*** - The following State policies shall be observed at all times:

(a) The State recognizes the vital role of children and youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

(b) The State shall protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those to which the Philippines is a party. Proceedings before any authority shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express himself/herself freely. The participation of children in the program and policy formulation and implementation related to juvenile justice and welfare shall be ensured by the concerned government agency.

(c) The State likewise recognizes the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty and exploitation, and other conditions prejudicial to their development.

(d) Pursuant to Article 40 of the United Nations Convention on the Rights of the Child, the State recognizes the right of every child alleged as, accused of, adjudged, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, taking into account the child's age and desirability of promoting his/her reintegration. Whenever appropriate and desirable, the State shall adopt measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. It shall ensure that children are dealt with in a manner appropriate to their well-being by providing for, among others, a variety of disposition measures such as care, guidance and supervision orders, counseling, probation, foster care, education and vocational training programs and other alternatives to institutional care.

(e) The administration of the juvenile justice and welfare system shall take into consideration the cultural and religious perspectives of the Filipino people, particularly the indigenous peoples and the Muslims, consistent with the protection of the rights of children belonging to these communities.

(f) The State shall apply the principles of restorative justice in all its laws, policies and programs applicable to children in conflict with the law.

SEC. 3. ***Liberal Construction of this Act.*** - In case of doubt, the interpretation of any of the provisions of this Act, including its implementing rules and regulations (IRRs), shall be construed liberally in favor of the child in conflict with the law.

SEC. 4. ***Definition of Terms.*** - The following terms as used in this Act shall be defined as follows:

(a) "Bail" refers to the security given for the release of the person in custody of the law, furnished by him/her or a bondsman, to guarantee his/her appearance before any court. Bail may be given in the form of corporate security, property bond, cash deposit, or recognizance.

(b) "Best Interest of the Child" refers to the totality of the circumstances and conditions which are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development. It also means the least detrimental available alternative for safeguarding the growth and development of the child.

(e) "Child" refers to a person under the age of eighteen (18) years.

(d) "Child at Risk" refers to a child who is vulnerable to and at the risk of committing criminal offenses because of personal, family and social circumstances, such as, but not limited to, the following:

(1) being abused by any person through sexual, physical, psychological, mental, economic or any other means and the parents or guardian refuse, are unwilling, or unable to provide protection for the child;

(2) being exploited including sexually or economically;

(3) being abandoned or neglected, and after diligent search and inquiry, the parent or guardian cannot be found;

(4) coming from a dysfunctional or broken family or without a parent or guardian;

(5) being out of school;

(6) being a streetchild;

(7) being a member of a gang;

(8) living in a community with a high level of criminality or drug abuse; and

(9) living in situations of armed conflict.

(e) "Child in Conflict with the Law" refers to a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws.

(f) "Community-based Programs" refers to the programs provided in a community setting developed for purposes of intervention and diversion, as well as rehabilitation of the child in conflict with the law, for reintegration into his/her family and/or community.

(g) "Court" refers to a family court or, in places where there are no family courts, any regional trial court.

(h) "Deprivation of Liberty" refers to any form of detention or imprisonment, or to the placement of a child in conflict with the law in a public or private custodial setting, from

which the child in conflict with the law is not permitted to leave at will by order of any judicial or administrative authority.

(i) "Diversion" refers to an alternative, child-appropriate process of determining the responsibility and treatment of a child in conflict with the law on the basis of his/her social, cultural, economic, psychological or educational background without resorting to formal court proceedings.

(j) "Diversion Program" refers to the program that the child in conflict with the law is required to undergo after he/she is found responsible for an offense without resorting to formal court proceedings.

(k) "Initial Contact With-the Child" refers to the apprehension or taking into custody of a child in conflict with the law by law enforcement officers or private citizens. It includes the time when the child alleged to be in conflict with the law receives a subpoena under Section 3(b) of Rule 112 of the Revised Rules of Criminal Procedure or summons under Section 6(a) or Section 9(b) of the same Rule in cases that do not require preliminary investigation or where there is no necessity to place the child alleged to be in conflict with the law under immediate custody.

(l) "Intervention" refers to a series of activities which are designed to address issues that caused the child to commit an offense. It may take the form of an individualized treatment program which may include counseling, skills training, education, and other activities that will enhance his/her psychological, emotional and psycho-social well-being.

(m) "Juvenile Justice and Welfare System" refers to a system dealing with children at risk and children in conflict with the law, which provides child-appropriate proceedings, including programs and services for prevention, diversion, rehabilitation, re-integration and aftercare to ensure their normal growth and development.

(n) "Law Enforcement Officer" refers to the person in authority or his/her agent as defined in Article 152 of the Revised Penal Code, including a barangay tanod.

(0) "Offense" refers to any act or omission whether punishable under special laws or the Revised Penal Code, as amended.

(p) "Recognizance" refers to an undertaking in lieu of a bond assumed by a parent or custodian who shall be responsible for the appearance in court of the child in conflict with the law, when required.

(q) "Restorative Justice" refers to a principle which requires a process of resolving conflicts with the maximum involvement of the victim, the offender and the community. It seeks to obtain reparation for the victim; reconciliation of the offender, the offended and the community; and reassurance to the offender that he/she can be reintegrated into society. It also enhances public safety by activating the offender, the victim and the community in prevention strategies.

(r) "Status Offenses" refers to offenses which discriminate only against a child, while an adult does not suffer any penalty for committing similar acts. These shall include curfew violations; truancy, parental disobedience and the like.

(s) 'Bahay Pag-asa' – refers to a 24-hour child-caring institution established, funded and managed by local government units (LGUs) and licensed and/or accredited nongovernment organizations (NGOs) providing short-term residential care for children in conflict with the law who are above fifteen (15) but below eighteen (18) years of age who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction.

Part of the features of a 'Bahay Pag-asa' is an intensive juvenile intervention and support center. This will cater to children in conflict with the law in accordance with Sections 20, 20-A and 20-B hereof.

A multi-disciplinary team composed of a social worker, a psychologist/mental health professional, a medical doctor, an educational/guidance counselor and a Barangay Council for the Protection of Children (BCPC) member shall operate the 'Bahay Pag-asa'. The team will work on the individualized intervention plan with the child and the child's family. ***(as amended by RA No 10630)***

(t) "Youth Rehabilitation Center" refers to a 24-hour residential care facility managed by the Department of Social Welfare and Development (DSWD), LGUs, licensed and/or accredited NGOs monitored by the DSWD, which provides care, treatment and rehabilitation services for children in conflict with the law. Rehabilitation services are provided under the guidance of a trained staff where residents are cared for under a structured therapeutic environment with the end view of reintegrating them into their families and communities as socially functioning individuals. Physical mobility of residents of said centers may be restricted pending court disposition of the charges against them.

(u) "Victimless Crimes" refers to offenses where there is no private offended party.

CHAPTER 2 PRINCIPLES IN THE ADMINISTRATION OF JUVENILE JUSTICE AND WELFARE

SEC. 5. ***Rights of the Child in Conflict with the Law.*** - Every child in conflict with the law shall have the following rights, including but not limited to:

(a) the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;

(b) the right not to be imposed a sentence of capital punishment or life imprisonment, without the possibility of release;

(c) the right not to be deprived, unlawfully or arbitrarily, of his/her liberty; detention or imprisonment being a disposition of last resort, and which shall be for the shortest appropriate period of time;

(d) the right to be treated with humanity and respect, for the inherent dignity of the person, and in a manner which takes into account the needs of a person of his/her age. In particular, a child deprived of liberty shall be separated from adult offenders at all times. No child shall be detained together with adult offenders. He/She shall be conveyed separately to or from court. He/She shall await hearing of his/her own case in a separate holding area. A child in conflict with the law shall have the right to maintain contact with his/her family through correspondence and visits, save in exceptional circumstances;

(e) the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his/her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on such action;

(f) the right to bail and recognizance, in appropriate cases;

(g) the right to testify as a witness in hid/her own behalf under the rule on examination of a child witness;

(h) the right to have his/her privacy respected fully at all stages of the proceedings;

(i) the right to diversion if he/she is qualified and voluntarily avails of the same;

(j) the right to be imposed a judgment in proportion to the gravity of the offense where his/her best interest, the rights of the victim and the needs of society are all taken into consideration by the court, under the principle of restorative justice;

(k) the right to have restrictions on his/her personal liberty limited to the minimum, and where discretion is given by law to the judge to determine whether to impose fine or imprisonment, the imposition of fine being preferred as the more appropriate penalty;

(l) in general, the right to automatic suspension of sentence;

(m) the right to probation as an alternative to imprisonment, if qualified under the Probation Law;

(n) the right to be free from liability for perjury, concealment or misrepresentation; and

(o) other rights as provided for under existing laws, rules and regulations.

The State further adopts the provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice or "Beijing Rules", United Nations Guidelines for the Prevention of Juvenile Delinquency or the "Riyadh Guidelines", and the United Nations Rules for the Protection of Juveniles Deprived of Liberty.

SEC. 6. ***Minimum Age of Criminal Responsibility.*** - A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

A child is deemed to be fifteen (15) years of age on the day of the fifteenth anniversary of his/her birthdate.

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws. ***(as amended by RA No 10630)***

SEC. 7. ***Determination of Age.*** - The child in conflict with the law shall enjoy the presumption of minority. He/She shall enjoy all the rights of a child in conflict with the law until he/she is proven to be eighteen (18) years old or older. The age of a child may be determined from the child's birth certificate, baptismal certificate or any other pertinent documents. In the absence of these documents, age may be based on information from the child himself/herself, testimonies of other persons, the physical appearance of the child and other relevant evidence. In case of doubt as to the age of the child, it shall be resolved in his/her favor.

Any person contesting the age of the child in conflict with the law prior to the filing of the information in any appropriate court may file a case in a summary proceeding for the determination of age before the Family Court which shall decide the case within twenty-four (24) hours from receipt of the appropriate pleadings of all interested parties.

If a case has been filed against the child in conflict with the law and is pending in the appropriate court, the person shall file a motion to determine the age of the child in the same court where the case is pending. Pending hearing on the said motion, proceedings on the main case shall be suspended.

In all proceedings, law enforcement officers, prosecutors, judges and other government officials concerned shall exert all efforts at determining the age of the child in conflict with the law.

TITLE II STRUCTURES IN THE ADMINISTRATION OF JUVENILE JUSTICE AND WELFARE

SEC. 8. ***Juvenile Justice and Welfare Council (JJWC).*** - A Juvenile Justice and Welfare Council (JJWC) is hereby created and attached to the Department of Social Welfare and Development and placed under its administrative supervision. The JJWC shall be chaired by an Undersecretary of the Department of Social Welfare and Development. It shall ensure the effective implementation of this Act and coordination among the following agencies:

(a) Department of Justice (DOJ);

(b) Council for the Welfare of Children (CWC);

(c) Department of Education (DepED);

(d) Department of the Interior and Local Government (DILG);

(e) Public Attorney's Office (PAO);

(f) Bureau of Corrections (BUCOR);

(g) Parole and Probation Administration (PPA);

(h) National Bureau of Investigation (NBI);

(i) Philippine National Police (PNP);

(j) Bureau of Jail Management and Penology (BJMP);

(k) Commission on Human Rights (CHR);

(l) Technical Education and Skills Development Authority (TESDA);

(m) National Youth Commission (NYC); and

(n) Other institutions focused on juvenile justice and intervention programs.

The JJWC shall be composed of representatives, whose ranks shall not be lower than director, to be designated by the concerned heads of the following departments or agencies and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations:

(1) Department of Justice (DOJ);

(2) Department of Social Welfare and Development (DSWD);

(3) Council for the Welfare of Children (CWC);

(4) Department of Education (DepED);

(5) Department of the Interior and Local Government (DILG);

(6) Commission on Human Rights (CHR);

(7) National Youth Commission (NYC);

(8) Two (2) representatives from NGOs, to be designated by the Secretary of Social Welfare and Development, to be selected based on the criteria established by the Council;

(9) Department of Health (DOH); and

(10) One (1) representative each from the League of Provinces, League of Cities, League of Municipalities and League of Barangays.

There shall be a Regional Juvenile Justice and Welfare Committee (RJJWC) in each region. The RJJWCs will be under the administration and supervision of the JJWC. The RJJWC shall be chaired by the director of the regional office of the DSWD. It shall ensure the effective implementation of this Act at the regional and LGU levels and the coordination among its member agencies.

The RJJWC will be composed of permanent representatives who shall have a rank not lower than an assistant regional director or its equivalent to be designated by the concerned department heads from the following agencies and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations:

(i) Department of Justice (DOJ);

(ii) Department of Social Welfare and Development (DSWD);

(iii) Department of Education (DepED);

(iv) Department of the Interior and Local Government (DILG);

(v) Commission on Human Rights (CHR);

(vi) Department of Health (DOH);

(vii) Two (2) representatives from NGOs operating within the region selected by the RJJWC based on the criteria established by the JJWC;

(viii) One (1) sectoral representative from the children or youth sector within the region; and

(ix) One (1) representative from the League of Provinces/ Cities/ Municipalities/ Barangays of the Philippines.

The JJWC shall convene within fifteen (15) days from the effectivity of this Act. The Secretary of Social Welfare and Development shall determine the organizational structure and staffing pattern of the JJWC national secretariat and the RJJWC secretariat.

In the implementation of this Act, the JJWC shall consult with the various leagues of local government officials.

The JJWC shall coordinate with the Office of the Court Administrator and the Philippine Judicial Academy to ensure the realization of its mandate and the proper discharge of its duties and functions, as herein provided. ***(as amended by RA No 10630)***

SEC. 9. *Duties and Functions of the JJWC.* - The JJWC shall have the following duties and functions:

(a) To oversee the implementation of this Act;

(b) To advise the President on all matters and policies relating to juvenile justice and welfare;

(c) To assist the concerned agencies in the review and redrafting of existing policies/regulations or in the formulation of new ones in line with the provisions of this Act;

(d) To periodically develop a comprehensive 3 to 5-year national juvenile intervention program, with the participation of government agencies concerned, NGOs and youth organizations;

(e) To coordinate the implementation of the juvenile intervention programs and activities by national government agencies and other activities which may have an important bearing on the success of the entire national juvenile intervention program. All programs relating to juvenile justice and welfare shall be adopted in consultation with the JJWC;

(f) To consult with the various leagues of local government officials in the formulation and recommendation of policies and strategies for the prevention of juvenile delinquency and the promotion of juvenile justice and welfare;

(g) To formulate and recommend policies and strategies in consultation with children for the prevention of juvenile delinquency and the administration of justice, as well as for the treatment and rehabilitation of the children in conflict with the law;

(h) To collect relevant information and conduct continuing research and support evaluations and studies on all matters relating to juvenile justice and welfare, such as, but not limited to:

(1) The performance and results achieved by juvenile intervention programs and by activities of the local government units and other government agencies;

(2) The periodic trends, problems and causes of juvenile delinquency and crimes; and

(3) The particular needs of children in conflict with the law in custody.

The data gathered shall be used by the JJWC in the improvement of the administration of juvenile justice and welfare system.

The JJWC shall submit an annual report to Congress on the implementation of the provisions of this Act.

The JJWC shall set up a mechanism to ensure that children are involved in research and policy development.

(i) Through duly designated persons and with the assistance of the agencies provided in the preceding section, to conduct regular inspections in detention and rehabilitation facilities and to undertake spot inspections on their own initiative in order to check compliance with the standards provided herein and to make the necessary recommendations to appropriate agencies;

(j) To initiate and coordinate the conduct of trainings for the personnel of the agencies involved in the administration of the juvenile justice and welfare system and the juvenile intervention program;

(k) To submit an annual report to the President on the implementation of this Act; and

(l) To perform such other functions as may be necessary to implement the provisions of this Act.

(as amended by RA No 10630)

SEC. 9-A. *Duties and Functions of the RJJWC.* – The RJJWC shall have the following duties and functions:

(a) To oversee and ensure the effective implementation of this Act at the regional level and at the level of the LGUs;

(b) To assist the concerned agencies in the implementation and in compliance with the JJWC's adopted policies/regulations or provide substantial inputs to the JJWC in the formulation of new ones in line with the provisions of this Act;

(c) To assist in the development of the comprehensive 3 to 5-year local juvenile intervention program, with the participation of concerned LGUs, NGOs and youth organizations within the region and monitor its implementation;

(d) To coordinate the implementation of the juvenile intervention programs and activities by national government agencies and other activities within the region;

(e) To oversee the programs and operation of the intensive juvenile intervention and support center established within the region;

(f) To collect relevant regional information and conduct continuing research and support evaluations and studies on all matters relating to juvenile justice and welfare within the region, such as, but not limited to:

(1) Performance and results achieved by juvenile intervention programs and by activities of the LGUs and other government agencies within the region;

(2) The periodic trends, problems and causes of juvenile delinquency and crimes from the LGU level to the regional level; and

(3) The particular needs of children in conflict with the law in custody within their regional jurisdiction.

The data gathered shall be forwarded by the RJJWC to the JJWC on an annual basis and as may be deemed necessary by the JJWC.

(g) Through duly designated persons and with the assistance of the agencies provided in the preceding section, to conduct regular inspections in detention and rehabilitation facilities within the region and to undertake spot inspections on their own initiative in order to check compliance with the standards provided herein and to make the necessary reports and recommendations to appropriate agencies and to the JJWC;

(h) To initiate and coordinate the conduct of trainings for the personnel of the agencies involved in the administration of the juvenile justice and welfare system and the juvenile intervention program within the region;

(i) To submit an annual report to the JJWC on the implementation of this Act; and

(j) To perform such other functions as may be determined by the JJWC to implement the provisions of this Act.

(as created by RA No 10630)

SEC. 10. *Policies and Procedures on Juvenile Justice and Welfare.* - All government agencies enumerated in Section 8 shall, with the assistance of the JJWC and within one (1) year from the effectivity of this Act, draft policies and procedures consistent with the standards set in the law. These policies and procedures shall be modified accordingly in consultation with the JJWC upon the completion of the national juvenile intervention program as provided under Section 9 (d).

SEC. 11. *Child Rights Center (CRC).* - The existing Child Rights Center of the Commission on Human Rights shall ensure that the status, rights and interests of children are upheld in accordance with the Constitution and international instruments on human rights. The CHR shall strengthen the monitoring of government compliance of all treaty obligations, including the timely and regular submission of reports before the treaty bodies, as well as the implementation and dissemination of recommendations and conclusions by government agencies as well as NGOs and civil society.

TITLE III PREVENTION OF JUVENILE DELINQUENCY

CHAPTER 1 THE ROLE OF THE DIFFERENT SECTORS

SEC. 12. *The Family.* - The family shall be responsible for the primary nurturing and rearing of children which is critical in delinquency prevention. As far as practicable and in accordance with the procedures of this Act, a child in conflict with the law shall be maintained in his/her family.

SEC. 13. *The Educational System.* - Educational institutions shall work together with families, community organizations and agencies in the prevention of juvenile delinquency and in the rehabilitation and reintegration of child in conflict with the law. Schools shall provide adequate, necessary and individualized educational schemes for children manifesting difficult behavior and children in conflict with the law. In cases where children in conflict with the law are taken into custody or detained in rehabilitation centers, they should be provided the opportunity to continue learning under an alternative learning system with basic literacy program or non-formal education accreditation equivalency system.

SEC. 14. *The Role of the Mass Media.* - The mass media shall play an active role in the promotion of child rights, and delinquency prevention by relaying consistent messages through a balanced approach. Media practitioners shall, therefore, have the duty to maintain the highest critical and professional standards in reporting and covering cases of children in conflict with the law. In all publicity concerning children, the best interest of the child should be the primordial and paramount concern. Any undue, inappropriate and sensationalized publicity of any case involving a child in conflict with the law is hereby declared a violation of the child's rights.

SEC. 15. *Establishment and Strengthening of Local Councils for the Protection of Children.* - Local Councils for the Protection of Children (LCPC) shall be established in all levels of local government, and where they have already been established, they shall be strengthened within one (1) year from the effectivity of this Act. Membership in the LCPC shall be chosen from among the responsible members of the community, including a representative from the youth sector, as well as representatives from government and private agencies concerned with the welfare of children.

The local council shall serve as the primary agency to coordinate with and assist the LGU concerned for the adoption of a comprehensive plan on delinquency prevention, and to oversee its proper implementation.

One percent (1%) of the internal revenue allotment of barangays, municipalities and cities shall be allocated for the strengthening and implementation of the programs of the LCPC: Provided, That the disbursement of the fund shall be made by the LGU concerned.

SEC. 16. *Appointment of Local Social Welfare and Development Officer.* - All LGUs shall appoint a duly licensed social worker as its local social welfare and development officer tasked to assist children in conflict with the law.

SEC. 17. *The Sangguniang Kabataan.* - The Sangguniang Kabataan (SK) shall coordinate with the LCPC in the formulation and implementation of juvenile intervention and diversion programs in the community.

CHAPTER 2 COMPREHENSIVE JUVENILE INTERVENTION PROGRAM

SEC. 18. *Development of a Comprehensive Juvenile Intervention Program.* - A Comprehensive juvenile intervention program covering at least a 3-year period shall be instituted in LGUs from the barangay to the provincial level.

The LGUs shall set aside an amount necessary to implement their respective juvenile intervention programs in their annual budget.

The LGUs, in coordination with the LCPC, shall call on all sectors concerned, particularly the child-focused institutions, NGOs, people's organizations, educational institutions and government agencies involved in delinquency prevention to participate in the planning process and implementation of juvenile intervention programs. Such programs shall be implemented consistent with the national program formulated and designed by the JJWC. The implementation of the comprehensive juvenile intervention program shall be reviewed and assessed annually by the LGUs in coordination with the LCPC. Results of the assessment shall be submitted by the provincial and city governments to the JJWC not later than March 30 of every year.

SEC. 19. *Community-based Programs on Juvenile Justice and Welfare.* - Community-based programs on juvenile justice and welfare shall be instituted by the LGUs through the LCPC, school, youth organizations and other concerned agencies. The LGUs shall provide community-based services which respond to the special needs, problems, interests and concerns of children and which offer appropriate counseling and guidance to them and their families. These programs shall consist of three levels:

(a) Primary intervention includes general measures to promote social justice and equal opportunity, which tackle perceived root causes of offending;

(b) Secondary intervention includes measures to assist children at risk; and

(c) Tertiary intervention includes measures to avoid unnecessary contact with the formal justice system and other measures to prevent re-offending.

TITLE IV TREATMENT OF CHILDREN BELOW THE AGE OF CRIMINAL RESPONSIBILITY

SEC. 20. *Children Below the Age of Criminal Responsibility.* - If it has been determined that the child taken into custody is fifteen (15) years old or below, the authority which will have an initial contact with the child, in consultation with the local social welfare and development officer, has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative. The child shall be subjected to a community-based intervention program supervised by the local social welfare and development officer, unless the best interest of the child requires the referral of the child to a youth care facility or 'Bahay Pag-asa' managed by LGUs or licensed and/or accredited NGOs monitored by the DSWD.

The local social welfare and development officer shall determine the appropriate programs for the child who has been released, in consultation with the child and the person having custody over the child. If the parents, guardians or nearest relatives cannot be located, or if they refuse to take custody, the child may be released to any of the following:

(a) A duly registered nongovernmental or religious organization;

(b) A barangay official or a member of the Barangay Council for the Protection of Children (BCPC);

(c) A local social welfare and development officer; or, when and where appropriate, the DSWD.

If the child has been found by the local social welfare and development officer to be dependent, abandoned, neglected or abused by his/her parents and the best interest of the child requires that he/she be placed in a youth care facility or 'Bahay Pag-asa', the child's parents or guardians shall execute a written authorization for the voluntary commitment of the child: *Provided*, That if the child has no parents or guardians or if they refuse or fail to execute the written authorization for voluntary commitment, the proper petition for involuntary commitment shall be immediately filed by the DSWD or the Local Social Welfare and Development Office (LSWDO) pursuant to Presidential Decree No. 603, as amended, otherwise known as 'The Child and Youth Welfare Code' and the Supreme Court rule on commitment of children: *Provided, further*, That the minimum age for children committed to a youth care facility or 'Bahay Pag-asa' shall be twelve (12) years old. ***(as amended by RA No 10630)***

SEC. 20-A. ***Serious Crimes Committed by Children Who Are Exempt From Criminal Responsibility.*** – A child who is above twelve (12) years of age up to fifteen (15) years of age and who commits parricide, murder, infanticide, kidnapping and serious illegal detention where the victim is killed or raped, robbery, with homicide or rape, destructive arson, rape, or carnapping where the driver or occupant is killed or raped or offenses under Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002) punishable by more than twelve (12) years of imprisonment, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall be mandatorily placed in a special facility within the youth care faculty or 'Bahay Pag-asa' called the Intensive Juvenile Intervention and Support Center (IJISC).

In accordance with existing laws, rules, procedures and guidelines, the proper petition for involuntary commitment and placement under the IJISC shall be filed by the local social welfare and development officer of the LGU where the offense was committed, or by the DSWD social worker in the local social welfare and development officer's absence, within twenty-four (24) hours from the time of the receipt of a report on the alleged commission of said child. The court, where the petition for involuntary commitment has been filed shall decide on the petition within seventy-two (72) hours from the time the said petition has been filed by the DSWD/LSWDO. The court will determine the initial period of placement of the child within the IJISC which shall not be less than one (1) year. The multi-disciplinary team of the IJISC will submit to the court a case study and progress report, to include a psychiatric evaluation report and recommend the reintegration of the child to his/her family or the extension of the placement under the IJISC. The multi-disciplinary team will also submit a report to the court on the services extended to the parents and family of the child and the compliance of the parents in the intervention program. The court will decide whether the child has successfully completed the center-based intervention program and is already prepared to be reintegrated with his/her family or if there is a need for the continuation of the center-based rehabilitation of the child. The court will determine the next period of assessment or hearing on the commitment of the child. ***(as created by RA No 10630)***

SEC. 20-B. ***Repetition of Offenses.*** **–** A child who is above twelve (12) years of age up to fifteen (15) years of age and who commits an offense for the second time or oftener: *Provided,* That the child was previously subjected to a community-based intervention program, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall undergo an intensive intervention program supervised by the local social welfare and development officer: *Provided, further,* That, if the best interest of the child requires that he/she be placed in a youth care facility or 'Bahay Pag-asa', the child's parents or guardians shall execute a written authorization for the voluntary commitment of the child: *Provided, finally,* That if the child has no parents or guardians or if they refuse or fail to execute the written authorization for voluntary commitment, the proper petition for involuntary commitment shall be immediately filed by the DSWD or the LSWDO pursuant to Presidential Decree No. 603, as amended. ***(as created by RA No 10630)***

SEC. 20-C. ***Exploitation of Children for Commission of Crimes.*** – Any person who, in the commission of a crime, makes use, takes advantage of, or profits from the use of children, including any person who abuses his/her authority over the child or who, with abuse of confidence, takes advantage of the vulnerabilities of the child and shall induce, threaten or instigate the commission of the crime, shall be imposed the penalty prescribed by law for the crime committed in its maximum period. ***(as created by RA No 10630)***

SEC. 20-D. ***Joint Parental Responsibility.*** – Based on the recommendation of the multi-disciplinary team of the IJISC, the LSWDO or the DSWD, the court may require the parents of a child in conflict with the law to undergo counseling or any other intervention that, in the opinion of the court, would advance the welfare and best interest of the child.

As used in this Act, 'parents' shall mean any of the following:

(a) Biological parents of the child; or

(b) Adoptive parents of the child; or

(c) Individuals who have custody of the child.

A court exercising jurisdiction over a child in conflict with the law may require the attendance of one or both parents of the child at the place where the proceedings are to be conducted.

The parents shall be liable for damages unless they prove, to the satisfaction of the court, that they were exercising reasonable supervision over the child at the time the child committed the offense and exerted reasonable effort and utmost diligence to prevent or discourage the child from committing another offense. ***(as created by RA No 10630)***

SEC. 20-E. ***Assistance to Victims of Offenses Committed by Children.*** – The victim of the offense committed by a child and the victim's family shall be provided the appropriate assistance and psychological intervention by the LSWDO, the DSWD and other concerned agencies. ***(as created by RA No 10630)***

TITLE V JUVENILE JUSTICE AND WELFARE SYSTEM

CHAPTER I INITIAL CONTACT WITH THE CHILD

SEC. 21. ***Procedure for Taking the Child into Custody.*** - From the moment a child is taken into custody, the law enforcement officer shall:

(a) Explain to the child in simple language and in a dialect that he/she can understand why he/she is being placed under custody and the offense that he/she allegedly committed;

(b) Inform the child of the reason for such custody and advise the child of his/her constitutional rights in a language or dialect understood by him/her;

(e) Properly identify himself/herself and present proper identification to the child;

(d) Refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the child in conflict with the law;

(e) Avoid displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint,

unless absolutely necessary and only after all other methods of control have been exhausted and have failed;

(f) Refrain from subjecting the child in conflict with the law to greater restraint than is necessary for his/her apprehension;

(g) Avoid violence or unnecessary force;

(h) Determine the age of the child pursuant to Section 7 of this Act;

(i) Immediately but not later than eight (8) hours after apprehension, turn over custody of the child to the Social Welfare and Development Office or other accredited NGOs, and notify the child's apprehension. The social welfare and development officer shall explain to the child and the child's parents/guardians the consequences of the child's act with a view towards counseling and rehabilitation, diversion from the criminal justice system, and reparation, if appropriate;

(j) Take the child immediately to the proper medical and health officer for a thorough physical and mental examination. The examination results shall be kept confidential unless otherwise ordered by the Family Court. Whenever the medical treatment is required, steps shall be immediately undertaken to provide the same;

(k) Ensure that should detention of the child in conflict with the law be necessary, the child shall be secured in quarters separate from that of the opposite sex and adult offenders;

(l) Record the following in the initial investigation:

1. Whether handcuffs or other instruments of restraint were used, and if so, the reason for such;

2. That the parents or guardian of a child, the DSWD, and the PA0 have been informed of the apprehension and the details thereof; and

3. The exhaustion of measures to determine the age of a child and the precise details of the physical and medical examination or the failure to submit a child to such examination; and

(m) Ensure that all statements signed by the child during investigation shall be witnessed by the child's parents or guardian, social worker, or legal counsel in attendance who shall affix his/her signature to the said statement.

A child in conflict with the law shall only be searched by a law enforcement officer of the same gender and shall not be locked up in a detention cell.

SEC. 22. *Duties During Initial Investigation.* - The law enforcement officer shall, in his/her investigation, determine where the case involving the child in conflict with the law should be referred.

The taking of the statement of the child shall be conducted in the presence of the following: (1) child's counsel of choice or in the absence thereof, a lawyer from the Public Attorney's Office; (2) the child's parents, guardian, or nearest relative, as the case may be; and (3) the local social welfare and development officer. In the absence of the child's parents, guardian, or nearest relative, and the local social welfare and development officer, the investigation shall be conducted in the presence of a representative of an NGO, religious group, or member of the BCPC.

The social worker shall conduct an initial assessment to determine the appropriate interventions and whether the child acted with discernment, using the discernment assessment tools developed by the DSWD. The initial assessment shall be without prejudice to the preparation of a more comprehensive case study report. The local social worker shall do either of the following:

(a) Proceed in accordance with Section 20 if the child is fifteen (15) years or below or above fifteen (15) but below eighteen (18) years old, who acted without discernment; and

(b) If the child is above fifteen (15) years old but below eighteen (18) and who acted with discernment, proceed to diversion under the following chapter. ***(as amended by RA No 10630)***

CHAPTER 2 DIVERSION

SEC. 23. *System of Diversion.* - Children in conflict with the law shall undergo diversion programs without undergoing court proceedings subject to the conditions herein provided:

(a) Where the imposable penalty for the crime committee is not more than six (6) years imprisonment, the law enforcement officer or Punong Barangay with the assistance of the local social welfare and development officer or other members of the LCPC shall conduct mediation, family conferencing and conciliation and, where appropriate, adopt indigenous modes of conflict resolution in accordance with the best interest of the child with a view to accomplishing the objectives of restorative justice and the formulation of a diversion program. The child and his/her family shall be present in these activities.

(b) In victimless crimes where the imposable penalty is not more than six (6) years imprisonment, the local social welfare and development officer shall meet with the child and his/her parents or guardians for the development of the appropriate diversion and rehabilitation program, in coordination with the BCPC;

(c) Where the imposable penalty for the crime committed exceeds six (6) years imprisonment, diversion measures may be resorted to only by the court.

SEC. 24. *Stages Where Diversion May be Conducted.* - Diversion may be conducted at the Katarungang Pambarangay, the police investigation or the inquest or preliminary investigation stage and at all levels and phases of the proceedings including judicial level.

SEC. 25. *Conferencing, Mediation and Conciliation.* - A child in conflict with law may undergo conferencing, mediation or conciliation outside the criminal justice system or prior to his entry into said system. A contract of diversion may be entered into during such conferencing, mediation or conciliation proceedings.

SEC. 26. *Contract of Diversion.* - If during the conferencing, mediation or conciliation, the child voluntarily admits the commission of the act, a diversion program shall be developed when appropriate and desirable as determined under Section 30. Such admission shall not be used against the child in any subsequent judicial, quasi-judicial or administrative proceedings. The diversion program shall be effective and binding if accepted by the parties concerned. The acceptance shall be in writing and signed by the parties concerned and the appropriate authorities. The local social welfare and development officer shall supervise the implementation of the diversion program. The diversion proceedings shall be completed within forty-five (45) days. The period of prescription of the offense shall be suspended until the completion of the diversion proceedings but not to exceed forty-five (45) days.

The child shall present himself/herself to the competent authorities that imposed the diversion program at least once a month for reporting and evaluation of the effectiveness of the program.

Failure to comply with the terms and conditions of the contract of diversion, as certified by the local social welfare and development officer, shall give the offended party the option to institute the appropriate legal action.

The period of prescription of the offense shall be suspended during the effectivity of the diversion program, but not exceeding a period of two (2) years.

SEC. 27. *Duty of the Punong Barangay When There is No Diversion.* - If the offense does not fall under Section 23(a) and (b), or if the child, his/her parents or guardian does not consent to a diversion, the Punong Barangay handling the case shall, within three (3) days from determination of the absence of jurisdiction over the case

or termination of the diversion proceedings, as the case may be, forward the records of the case of the child to the law enforcement officer, prosecutor or the appropriate court, as the case may be. Upon the issuance of the corresponding document, certifying to the fact that no agreement has been reached by the parties, the case shall be filed according to the regular process.

SEC. 28. *Duty of the Law Enforcement Officer When There is No Diversion.* - If the offense does not fall under Section 23(a) and (b), or if the child, his/her parents or guardian does not consent to a diversion, the Women and Children Protection Desk of the PNP, or other law enforcement officer handling the case of the child under custody, to the prosecutor or judge concerned for the conduct of inquest and/or preliminary investigation to determine whether or not the child should remain under custody and correspondingly charged in court. The document transmitting said records shall display the word "CHILD" in bold letters.

SEC. 29. *Factors in Determining Diversion Program.* - In determining whether diversion is appropriate and desirable, the following factors shall be taken into consideration:

(a) The nature and circumstances of the offense charged;

(b) The frequency and the severity of the act;

(c) The circumstances of the child (e.g. age, maturity, intelligence, etc.);

(d) The influence of the family and environment on the growth of the child;

(e) The reparation of injury to the victim;

(f) The weight of the evidence against the child;

(g) The safety of the community; and

(h) The best interest of the child.

SEC. 30. *Formulation of the Diversion Program.* - In formulating a diversion program, the individual characteristics and the peculiar circumstances of the child in conflict with the law shall be used to formulate an individualized treatment.

The following factors shall be considered in formulating a diversion program for the child:

(a) The child's feelings of remorse for the offense he/she committed;

(b) The parents' or legal guardians' ability to guide and supervise the child;

(c) The victim's view about the propriety of the measures to be imposed; and

(d) The availability of community-based programs for rehabilitation and reintegration of the child.

SEC. 31. *Kinds of Diversion Programs.* - The diversion program shall include adequate socio-cultural and psychological responses and services for the child. At the different stages where diversion may be resorted to, the following diversion programs may be agreed upon, such as, but not limited to:

(a) At the level of the Punong Barangay:

(1) Restitution of property;

(2) Reparation of the damage caused;

(3) Indemnification for consequential damages;

(4) Written or oral apology;

(5) Care, guidance and supervision orders;

(6) Counseling for the child in conflict with the law and the child's family;

(7)Attendance in trainings, seminars and lectures on:

(i) anger management skills;

(ii) problem solving and/or conflict resolution skills;

(iii) values formation; and

(iv) other skills which will aid the child in dealing with situations which can lead to repetition of the offense;

(8) Participation in available community-based programs, including community service; or

(9) Participation in education, vocation and life skills programs.

(b) At the level of the law enforcement officer and the prosecutor:

(1) Diversion programs specified under paragraphs (a)(1) to (a)(9) herein; and

(2) Confiscation and forfeiture of the proceeds or instruments of the crime;

(c) At the level of the appropriate court:

(1) Diversion programs specified under paragraphs(a)and (b) above;

(2) Written or oral reprimand or citation;

(3) Fine:

(4) Payment of the cost of the proceedings; or

(5) Institutional care and custody.

CHAPTER 3 PROSECUTION

SEC. 32. *Duty of the Prosecutor's Office.* - There shall be a specially trained prosecutor to conduct inquest, preliminary investigation and prosecution of cases involving a child in conflict with the law. If there is an allegation of torture or ill-treatment of a child in conflict with the law during arrest or detention, it shall be the duty of the prosecutor to investigate the same.

SEC. 33. *Preliminary Investigation and Filing of Information.* - The prosecutor shall conduct a preliminary investigation in the following instances: (a) when the child in conflict with the law does not qualify for diversion; (b) when the child, his/her parents or guardian does not agree to diversion as specified in Sections 27 and 28; and (c) when considering the assessment and recommendation of the social worker, the prosecutor determines that diversion is not appropriate for the child in conflict with the law.

Upon serving the *subpoena* and the affidavit of complaint, the prosecutor shall notify the Public Attorney's Office of such service, as well as the personal information, and place of detention of the child in conflict with the law.

Upon determination of probable cause by the prosecutor, the information against the child shall be filed before the Family Court within forty-five (45) days from the start of the preliminary investigation. The information must allege that the child acted with discernment. ***(as amended by RA No 10630)***

CHAPTER 4 COURT PROCEEDINGS

SEC. 34. *Bail.* - For purposes of recommending the amount of bail, the privileged mitigating circumstance of minority shall be considered.

SEC. 35. *Release on Recognizance.* - Where a child is detained, the court shall order:

(a) the release of the minor on recognizance to his/her parents and other suitable person;

(b) the release of the child in conflict with the law on bail; or

(c) the transfer of the minor to a youth detention home/youth rehabilitation center.

The court shall not order the detention of a child in a jail pending trial or hearing of his/her case.

SEC. 36. *Detention of the Child Pending Trial.* - Children detained pending trial may be released on bail or recognizance as provided for under Sections 34 and 35 under this Act. In all other cases and whenever possible, detention pending trial may be replaced by alternative

measures, such as close supervision, intensive care or placement with a family or in an educational setting or home. Institutionalization or detention of the child pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

Whenever detention is necessary, a child will always be detained in youth detention homes established by local governments, pursuant to Section 8 of the Family Courts Act, in the city or municipality where the child resides.

In the absence of a youth detention home, the child in conflict with the law may be committed to the care of the DSWD or a local rehabilitation center recognized by the government in the province, city or municipality within the jurisdiction of the court. The center or agency concerned shall be responsible for the child's appearance in court whenever required.

SEC. 37. *Diversion Measures.* - Where the maximum penalty imposed by law for the offense with which the child in conflict with the law is charged is imprisonment of not more than twelve (12) years, regardless of the fine or fine alone regardless of the amount, and before arraignment of the child in conflict with the law, the court shall determine whether or not diversion is appropriate.

SEC. 38. *Automatic Suspension of Sentence.* - Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: *Provided*, *however*, That suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

SEC. 39. *Discharge of the Child in Conflict with the Law.* - Upon the recommendation of the social worker who has custody of the child, the court shall dismiss the case against the child whose sentence has been suspended and against whom disposition measures have been issued, and shall order the final discharge of the child if it finds that the objective of the disposition measures have been fulfilled.

The discharge of the child in conflict with the law shall not affect the civil liability resulting from the commission of the offense, which shall be enforced in accordance with law.

SEC. 40. *Return of the Child in Conflict with the Law to Court.* - If the court finds that the objective of the disposition measures imposed upon the child in conflict with the law have not been fulfilled, or if the child in conflict with the law has willfully failed to comply with the conditions of his/her disposition or rehabilitation program, the child in conflict with the law shall be brought before the court for execution of judgment.

If said child in conflict with the law has reached eighteen (18) years of age while under suspended sentence, the court shall determine whether to discharge the child in accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.

SEC. 41. *Credit in Service of Sentence.* - The child in conflict with the law shall be credited in the services of his/her sentence with the full time spent in actual commitment and detention under this Act.

SEC. 42. *Probation as an Alternative to Imprisonment.* - The court may, after it shall have convicted and sentenced a child in conflict with the law, and upon application at any time, place the child on probation in lieu of service of his/her sentence taking into account the best interest of the child. For this purpose, Section 4 of Presidential Decree No. 968, otherwise known as the "Probation Law of 1976", is hereby amended accordingly.

CHAPTER 5 CONFIDENTIALITY OF RECORDS AND PROCEEDINGS

SEC. 43. *Confidentiality of Records and Proceedings.* - All records and proceedings involving children in conflict with the law from initial contact until final disposition of the case shall be considered privileged and confidential. The public shall be excluded during the proceedings and the records shall not be disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings for any purpose whatsoever, except to determine if the child in conflict with the law may have his/her sentence suspended or if he/she may be granted probation under the Probation Law, or to enforce the civil liability imposed in the criminal action.

The component authorities shall undertake all measures to protect this confidentiality of proceedings, including non-disclosure of records to the media, maintaining a separate police blotter for cases involving children in conflict with the law and adopting a system of coding to conceal material information which will lead to the child's identity. Records of a child in conflict with the law shall not be used in subsequent proceedings for cases involving the same offender as an adult, except when beneficial for the offender and upon his/her written consent.

A person who has been in conflict with the law as a child shall not be held under any provision of law, to be guilty of perjury or of concealment or misrepresentation by reason of his/her failure to acknowledge the case or recite any fact related thereto in response to any inquiry made to him/her for any purpose.

TITLE VI REHABILITATION AND REINTEGRATION

SEC. 44. *Objective of Rehabilitation and Reintegration.* - The objective of rehabilitation and reintegration of children in conflict with the law is to provide them with interventions, approaches and strategies that will enable them to improve their social functioning with the end goal of reintegration to their families and as productive members of their communities.

SEC. 45. *Court Order Required.* - No child shall be received in any rehabilitation or training facility without a valid order issued by the court after a hearing for the purpose. The details of this order shall be immediately entered in a register exclusively for children in conflict with the law. No child shall be admitted in any facility where there is no such register.

SEC. 46, *Separate Facilities from Adults.* - In all rehabilitation or training facilities, it shall be mandatory that children shall be separated from adults unless they are members of the same family. Under no other circumstance shall a child in conflict with the law be placed in the same confinement as adults.

The rehabilitation, training or confinement area of children in conflict with the law shall provide a home environment where children in conflict with the law can be provided with quality counseling and treatment.

SEC. 47. *Female Children.* - Female children in conflict with the law placed in an institution shall be given special attention as to their personal needs and problems. They shall be handled by female doctors, correction officers and social workers, and shall be accommodated separately from male children in conflict with the law.

SEC. 48. *Gender-Sensitivity Training.* - No personnel of rehabilitation and training facilities shall handle children in conflict with the law without having undergone gender sensitivity training.

SEC. 49. *Establishment of 'Bahay Pag-Asa'.* – Each province and highly-urbanized city (the LGUs) shall be responsible for building, funding and operating a 'Bahay

Pag-asa' within their jurisdiction following the standards that will be set by the DSWD and adopted by the JJWC.

"Every 'Bahay Pag-asa' will have a special facility called the IJISC. This Center will be allocated for children in conflict with the law in accordance with Sections 20, 20-A and 20-B hereof. These children will be required to undergo a more intensive multi-disciplinary intervention program. The JJWC in partnership with, but not limited to, the DSWD, the DOH, the DepED and the DILG, will develop and set the standards for the implementation of the multi-disciplinary intervention program of the IJISC. Upon institutionalization of the IJISC program, the JJWC will continue to monitor and provide technical assistance to the multi-disciplinary teams operating the said centers. ***(as amended by RA No 10630)***

SEC. 50. ***Care and Maintenance of the Child in Conflict with the Law.*** - The expenses for the care and maintenance of a child in conflict with the law under institutional care shall be borne by his/her parents or those persons liable to support him/her: *Provided*, That in case his/her parents or those persons liable to support him/her cannot pay all or part of said expenses, the municipality where the offense was committed shall pay one-third (1/3) of said expenses or part thereof; the province to which the municipality belongs shall pay one-third (1/3) and the remaining one-third (1/3) shall be borne by the national government. Chartered cities shall pay two-thirds (2/3) of said expenses; and in case a chartered city cannot pay said expenses, part of the internal revenue allotments applicable to the unpaid portion shall be withheld and applied to the settlement of said obligations: *Provided*, *further*, That in the event that the child in conflict with the law is not a resident of the municipality/city where the offense was committed, the court, upon its determination, may require the city/municipality where the child in conflict with the law resides to shoulder the cost.

The LGUs expected expenditures on the local juvenile intervention program for children at risk and children in conflict with the law shall be included in the LGUs annual budget. Highly-urbanized cities and provincial governments should include a separate budget for the construction and maintenance of the 'Bahay Pag-asa' including the operation of the IJISC within the 'Bahay Pag-asa'. ***(as amended by RA No 10630)***

SEC. 51. ***Confinement of Convicted Children in Agricultural Camps and other Training Facilities.*** - A child

in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

SEC. 52. ***Rehabilitation of Children in Conflict with the Law.*** - Children in conflict with the law, whose sentences are suspended may, upon order of the court, undergo any or a combination of disposition measures best suited to the rehabilitation and welfare of the child as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

If the community-based rehabilitation is availed of by a child in conflict with the law, he/she shall be released to parents, guardians, relatives or any other responsible person in the community. Under the supervision and guidance of the local social welfare and development officer, and in coordination with his/her parents/guardian, the child in conflict with the law shall participate in community-based programs, which shall include, but not limited to:

(1) Competency and life skills development;

(2) Socio-cultural and recreational activities;

(3) Community volunteer projects;

(4) Leadership training;

(5) Social services;

(6) Homelife services;

(7) Health services; .

(8) Spiritual enrichment; and

(9) Community and family welfare services.

In accordance therewith, the family of the child in conflict with the law shall endeavor to actively participate in the community-based rehabilitation.

Based on the progress of the youth in the community, a final report will be forwarded by the local social welfare and development officer to the court for final disposition of the case.

If the community-based programs are provided as diversion measures under Chapter II, Title V, the programs enumerated above shall be made available to the child in conflict with the law.

SEC. 53. ***Youth Rehabilitation Center.*** - The youth rehabilitation center shall provide 24-hour group care, treatment and rehabilitation services under the guidance of a trained staff where residents are cared for under a structured therapeutic environment with the end view of reintegrating them in their families and communities as socially functioning individuals. A quarterly report shall be submitted by the center to the proper court on the progress of the children in conflict with the law. Based on the progress of the youth in the center, a final report will be forwarded to the court for final disposition of the case. The DSWD shall establish youth rehabilitation centers in each region of the country.

SEC. 54. ***Objectives of Community Based Programs.*** - The objectives of community-based programs are as follows:

(a) Prevent disruption in the education or means of livelihood of the child in conflict with the law in case he/she is studying, working or attending vocational learning institutions;

(b) Prevent separation of the child in conflict with the law from his/her parents/guardians to maintain the support system fostered by their relationship and to create greater awareness of their mutual and reciprocal responsibilities;

(c) Facilitate the rehabilitation and mainstreaming of the child in conflict with the law and encourage community support and involvement; and

(d) Minimize the stigma that attaches to the child in conflict with the law by preventing jail detention.

SEC. 55. ***Criteria of Community-Based Programs.*** - Every LGU shall establish community-based programs that will focus on the rehabilitation and reintegration of the child. All programs shall meet the criteria to be established by the JJWC which shall take into account the purpose of the program, the need for the consent of the child and his/her parents or legal guardians, and the participation of the child-centered agencies whether public or private.

SEC. 56. ***After-Care Support Services for Children in Conflict with the Law.*** - Children in conflict with the law whose cases have been dismissed by the proper court because of good behavior as per recommendation of the DSWD social worker and/or any accredited NGO youth rehabilitation center shall be provided after-care services by the local social welfare and development officer for a period of at least six (6) months. The service includes counseling and other community-based services designed to facilitate social reintegration, prevent re-offending and make the children productive members of the community.

TITLE VII GENERAL PROVISIONS

CHAPTER 1 EXEMPTING PROVISIONS

SEC. *57. Status Offenses.* - Any conduct not considered an offense or not penalized if committed by an adult shall not be considered an offense and shall not be punished if committed by a child. ***(as amended by RA No 10630)***

SEC. 57-A. *Violations of Local Ordinances.* – Ordinances enacted by local governments concerning juvenile status offenses such as, but not limited to, curfew violations, truancy, parental disobedience, anti-smoking and anti-drinking laws, as well as light offenses and misdemeanors against public order or safety such as, but not limited to, disorderly conduct, public scandal, harassment, drunkenness, public intoxication, criminal nuisance, vandalism, gambling, mendicancy, littering, public urination, and trespassing, shall be for the protection of children. No penalty shall be imposed on children for said violations, and they shall instead be brought to their residence or to any barangay official at the barangay hall to be released to the custody of their parents. Appropriate intervention programs shall be provided for in such ordinances. The child shall also be recorded as a 'child at risk' and not as a 'child in conflict with the law'. The ordinance shall also provide for intervention programs, such as counseling, attendance in group activities for children, and for the parents, attendance in parenting education seminars. ***(as created by RA No 10630)***

SEC. *58. Offenses Not Applicable to Children.* - Persons below eighteen (18) years of age shall be exempt from prosecution for the crime of vagrancy and prostitution under Section 202 of the Revised Penal Code, of mendicancy under Presidential Decree No. 1563, and sniffing of rugby under Presidential Decree No. 1619, such prosecution being inconsistent with the United Nations Convention on the Rights of the Child: *Provided*, That said persons shall undergo appropriate counseling and treatment program.

SEC. *59. Exemption from the Application of Death Penalty.* - The provisions of the Revised Penal Code, as amended, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and other special laws notwithstanding, no death penalty shall be imposed upon children in conflict with the law.

CHAPTER 2 PROHIBITED ACTS

SEC. *60. Prohibition Against Labeling and Shaming.* - In the conduct of the proceedings beginning from the initial contact with the child, the competent authorities must refrain from branding or labeling children as young criminals, juvenile delinquents, prostitutes or attaching to them in any manner any other derogatory names. Likewise, no discriminatory remarks and practices shall be allowed particularly with respect to the child's class or ethnic origin.

SEC. *61. Other Prohibited Acts.* - The following and any other similar acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child in conflict with the law and therefore, prohibited:

(a) Employment of threats of whatever kind and nature;

(b) Employment of abusive, coercive and punitive measures such as cursing, beating, stripping, and solitary confinement;

(c) Employment of degrading, inhuman end cruel forms of punishment such as shaving the heads, pouring irritating, corrosive or harmful substances over the body of the child in conflict with the law, or forcing him/her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity; and

(d) Compelling the child to perform involuntary servitude in any and all forms under any and all instances.

CHAPTER 3 PENAL PROVISION

SEC. *62. Violation of the Provisions of this Act or Rules or Regulations in General.* - Any person who violates any provision of this Act or any rule or regulation promulgated in accordance thereof shall, upon conviction for each act or omission, be punished by a fine of not less than Twenty thousand pesos (P20,000.00) but not more than Fifty thousand pesos (P50,000.00) or suffer imprisonment of not less than eight (8) years but not more than ten (10) years, or both such fine and imprisonment at the discretion of the court, unless a higher penalty is provided for in the Revised Penal Code or special laws. If the offender is a public officer or employee, he/she shall, in addition to such fine and/or imprisonment, be held administratively liable and shall suffer the penalty of perpetual absolute disqualification.

CHAPTER 4 APPROPRIATION PROVISION

SEC. 63. *Appropriations.* - The amount necessary to carry out the provisions of this Act shall be charged against the current year's appropriations of the JJWC under the budget of the Department of Justice. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the budget of the DSWD under the annual General Appropriations Act: *Provided,* That the amount of Four hundred million pesos (P400,000,000.00) shall be appropriated for the construction of 'Bahay Pag-asa' rehabilitation centers in provinces or cities with high incidence of children in conflict with the law to be determined and identified by the DSWD and the JJWC on a priority basis: *Provided, further,* That the said amount shall be coursed through the Department of Public Works and Highways (DPWH) for its proper implementation.

The LGUs concerned shall make available, from its own resources or assets, their counterpart share equivalent to the national government contribution of Five million pesos (P5,000,000.00) per rehabilitation center.

In addition, the Council may accept donations, grants and contributions from various sources, in cash or in kind, for purposes relevant to its functions, subject to the usual government accounting and auditing rules and regulations. ***(as created by RA No 10630)***

TITLE VIII TRANSITORY PROVISIONS

SEC. 64. *Children in Conflict with the Law Fifteen (15) Years Old and Below.* - Upon effectivity of this Act, cases of children fifteen (15) years old and below at the time of the commission of the crime shall immediately be dismissed and the child shall be referred to the appropriate local social welfare and development officer. Such officer, upon thorough assessment of the child, shall determine whether to release the child to the custody of his/her parents, or refer the child to prevention programs as provided under this Act. Those with suspended sentences and undergoing rehabilitation at the youth rehabilitation center shall likewise be released, unless it is contrary to the best interest of the child.

SEC. 65. *Children Detained Pending Dial.* - If the child is detained pending trial, the Family Court shall also determine whether or not continued detention is necessary and, if not, determine appropriate alternatives for detention.

If detention is necessary and he/she is detained with adults, the court shall immediately order the transfer of the child to a youth detention home.

SEC. 66. *Inventory of "Locked-up" and Detained Children in Conflict with the Law.* - The PNP, the BJMP and the BUCOR are hereby directed to submit to the JJWC, within ninety (90) days from the effectivity of this

Act, an inventory of all children in conflict with the law under their custody.

SEC. 67. *Children Who Reach the Age of Eighteen (18) Years Pending Diversion and Court Proceedings.* - If a child reaches the age of eighteen (18) years pending diversion and court proceedings, the appropriate diversion authority in consultation with the local social welfare and development officer or the Family Court in consultation with the Social Services and Counseling Division (SSCD) of the Supreme Court, as the case may be, shall determine the appropriate disposition. In case the appropriate court executes the judgment of conviction, and unless the child in conflict the law has already availed of probation under Presidential Decree No. 603 or other similar laws, the child may apply for probation if qualified under the provisions of the Probation Law.

SEC. 68. *Children Who Have Been Convicted and are Serving Sentence.* - Persons who have been convicted and are serving sentence at the time of the effectivity of this Act, and who were below the age of eighteen (18) years at the time the commission of the offense for which they were convicted and are serving sentence, shall likewise benefit from the retroactive application of this Act. They shall be entitled to appropriate dispositions provided under this Act and their sentences shall be adjusted accordingly. They shall be immediately released if they are so qualified under this Act or other applicable law.

TITLE IX FINAL PROVISIONS

SEC. 69. *Rule Making Power.* - The JJWC shall issue the IRRs for the implementation of the provisions of this act within ninety (90) days from the effectivity thereof.

SEC. 70. *Separability Clause.* - If, for any reason, any section or provision of this Act is declared unconstitutional or invalid by the Supreme Court, the other sections or provisions hereof not affected by such declaration shall remain in force and effect.

SEC. 71. *Repealing Clause.* - All existing laws, orders, decrees, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 72. *Effectivity.* - This Act shall take effect after fifteen (15) days from its publication in at least two (2) national newspapers of general circulation.

RA No 75 | Penalty for Acts Impairing Proper Observance of Rights and Privileges of Foreign Diplomatic and Consular Agents

REPUBLIC ACT No. 75

AN ACT TO PENALIZE ACTS WHICH WOULD IMPAIR THE PROPER OBSERVANCE BY THE REPUBLIC AND INHABITANTS OF THE PHILIPPINES OF THE IMMUNITIES, RIGHT, AND PRIVILEGES OF DULY ACCREDITED FOREIGN DIPLOMATIC AND CONSULAR AGENTS IN THE PHILIPPINES

Section 1. Any person who shall falsely assume and take upon himself to act as a diplomatic, consular, or any other official of a foreign government duly accredited as such to the Government of the Republic of the Philippines with intent to defraud such foreign government or the Government of the Philippines, or any person, or in such pretended character shall demand or obtain, or attempt to obtain from person or from said foreign government or the Government of the Philippines, or from any officer thereof, any money, paper, document, or other thing, of value, shall be fined not more than five thousand pesos, or shall be imprisoned for not more than five years, or both, in addition to the penalties that may be imposed under the Revised Penal Code.

Section 2. Any person, other than a diplomatic or consular officer or attaché, who shall act in the Republic of the Philippines as an agent of a foreign government without prior notification to, and registration with, the Secretary of Foreign Affairs shall be fined not more than five thousand pesos, or imprisoned not more than five years, or both, aside from other penalties that may be imposed by law.

Section 3. Any person, who with intent to deceive or mislead, within the jurisdiction of the Republic, wear any naval, military, police, or other official uniform, decoration, or regalia of any foreign State, nation or government with which the Republic of the Philippines is at peace, or any uniform, decoration or regalia so nearly resembling the same as to be calculated to deceive, unless such wearing thereof be authorized by such State, nation, or government, shall upon conviction, be punished by a fine not exceeding two hundred pesos or imprisonment not exceeding six months, or by both such fine and imprisonment.

Section 4. Any writ or process sued out or prosecuted by any person in any court of the Republic of the Philippines, or by any judge or justice, whereby the person of any ambassador or public minister of any foreign State, authorized and received as such by the President, or any domestic or domestic servant of any such ambassador or minister is arrested or imprisoned, or his goods or chattels are distrained, seized, or attached, shall be deemed void, and every person by whom the same is obtained or prosecuted, whether as party or as attorney, and every officer concerned in executing it, shall upon conviction, be punished by imprisonment for not more than three years and a fine of not exceeding two hundred pesos in the discretion of the court.

Section 5. The provisions of section four hereof shall not apply to any case where the person against whom the process is issued is a citizen or inhabitant of the Republic of the Philippines, in the service of an ambassador or a public minister, and the process is founded upon a debt contracted before he entered upon such service; nor shall the said section apply to any case where the person against whom the process is issued is a domestic servant of an ambassador or a public minister, unless the name of the servant has, before the issuing thereof, been registered in the Department of Foreign Affairs, and transmitted by the Secretary of Foreign Affairs to the Chief of Police of the City of Manila, who shall upon receipt thereof post the same in some public place in his office. All persons shall have resort to the list of names so posted in the office of the Chief of Police, and take copies without fee.

Section 6. Any person who assaults, strikes, wounds, imprisons or in any other manner offers violence to the person of an ambassador or a public minister, in violation of the law of nations, shall be imprisoned not more than three years, and fined not exceeding two hundred pesos, in the discretion of the court, in addition to the penalties that may be imposed under the Revised Penal Code.

Section 7. The provisions of this Act shall be applicable only in case where the country of the diplomatic or consular representative adversely affected has provided for similar protection to duly accredited diplomatic or consular representatives of the Republic of the Philippines by prescribing like or similar penalties for like or similar offenses herein contained.

Section 8. This Act shall take effect upon its approval.

Approved: October 21, 1946

PD No 1829 | Obstruction of Justice

PRESIDENTIAL DECREE No. 1829

PENALIZING OBSTRUCTION OF APPREHENSION AND PROSECUTION OF CRIMINAL OFFENDERS

WHEREAS, crime and violence continue to proliferate despite the sustained vigorous efforts of the government to effectively contain them;

WHEREAS, to discourage public indifference or apathy towards the apprehension and prosecution of criminal offenders, it is necessary to penalize acts which obstruct or frustrate or tend to obstruct or frustrate the successful apprehension and prosecution of criminal offenders;

NOW, THEREFORE, I, FERDINAND, E. MARCOS, President of the Philippines, by virtue of the powers vested in me by law do hereby decree and order the following:

Section 1. The penalty of prision correccional in its maximum period, or a fine ranging from 1,000 to 6,000 pesos, or both, shall be imposed upon any person who knowingly or willfully obstructs, impedes, frustrates or delays the apprehension of suspects and the investigation and prosecution of criminal cases by committing any of the following acts:

(a) preventing witnesses from testifying in any criminal proceeding or from reporting the commission of any offense or the identity of any offender/s by means of bribery, misrepresentation, deceit, intimidation, force or threats;

(b) altering, destroying, suppressing or concealing any paper, record, document, or object, with intent to impair its verity, authenticity, legibility, availability, or admissibility as evidence in any investigation of or official proceedings in, criminal cases, or to be used in the investigation of, or official proceedings in, criminal cases;

(c) harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest prosecution and conviction;

(d) publicly using a fictitious name for the purpose of concealing a crime, evading prosecution or the execution of a judgment, or concealing his true name and other personal circumstances for the same purpose or purposes;

(e) delaying the prosecution of criminal cases by obstructing the service of process or court orders or disturbing proceedings in the fiscal's offices, in Tanodbayan, or in the courts;

(f) making, presenting or using any record, document, paper or object with knowledge of its falsity and with intent to affect the course or outcome of the investigation of, or official proceedings in, criminal cases;

(g) soliciting, accepting, or agreeing to accept any benefit in consideration of abstaining from, discounting, or impeding the prosecution of a criminal offender;

(h) threatening directly or indirectly another with the infliction of any wrong upon his person, honor or property or that of any immediate member or members of his family in order to prevent such person from appearing in the investigation of, or official proceedings in, criminal cases, or imposing a condition, whether lawful or unlawful, in order to prevent a person from appearing in the investigation of or in official proceedings in, criminal cases;

(i) giving of false or fabricated information to mislead or prevent the law enforcement agencies from apprehending the offender or from protecting the life or property of the victim; or fabricating information from the data gathered in confidence by investigating authorities for purposes of background information and not for publication and publishing or disseminating the same to mislead the investigator or to the court.

If any of the acts mentioned herein is penalized by any other law with a higher penalty, the higher penalty shall be imposed.

Section 2. If any of the foregoing acts is committed by a public official or employee, he shall in addition to the penalties provided thereunder, suffer perpetual disqualification from holding public office.

Section 3. This Decree shall take effect immediately.

Done in the City of Manila, this 16th day of January, in the year of Our Lord, nineteen hundred and eighty-one.

RA No 7438 | **Custodial Investigation**

Republic Act No. 7438 **April 27, 1992**

AN ACT DEFINING CERTAIN RIGHTS OF PERSON ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING AND INVESTIGATING OFFICERS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled::

Section 1. ***Statement of Policy.*** – It is the policy of the Senate to value the dignity of every human being and guarantee full respect for human rights.

Section 2. ***Rights of Persons Arrested, Detained or Under Custodial Investigation; Duties of Public Officers.***–

(a) Any person arrested detained or under custodial investigation shall at all times be assisted by counsel.

(b) Any public officer or employee, or anyone acting under his order or his place, who arrests, detains or investigates any person for the commission of an offense shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to have competent and independent counsel, preferably of his own choice, who shall at all times be allowed to confer privately with the person arrested, detained or under custodial investigation. If such person cannot afford the services of his own counsel, he must be provided with a competent and independent counsel by the investigating officer.

(c) The custodial investigation report shall be reduced to writing by the investigating officer, provided that before such report is signed, or thumb marked if the person arrested or detained does not know how to read and write, it shall be read and adequately explained to him by his counsel or by the assisting counsel provided by the investigating officer in the language or dialect known to such arrested or detained person, otherwise, such investigation report shall be null and void and of no effect whatsoever.

(d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.

(e) Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel; otherwise the waiver shall be null and void and of no effect.

(f) Any person arrested or detained or under custodial investigation shall be allowed visits by or conferences with any member of his immediate family, or any medical doctor or priest or religious minister chosen by him or by any member of his immediate family or by his counsel, or by any national non-governmental organization duly accredited by the Commission on Human Rights of by any international non-governmental organization duly accredited by the Office of the President. The person's

"immediate family" shall include his or her spouse, fiancé or fiancée, parent or child, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece, and guardian or ward.

As used in this Act, "custodial investigation" shall include the practice of issuing an "invitation" to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the "inviting" officer for any violation of law.

Section 3. *Assisting Counsel.* – Assisting counsel is any lawyer, except those directly affected by the case, those charged with conducting preliminary investigation or those charged with the prosecution of crimes.

The assisting counsel other than the government lawyers shall be entitled to the following fees;

(a) The amount of One hundred fifty pesos (P150.00) if the suspected person is chargeable with light felonies;

(b) The amount of Two hundred fifty pesos (P250.00) if the suspected person is chargeable with less grave or grave felonies;

(c) The amount of Three hundred fifty pesos (P350.00) if the suspected person is chargeable with a capital offense.

The fee for the assisting counsel shall be paid by the city or municipality where the custodial investigation is conducted, provided that if the municipality of city cannot pay such fee, the province comprising such municipality or city shall pay the fee: Provided, That the Municipal or City Treasurer must certify that no funds are available to pay the fees of assisting counsel before the province pays said fees.

In the absence of any lawyer, no custodial investigation shall be conducted and the suspected person can only be detained by the investigating officer in accordance with the provisions of Article 125 of the Revised Penal Code.

Section 4. *Penalty Clause.* – (a) Any arresting public officer or employee, or any investigating officer, who fails to inform any person arrested, detained or under custodial investigation of his right to remain silent and to have competent and independent counsel preferably of his own choice, shall suffer a fine of Six thousand pesos (P6,000.00) or a penalty of imprisonment of not less than eight (8) years but not more than ten (10) years, or both. The penalty of perpetual absolute disqualification shall also be imposed upon the investigating officer who has been previously convicted of a similar offense.

The same penalties shall be imposed upon a public officer or employee, or anyone acting upon orders of such investigating officer or in his place, who fails to provide a competent and independent counsel to a person arrested, detained or under custodial investigation for the commission of an offense if the latter cannot afford the services of his own counsel.

(b) Any person who obstructs, prevents or prohibits any lawyer, any member of the immediate family of a person arrested, detained or under custodial investigation, or any medical doctor or priest or religious minister chosen by him or by any member of his immediate family or by his counsel, from visiting and conferring privately with him, or from examining and treating him, or from ministering to his spiritual needs, at any hour of the day or, in urgent cases, of the night shall suffer the penalty of imprisonment of not less than four (4) years nor more than six (6) years, and a fine of four thousand pesos (P4,000.00).

The provisions of the above Section notwithstanding, any security officer with custodial responsibility over any detainee or prisoner may undertake such reasonable measures as may be necessary to secure his safety and prevent his escape.

Section 5. *Repealing Clause.* – Republic Act No. No. 857, as amended, is hereby repealed. Other laws, presidential decrees, executive orders or rules and regulations, or parts thereof inconsistent with the provisions of this Act are repealed or modified accordingly.

Section 6. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in any daily newspapers of general circulation in the Philippines.

Approved: **April 27, 1992**

SPL | *Related to Crimes Against National Security and the Law of Nations*

Book TWO Title ONE

CA No 616 | Espionage

June 4, 1941

COMMONWEALTH ACT NO. 616

AN ACT TO PUNISH ESPIONAGE AND OTHER OFFENSES AGAINST THE NATIONAL SECURITY

SECTION 1. *Unlawfully obtaining or permitting to be obtained information affecting national defense.* — (a) Whoever, for the purposes of obtaining information respecting the national defense with intent or reason to believe that the information to be obtained is to be used to the injury of the Philippines or of the United States, or to the advantage of any foreign nation, goes upon, enters, flies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, submarine base, coaling station, fort, battery, torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building, office, or other place connected with the national defense, owned or constructed, or in progress of construction by the Philippines or by the United States or under the control of the Philippines or of the United States, or any of its officers or agents, or within the exclusive jurisdiction of the Philippines or of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for the use in time of war are being made, prepared, repaired, or stored, under any contract or agreement with the Philippines or the United States, or with any person on behalf of the Philippines or the United States, or otherwise on behalf of the Philippines or the United States, or any prohibited place within the meaning of section six hereof; or

(b) Whoever, for the purpose aforesaid, and with like intent or reason to believe, copies, takes, makes, or obtains, or attempts, or induces or aids another to copy, take, make, or obtain, any sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or

(c) Whoever, for the purpose aforesaid, receives or obtains or agrees or attempts or induces or aids another to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note of anything connected with the national defense, knowing or having reason to believe, at the time he receives or obtains, or agrees or attempts or induces or aids another to receive or obtain it, that it has been or will be obtained, taken, made, or disposed of by any person contrary to the provisions of this Act; or

(d) Whoever, lawfully or unlawfully having possession of, access to, control over, or being intrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, wilfully communicates or transmits or attempts to communicate or transmit the same to any person not entitled to receive it, or wilfully retains the

same and fails to deliver it on demand to the officer or employee of the Philippines or of the United States entitled to receive it; or

(e) Whoever, being intrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note or information, relating to the national defense, through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of this trust or to be lost, stolen, abstracted, or destroyed, shall be punished by imprisonment for not more than ten years and may, in addition thereto, be fined not more than ten thousand pesos.

SECTION 2. *Unlawful disclosing information affecting national defense*. — (a) Whoever, with the intent or reason to believe that it is to be used to the injury of the Philippines or of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to, or aids or induces another to, communicate, deliver, or transmit to any foreign government, or any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the Philippines or by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or information relating to the national defense, shall be punished by imprisonment for not more than twenty years, if the offense is committed in time of peace, or by death or imprisonment for not more than thirty years, if it is in time of war.

(b) Whoever, in time of war with intent that the same shall be communicated to the enemy, shall collect, record, publish, or communicate, or attempt to elicit any information with respect to the movement, number, description, condition, or disposition of any of the armed forces, ships, aircraft, or war materials of the Philippines or of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any military, naval, or air operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense which might be useful to the enemy, shall be punished by death or by imprisonment for not more than thirty years.

SECTION 3. *Disloyal acts or works in time of peace*. — It shall be unlawful for any person, with intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military, naval, or air forces of the Philippines or of the United States: (a) to advise, counsel, urge, or in any manner cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military, naval, or air forces of the Philippines or of the United States; or (b) to distribute any written or printed matter which advises, counsels, or urges insubordination, disloyalty, mutiny, or refusal of duty by any member of the military, naval, or air forces of the Philippines or of the United States. The violation of this section shall be punished by imprisonment for not more than ten years, or by fine not more than ten thousand pesos, or both.

SECTION 4. *Disloyal acts or words in time of war*. — Whoever, when the Philippines or the United States is at war, shall wilfully make or convey false reports or false statements with the intent to interfere with the operation or success of the military, naval, or air forces of the Philippines or of the United States or to promote the success of its enemies shall wilfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military, naval, or air forces of the Philippines or the United States, or shall wilfully obstruct the recruiting or enlistment service of the Philippines or of the United States, to the injury of the service of the Philippines or of the United States, shall be punished by imprisonment for not more than twenty years, or by a fine of not more than twenty thousand pesos, or both.

SECTION 5. *Conspiracy to violate preceding sections*. —If two or more persons conspire to violate the provisions of sections one, two, three, or four of this Act, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as in said sections provided in the case of the doing of the act the accomplishment of which is the object of such conspiracy.

SECTION 6. *Harboring or concealing violators of the law*. — Whoever harbors or conceals any person who he knows, or has reasonable ground to believe or suspect, has committed, or is about to commit, an offense under this Act, shall be punished by imprisonment of not more than ten years and may, in addition thereto, be fined not more than ten thousand pesos.

SECTION 7. *Designation of prohibited places by proclamation*. — The President of the Philippines in time of war or in case of national emergency may by proclamation designate any place other than those set forth in subsection (a) of section one hereof in which anything for the use of the army, navy, or air forces are being prepared or constructed or stored as a prohibited place for the purpose of this Act: *Provided*, That he shall determine that information with respect thereto would be prejudicial to the national defense.

SECTION 8. *Photographing, etc., defensive installations regulated; penalties*. — Whenever, in the interests of national defense, the President of the Philippines shall define certain vital military, naval, or air installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military, naval, and air installations or equipment without first obtaining permission of the commanding officer of the military, naval, or air post, camp, or station concerned, or higher authority, and promptly submitting the product obtained to such commanding officer or higher authority for censorship or such other action as he may deem necessary. Any person found guilty of a violation of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than two thousand pesos, or both.

SECTION 9. *Photographing, etc., from aircraft*. — Any person who uses or permits or procures the use of an aircraft for the purpose of making a photograph, sketch, picture, drawing, map, or graphical representation of vital military, naval or air installations or equipment, in violation of section eight of this Act, shall be liable to the penalty therein provided.

SECTION 10. *Reproducing, publishing, selling, etc., uncensored copies*. — After the President of the Philippines shall have defined any vital military, naval, or air installation or equipment as being within the category contemplated under section eight of this Act, it shall be unlawful for any person to reproduce, publish, sell, or give away any photograph, sketch, picture, drawing, map or graphical representation of the vital military, naval, or air installations or equipment so defined, without first obtaining permission of the commanding officer of the military, naval, or air post, camp, or station concerned, or higher authority, unless such photograph, sketch, picture, drawing, map, or graphical representation has clearly indicated thereon that it has been censored by the proper military, naval, or air authority. Any person found guilty of a violation of this section shall be punished as provided in section eight of this Act.

SECTION 11. *Destroying or injuring or attempting to injure or destroy war material in time of war*. — When the Philippines or the United States is at war, whoever, with intent to injure, interfere with, or obstruct the Philippines or the United States or any associate nation in preparing for or carrying on the war, or whoever, with reason to believe that his act may injure, interfere with, or obstruct the Philippines or the United States or any associate nation in preparing for or carrying on the war, shall wilfully injure or destroy, or shall attempt to so injure or

destroy, any war material, war premises, or war utilities, as herein defined, shall be imprisoned not more than thirty years or be fined not more than thirty thousand pesos, or both.

SECTION 12. *Making or causing war material to be made in defective manner*. — When the Philippines or the United States is at war, whoever, with intent to injure, interfere with, or obstruct the Philippines or the United States or any associate nation in preparing for or carrying on the war, or whoever, with reason to believe that his act may injure, interfere with, or obstruct the Philippines or the United States or any associate nation in preparing for or carrying on the war, shall wilfully make or cause to be made in a defective manner, or attempt to make or cause to be made in a defective manner, any war material, as herein defined, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material, as herein defined, shall be imprisoned not more than thirty years or be fined not more than thirty thousand pesos, or both.

SECTION 13. *Injuring or destroying national defense material, premises, or utilities*. — Whoever, with intent to injure, interfere with, or obstruct the national defense of the Philippines or the United States shall wilfully injure or destroy, or shall attempt to so injure or destroy, any national defense material, national defense premises, or national defense utilities, as herein provided, shall be imprisoned not more than ten years or be fined not more than ten thousand pesos, or both.

SECTION 14. *Making or causing to be made in a defective manner, or attempting to make or cause to be made in a defective manner, national defense material*. — Whoever, with intent to injure, interfere with, or obstruct the national defense of the Philippines or of the United States, shall wilfully make or cause to be made in a defective manner, or attempt to make or cause to be made in a defective manner, any national defense material, as herein defined, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such national defense material, as herein defined, shall be imprisoned not more than ten years, or fined not more than ten thousand pesos, or both.

SECTION 15. *Definition of terms*. — The term "aircraft" as used in this Act means any contrivance known or hereafter invented, used, or designed for navigation or flight in the air. The expression "post, camp, or station" as used in this Act shall be interpreted to include naval vessels, military and naval aircraft, and any separate military, naval or air command.

The words "war or national defense material" as used herein shall include arms, armament, ammunition, livestock, stores of clothing, food, foodstuffs, or fuel; and shall also include supplies, munitions, and all other articles of whatever description, and any part or ingredient thereof, intended for, adapted to, or suitable for the use of the Philippines or the United States, or any associate nation, in connection with the conduct of war or national defense.

The words "war or national defense premises," as used herein, shall include all buildings, grounds, mines, or other places wherein such war or national defense material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all ports, arsenals, navy yards, prisons, camps, or other military, naval, or air stations of the Philippines or the United States or any associate nation.

The words "war or national defense utilities," as used herein, shall include all railroads, railways, electric lines, roads of whatever description, railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, or aircraft, or any other means of transportation whatsoever, whereon or whereby such war or national defense material or any troops of the Philippines or of the United States, or of any associate nation, are being or may be transported either within the limits of the Philippines or the United States or upon the high seas; and all dams, reservoirs, aqueducts, water and gas mains, oil or gasoline stations, pipes, structures, and buildings, whereby or in connection with which water, or gas, or oil, or gasoline, or other fluid is being furnished, or may be furnished, to any war or national defense premises or to the military, naval, or air forces of the Philippines or the United States, or any associate nation, and all electric light and power, steam or pneumatic power, telephone, and telegraph plants, poles, wires, and fixtures and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply water, light, heat, gas, oil, gasoline, fluid, power, or facilities of communication to any war or national defense premises or to the military, naval, or air forces of the Philippines or of the United States, or any associate nation.

The words "associate nation," as used in this chapter, shall be deemed to mean any nation at war with any nation with which the Philippines or the United States is at war.

The words "foreign government," as used in this Act, shall be deemed to include any government, faction, or body of insurgents within a country with which the Philippines or United States is at peace, which government, faction, or body of insurgents may or may not have been recognized by the Philippines or the United States as a government.

SECTION 16. This Act shall take effect upon its approval.

Approved: June 4, 1941

(Punishment for Espionage and Other Offenses Against National Security, Commonwealth Act No. 616, [June 4, 1941])

PD No 532 | **Anti-piracy and Anti-highway Robbery Law of 1974**

PRESIDENTIAL DECREE No. 532 August 8, 1974

ANTI-PIRACY AND ANTI-HIGHWAY ROBBERY LAW OF 1974

WHEREAS, reports from law-enforcement agencies reveal that lawless elements are still committing acts of depredations upon the persons and properties of innocent and defenseless inhabitants who travel from one place to another, thereby distributing the peace, order and tranquility of the nation and stunting the economic and social progress of the people;

WHEREAS, such acts of depredations constitute either piracy or highway robbery/brigandage which are among the highest forms of lawlessness condemned by the penal statutes of all countries; and,

WHEREAS, it is imperative that said lawless elements be discouraged from perpetrating such acts of depredations by imposing heavy penalty on the offenders, with the end in view of eliminating all obstacles to the economic, social, educational and community progress of the people;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution and pursuant to proclamation No. 1081, dated September 21, 1972 and No. 1104, dated January 17, 1973 and General Order No. 1, dated September 22, 1972, do hereby order and decree as part of the law of the land the following:

Section 1. *Title*. This Decree shall be known as the Anti-Piracy and Anti-Highway Robbery Law of 1974.

Section 2. *Definition of Terms*. The following terms shall mean and be understood, as follows:

a. Philippine Waters. It shall refer to all bodies of water, such as but not limited to, seas, gulfs, bays around,

between and connecting each of the Islands of the Philippine Archipelago, irrespective of its depth, breadth, length or dimension, and all other waters belonging to the Philippines by historic or legal title, including territorial sea, the sea-bed, the insular shelves, and other submarine areas over which the Philippines has sovereignty or jurisdiction.

b. Vessel. Any vessel or watercraft used for transport of passengers and cargo from one place to another through Philippine Waters. It shall include all kinds and types of vessels or boats used in fishing.

c. Philippine Highway. It shall refer to any road, street, passage, highway and bridges or other parts thereof, or railway or railroad within the Philippines used by persons, or vehicles, or locomotives or trains for the movement or circulation of persons or transportation of goods, articles, or property or both.

d. Piracy. Any attack upon or seizure of any vessel, or the taking away of the whole or part thereof or its cargo, equipment, or the personal belongings of its complement or passengers, irrespective of the value thereof, by means of violence against or intimidation of persons or force upon things, committed by any person, including a passenger or member of the complement of said vessel, in Philippine waters, shall be considered as piracy. The offenders shall be considered as pirates and punished as hereinafter provided.

e. Highway Robbery/Brigandage. The seizure of any person for ransom, extortion or other unlawful purposes, or the taking away of the property of another by means of violence against or intimidation of person or force upon things of other unlawful means, committed by any person on any Philippine Highway.

Section 3. *Penalties.* Any person who commits piracy or highway robbery/brigandage as herein defined, shall, upon conviction by competents court be punished by:

a. Piracy. The penalty of reclusion temporal in its medium and maximum periods shall be imposed. If physical injuries or other crimes are committed as a result or on the occasion thereof, the penalty of reclusion perpetua shall be imposed. If rape, murder or homicide is committed as a result or on the occasion of piracy, or when the offenders abandoned the victims without means of saving themselves, or when the seizure is accomplished by firing upon or boarding a vessel, the mandatory penalty of death shall be imposed.

b. Highway Robbery/Brigandage. The penalty of reclusion temporal in its minimum period shall be imposed. If physical injuries or other crimes are committed during or on the occasion of the commission of robbery or brigandage, the penalty of reclusion temporal in its medium and maximum periods shall be imposed. If kidnapping for ransom or extortion, or murder or homicide, or rape is committed as a result or on the occasion thereof, the penalty of death shall be imposed.

Section 4. *Aiding pirates or highway robbers/brigands or abetting piracy or highway robbery/brigandage.* Any person who knowingly and in any manner aids or protects pirates or highway robbers/brigands, such as giving them information about the movement of police or other peace officers of the government, or acquires or receives property taken by such pirates or brigands or in any manner derives any benefit therefrom; or any person who directly or indirectly abets the commission of piracy or highway robbery or brigandage, shall be considered as an accomplice of the principal offenders and be punished in accordance with the Rules prescribed by the Revised Penal Code.

It shall be presumed that any person who does any of the acts provided in this Section has performed knowingly, unless the contrary is proven.

Section 5. *Repealing Clause.* Pertinent portions of Act No. 3815, otherwise known as the Revised Penal Code; and all laws, decrees, or orders or instructions, or parts thereof, insofar as they are inconsistent with this Decree are hereby repealed or modified accordingly.

Section 6. *Effectivity.* This Decree shall take effect upon approval.

Done in the City of Manila, this 8th day of August, in the year of Our Lord, nineteen hundred and seventy-four.

RA No 6235 | **Anti-Hijacking Law**

June 19, 1971

REPUBLIC ACT NO. 6235

AN ACT PROHIBITING CERTAIN ACTS INIMICAL TO CIVIL AVIATION, AND FOR OTHER PURPOSES

SECTION 1. It shall be unlawful for any person to compel a change in the course or destination of an aircraft of Philippine registry, or to seize or usurp the control thereof, while it is in flight. An aircraft is in flight from the moment all its external doors are closed following embarkation until any of such doors is opened for disembarkation.

It shall likewise be unlawful for any person to compel an aircraft of foreign registry to land in Philippine territory or to seize or usurp the control thereof while it is within the said territory.

SECTION 2. Any person violating any provision of the foregoing section shall be punished by an imprisonment of not less than twelve years but not more than twenty years, or by a fine of not less than twenty thousand pesos but not more than forty thousand pesos.

The penalty of imprisonment of fifteen years to death, or a fine of not less than twenty-five thousand pesos but not more than fifty thousand pesos shall be imposed upon any person committing such violation under any of the following circumstances:

1. Whenever he has fired upon the pilot, member of the crew or passenger of the aircraft;

2. Whenever he has exploded or attempted to explode any bomb or explosive to destroy the aircraft; or

3. Whenever the crime is accompanied by murder, homicide, serious physical injuries or rape.

SECTION 3. It shall be unlawful for any person, natural or juridical, to ship, load or carry in any passenger aircraft operating as a public utility within the Philippines, any explosive, flammable, corrosive or poisonous substance or material.

SECTION 4. The shipping, loading or carrying of any substance or material mentioned in the preceding section in any cargo aircraft operating as a public utility within the Philippines shall be in accordance with regulations issued by the Civil Aeronautics Administration.

SECTION 5. As used in this Act —

(1) "Explosive" shall mean any substance, either solid or liquid, mixture or single compound, which by chemical reaction liberates heat and gas at high speed and causes tremendous pressure resulting in explosion. The term shall include but not limited to dynamites, firecrackers, blasting caps, black powders, bursters, percussions, cartridges and other explosive materials, except bullets for firearm.

(2) "Flammable" is any substance or material that is highly combustible and self-igniting by chemical reaction and shall include but not limited to acrolein, allene, aluminum diethyl monochloride, and other aluminum compounds, ammonium chlorate and other ammonium mixtures and other similar substances or materials.

(3) "Corrosive" is any substance or material, either liquid, solid or gaseous, which through chemical reaction wears away, impairs or consumes any object. It shall include but not limited to alkaline battery fluid packed with empty storage battery, allyl chloroformate, allyltrichlorosilane,

ammonium dinitro-orthocresolate and other similar materials and substances.

(4) "Poisonous" is any substance or materials, except medicinal drug, either liquid, solid or gaseous, which through chemical reactions kills, injures or impairs a living organism or person, and shall include but not limited to allyl isothiocyanate, ammunition (chemical, non-explosive but containing Class A, B or poison), aniline oil, arsine, bromobenzyl cyanide, bromoacetone and other similar substances or materials.

SECTION 6. Any violation of Section three hereof shall be punishable by an imprisonment of at least five years but not more than ten years or by a fine of not less than ten thousand pesos but not more than twenty thousand pesos: *Provided*, That if the violation is committed by a juridical person, the penalty shall be imposed upon the manager, representative, director, agent or employee who violated, or caused, directed, cooperated or participated in the violation thereof:*Provided, further*, That in case the violation is committed in the interest of a foreign corporation legally doing business in the Philippines, the penalty shall be imposed upon its resident agent, manager, representative or director responsible for such violation and in addition thereto, the license of said corporation to do business in the Philippines shall be revoked.

Any violation of Section four hereof shall be an offense punishable with the minimum of the penalty provided in the next preceding paragraph.

SECTION 7. For any death or injury to persons or damage to property resulting from a violation of Sections three and four hereof, the person responsible therefor may be held liable in accordance with the applicable provisions of the Revised Penal Code.

SECTION 8. Aircraft companies which operate as public utilities or operators of aircraft which are for hire are authorized to open and investigate suspicious packages and cargoes in the presence of the owner or shipper, or his authorized representatives if present; in order to help the authorities in the enforcement of the provisions of this Act: *Provided*, That if the owner, shipper or his representative refuses to have the same opened and inspected, the airline or air carrier is authorized to refuse the loading thereof.

SECTION 9. Every ticket issued to a passenger by the airline or air carrier concerned shall contain among others the following condition printed thereon:*"Holder hereof and his hand-carried luggage(s) are subject to search for, and seizure of, prohibited materials or substances. Holder refusing to be searched shall not be allowed to board the aircraft,"* which shall constitute a part of the contract between the passenger and the air carrier.

SECTION 10. The Civil Aeronautics Administration is hereby directed to promulgate within one month after the approval of this Act such regulations as are provided in Section four hereof and cause the publication of such rules and regulations in the *Official Gazette* and in a newspaper of national circulation for at least once a week for three consecutive weeks. Such regulations shall take effect fifteen days after publication in the *Official Gazette*.

SECTION 11. This Act shall take effect after the publication mentioned in the preceding section.

Approved: June 19, 1971

Published in the Official Gazette, Vol. 67, No. 40, p. 7875 on October 4, 1971

(Prohibiting Certain Acts Inimical to Civil Aviation, Republic Act No. 6235, [June 19, 1971])

RA No 9851 | **Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity**

REPUBLIC ACT NO. 9851

AN ACT DEFINING AND PENALIZING CRIMES AGAINST INTERNATIONAL HUMANITARIAN LAW, GENOCIDE AND OTHER CRIMES AGAINST HUMANITY, ORGANIZING JURISDICTION, DESIGNATING SPECIAL COURTS, AND FOR RELATED PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I INTRODUCTORY PROVISIONS

Section 1. *Short Title*. - This Act shall be known as the ***"Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity".***

Section 2. *Declaration of Principles and State Policies*. -

(a) The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to a policy of peace, equality, justice, freedom, cooperation and amity with all nations.

(b) The state values the dignity of every human person and guarantees full respect for human rights, including the rights of indigenous cultural communities and other vulnerable groups, such as women and children;

(c) It shall be the responsibility of the State and all other sectors concerned to resolved armed conflict in order to promote the goal of "Children as Zones of Peace";

(d) The state adopts the generally accepted principles of international law, including the Hague Conventions of 1907, the Geneva Conventions on the protection of victims of war and international humanitarian law, as part of the law our nation;

(e) The most serious crimes of concern to the international community as a whole must not go unpunished and their effective prosecution must be ensured by taking measures at the national level, in order to put an end to impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes, it being the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes;

(f) The State shall guarantee persons suspected or accused of having committed grave crimes under international law all rights necessary to ensure that their trial will be fair and prompt in strict accordance with national and international law and standards for fair trial, It shall also protect victims, witnesses and their families, and provide appropriate redress to victims and their families, It shall ensure that the legal systems in place provide accessible and gender-sensitive avenues of redress for victims of armed conflict, and

(g)The State recognizes that the application of the provisions of this Act shall not affect the legal status of the parties to a conflict, nor give an implied recognition of the status of belligerency

CHAPTER II DEFINITION OF TERMS

Section 3. *For purposes of this Act, the term:*

(a) "Apartheid' means inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one racial group or groups and committed with the intention of maintaining that regime

(b) "Arbitrary deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under domestic or international law.

(c) "Armed conflict" means any use of force or armed violence between States or a protracted armed violence between governmental authorities and organized armed

groups or between such groups within that State: Provided, That such force or armed violence gives rise, or may give rise, to a situation to which the Geneva Conventions of 12 August 1949, including their common Article 3, apply. Armed conflict may be international, that is, between two (2) or more States, including belligerent occupation; or non-international, that is, between governmental authorities and organized armed groups or between such groups within a state. It does not cover internal disturbances or tensions such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

(d) "Armed forces" means all organized armed forces, groups and units that belong to a party to an armed conflict which are under a command responsible to that party for the conduct of its subordinates. Such armed forces shall be subject to an internal disciplinary system which enforces compliance with International Humanitarian Law

(e) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in Section 6 of this Act against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.

(f) "Effective command and control" or " effective authority and control" means having the material ability to prevent and punish the commission of offenses by subordinates.

(g) "Enforced or involuntary disappearance of persons" means the arrest, detention, or abduction of persons by, or with the authorization support or acquiescence of, a State or a political organization followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing from the protection of the law for a prolonged period of time

(h) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.

(i) "Extermination" means the international infliction of conditions of life, *inter alia*, the deprivation of access to food and medicine, calculated to bring about the destruction of a part of a population.

(j) " Forced pregnancy" means the unlawful confinement of a women to be forcibly made pregnant, with the intent of affecting the ethnic composition of any population carrying out other grave violations of international law.

(k) "*Hors de Combat"* means a person who:

(1) is in the power of an adverse party;

(2) has clearly expressed an intention to surrender; or

(3) has been rendered unconscious or otherwise incapacitated by wounds or sickness and therefore is incapable of defending himself: Provided, that in any of these cases, the person form any hostile act and does not attempt to escape.

(l) "Military necessity" means the necessity of employing measures which are indispensable to achieve a legitimate aim of the conflict and are not otherwise prohibited by International Humanitarian Law

(m) "Non-defended locality" means a locality that fulfills the following conditions:

(1) all combatants, as well as mobile weapons and mobile military equipment, must have been evacuated;

(2) no hostile use of fixed military installations or establishments must have been made;

(3) no acts of hostility must have been committed by the authorities or by the population; and

(4) no activities in support of military operations, must have been undertaken.

(n) "No quarter will be given' means refusing to spare the life of anybody, even of persons manifestly unable to defend themselves or who clearly express their intention to surrender.

(o) "Perfidy" means acts which invite the confidence of an adversary to lead him/her to believe he/she is entitled to, or is obliged to accord, protection under the rules of International Humanitarian Law, with the intent to betray that confidence, including but not limited to:

(1) feigning an intent to negotiate under a flag of truce;

(2) feigning surrender;

(3) feigning incapacitation by wounds or sickness;

(4) feigning civilian or noncombatant status; and

(5) feigning protective status by use of signs, emblems or uniforms of the United Nations or of a neutral or other State not party to the conflict.

(p) "Persecution" means the international and severe deprivation of fundamental rights contrary to international law by reason of identity of the group or collectivity.

(q) "Protect person" in an armed conflict means:

(1) a person wounded, sick or shipwrecked, whether civilian or military;

(2) a prisoner of war or any person deprived of liberty for reasons related to an armed conflict;

(3) a civilian or any person not taking a direct part or having ceased to take part in the hostilities in the power of the adverse party;

(4) a person who, before the beginning of hostilities, was considered a stateless person or refugee under the relevant international instruments accepted by the parties to the conflict concerned or under the national legislation of the state of refuge or state of residence;

(5) a member of the medical personnel assigned exclusively to medical purposes or to the administration of medical units or to the operation of or administration of medical transports; or

(6) a member of the religious personnel who is exclusively engaged in the work of their ministry and attached to the armed forces of a party to the conflict, its medical units or medical transports, or non-denominational, noncombatant military personnel carrying out functions similar to religious personnel.

(r) " Superior" means:

(1) a military commander or a person effectively acting as a military commander; or

(2) any other superior, in as much as the crimes arose from activities within the effective authority and control of that superior.

(s) "Torture" means the intentional infliction of severe pain or suffering, whether physical, mental, or psychological, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions.

(t) "Works and installations containing dangerous forces" means works and installations the attack of which may cause the release of dangerous forces and consequent severe losses among the civilian population, namely: dams, dikes, and nuclear, electrical generation stations.

CHAPTER III CRIMES AGAINST INTERNATIONAL HUMANITARIAN LAW, GENOCIDE AND OTHER CRIMES AGAINST HUMANITY

Section 4. *War Crimes.* - For the purpose of this Act, "war crimes" or "crimes against International Human Humanitarian Law" means:

(a) In case of an international armed conflict , grave breaches of the Geneva Conventions of 12 August 1949,

namely, any of the following acts against persons or property protected under provisions of the relevant Geneva Convention:

(1) Willful killing;

(2) Torture or inhuman treatment, including biological experiments;

(3) Willfully causing great suffering, or serious injury to body or health;

(4) Extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly;

(5) Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;

(6) Arbitrary deportation or forcible transfer of population or unlawful confinement;

(7) Taking of hostages;

(8) Compelling a prisoner a prisoner of war or other protected person to serve in the forces of a hostile power; and

(9) Unjustifiable delay in the repatriation of prisoners of war or other protected persons.

(b) In case of a non-international armed conflict, serious violations of common Article 3 to the four (4) Geneva Conventions of 12 August 1949, namely , any of the following acts committed against persons taking no active part in the hostilities, including member of the armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause;

(1) Violence to life and person, in particular, willful killings, mutilation, cruel treatment and torture;

(2) Committing outrages upon personal dignity, in particular, humiliating and degrading treatment;

(3) Taking of hostages; and

(4) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

(c) Other serious violations of the laws and customs applicable in armed conflict, within the established framework of international law, namely:

(1) Internationally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

(2) Intentionally directing attacks against civilian objects, that is, object which are not military objectives;

(3) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions or Additional Protocol III in conformity with international law;

(4) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

(5) Launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be excessive in relation to the concrete and direct military advantage anticipated;

(6) Launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, and causing death or serious injury to body or health .

(7) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives, or making non-defended localities or demilitarized zones the object of attack;

(8) Killing or wounding a person in the knowledge that he/she is *hors de combat,* including a combatant who, having laid down his/her arms or no longer having means of defense, has surrendered at discretion;

(9) Making improper use of a flag of truce, of the flag or the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions or other protective signs under International Humanitarian Law, resulting in death, serious personal injury or capture;

(10) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives. In case of doubt whether such building or place has been used to make an effective contribution to military action, it shall be presumed not to be so used;

(11) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind, or to removal of tissue or organs for transplantation, which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his/her interest, and which cause death to or seriously endanger the health of such person or persons;

(12) Killing, wounding or capturing an adversary by resort to perfidy;

(13) Declaring that no quarter will be given;

(14) Destroying or seizing the enemy's property unless such destruction or seizure is imperatively demanded by the necessities of war;

(15) Pillaging a town or place, even when taken by assault;

(16) Ordering the displacements of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;

(17) Transferring, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;

(18) Commiting outrages upon personal dignity, in particular, humiliating and degrading treatments;

(19) Commiting rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions or a serious violation of common Article 3 to the Geneva Conventions;

(20) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

(21) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions and their Additional Protocols;

(22) In an international armed conflict, compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;

(23) In an international armed conflict, declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;

(24) Committing any of the following acts:

(i) Conscripting, enlisting or recruiting children under the age of fifteen (15) years into the national armed forces;

(ii) Conscripting, enlisting or recruiting children under the age of eighteen (18) years into an armed force or group other than the national armed forces; and

(iii) Using children under the age of eighteen (18) years to participate actively in hostilities; and

(25) Employing means of warfare which are prohibited under international law, such as:

(i) Poison or poisoned weapons;

(ii) Asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;

(iii) Bullets which expand or flatten easily in the human body, such as bullets with hard envelopes which do not entirely cover the core or are pierced with incisions; and

(iv) Weapons, projectiles and material and methods of warfare which are of the nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict.

Any person found guilty of committing any of the acts specified herein shall suffer the penalty provided under Section 7 of this Act.

Section 5. *Genocide* - (a) For the purpose of this Act, "genocide" means any of the following acts with intent to destroy, in whole or in part, a national, ethnic, racial, religious, social or any other similar stable and permanent group as such:

(1) Killing members of the group;

(2) Causing serious bodily or mental harm to members of the group;

(3) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(4) Imposing measures intended to prevent births within the group; and

(5) Forcibly transferring children of the group to another group.

(b) It shall be unlawful for any person to directly and publicly incite others to commit genocide.

Any person found guilty of committing any of the acts specified in paragraphs (a) and (b) of this section shall suffer the penalty provided under Section 7 of this Act.

Section 6. *Other Crimes Against Humanity.* - For the purpose of this act, "other crimes against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

(a) Willful killing;

(b) Extermination;

(c) Enslavement;

(d) Arbitrary deportation or forcible transfer of population;

(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;

(f) Torture;

(g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;

(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, sexual orientation or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime defined in this Act;

(i) Enforced or involuntary disappearance of persons;

(j) Apartheid; and

(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Any person found guilty of committing any of the acts specified herein shall suffer the penalty provided under Section 7 of this Act.

CHAPTER IV PENAL PROVISIONS

Section 7. *Penalties.* - Any person found guilty of committing any of the acts provided under Sections 4, 5 and 6 of this Act shall suffer the penalty of reclusion temporal in its medium to maximum period and a fine ranging from One hundred thousand pesos (Php 100,000.00) to Five hundred thousand pesos (Php 500,000.00).

When justified by the extreme gravity of the crime, especially where the commision of any of the crimes specified herein results in death or serious physical injury, or constitutes rape, and considering the individual circumstances of the accused, the penalty of reclusion perpetua and a fine ranging from Five hundred thousand pesos (Php 500,000.00) to One million pesos (Php 1,000,000.00) shall be imposed.

Any person found guilty of inciting others to commit genocide referred to in Section 5(b) of this Act shall suffer the penalty of prision mayor in its minimum period and a fine ranging from Ten thousand pesos (Php 10,000.00) to Twenty thousand pesos (Php 20,000.00).

In addition, the court shall order the forfeiture of proceeds, property and assets derived, directly or indirectly, from that crime, without prejudice to the rights of bona fide third (3rd) parties. The court shall also impose the corresponding accessory penalties under the Revised Penal Code, especially where the offender is a public officer.

CHAPTER V SOME PRINCIPLES OF CRIMINAL LIABILITY

Section 8. *Individual Criminal Responsibilities.* - (a) In addition to existing provisions in Philippine law on principles of criminal responsibility, a person shall be criminally liable as principal for a crime defined and penalized in this Act if he/she:

(1) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;

(2) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

(3) In any other way contributes to the commission or attempted commission of such a crime by a group of person acting with a common purpose. Such contribution shall be intentional and shall either:

(i) be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime defined in this Act; or

(ii) be made in the knowledge of the intention of the group to commit the crime.

(b) A person shall be criminally liable as accomplice for facilitating the commission of a crime defined and penalized in this Act if he/she aids, abets or otherwise assists in its commission or attempted commission, including providing the means for its commission.

(c) A person shall be criminally liable for a crime defined and penalized in this Act if he/she attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intention. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Act for the attempt to commit the

same if he/she completely and voluntarily gave up the criminal purpose.

Section 9. *Irrelevance of Official Capacity.* - This Act shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a head of state or government, a member of a government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Act, nor shall it, in and of itself, constitute a ground for reduction of sentence. However:

(a) Immunities or special procedural rules that may be attached to the official capacity of a person under Philippine law other than the established constitutional immunity from suit of the Philippine President during his/her tenure, shall not bar the court from exercising jurisdiction over such a person; and

(b) Immunities that may be attached to the official capacity of a person under international law may limit the application of this Act, but only within the bounds established under international law.

Section 10. *Responsibility of Superiors.* - In addition to other grounds of criminal responsibility for crimes defined and penalized under this Act, a superior shall be criminally responsible as a principal for such crimes committed by subordinates under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to properly exercise control over such subordinates, where:

(a) That superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit such crimes;

(b) That superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

Section 11. *Non-prescription.* - The crimes defined and penalized under this Act, their prosecution, and the execution of sentences imposed on their account, shall not be subject to any prescription.

Section 12. *Orders from a Superior.* - The fact that a crime defined and penalized under this Act has been committed by a person pursuant to an order of a government or a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless all of the following elements occur:

(a) The person was under a legal obligation to obey orders of the government or the superior in question;

(b) The person did not know that the order was unlawful; and

(c) The order was not manifestly unlawful.

For the purposes of this section, orders to commit genocide or other crimes against humanity are manifestly unlawful.

CHAPTER VI Protection of Victims and Witnesses

Section 13. *Protection of Victims and Witnesses.* - In addition to existing provisions in Philippine law for the protection of victims and witnesses, the following measures shall be undertaken:

(a) The Philippine court shall take appropriate measures to protect the safety, physical and physiological well-being, dignity and privacy of victims and witnesses. In so doing, the court shall have regard of all relevant factors, including age, gender and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and to a fair and impartial trial;

(b) As an exception to the general principle of public hearings, the court may, to protect the victims and witnesses or an accused, conduct any part of the proceedings in camera or allow the presentation of evidence by electronic or other special means. In particular, such measures shall be implemented in the case of the victim of sexual violence or a child who is a victim or is a witness, unless otherwise ordered by the court, having regard to all the circumstances, particularly the views of the victim or witness;

(c) Where the personal interests of the victims are affected, the court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the court in manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the court considers it appropriate in accordance with the established rules of procedure and evidence; and

(d) Where the disclosure of evidence or information pursuant to this Act may lead to the grave endangerment of the security of a witness for his/her family, the prosecution may, for the purposes of any proceedings conducted prior to the commencement of the trial, withhold such evidence or information and instead submit a summary thereof. Such measures shall be exercised in a manner which is not prejudicial to or inconsistent with the rights of the accused and to a fair and impartial trial.

Section 14. *Reparations to Victims.* - In addition to existing provisions in Philippine law and procedural rules for reparations to victims, the following measures shall be undertaken:

(a) The court shall follow the principles relating to the reparations to, or in respect of, victims,including restitution, compensation and rehabilitation. On this basis, in its decision, the court may, wither upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and state the principles on which it is acting;

(b) The court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation; and

(c) Before making an order under this section, the court may invite and shall take account of representations from or on behalf of the convicted person, victims or other interested persons.

Nothing in this section shall be interpreted as prejudicing the rights of victims under national or international law.

CHAPTER VII Applicability of International Law and Other Laws

Section 15. *Applicability of International Law.*- In the application and interpretation of this Act, Philippine courts shall be guided by the following sources:

(a) The 1948 Genocide Convention;

(b) The 1949 Geneva Conventions I-IV, their 1977 Additional Protocols I and II and their 2005 Additional Protocol III;

(c) The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, its First Protocol and its 1999 Second Protocol;

(d) The 1989 Convention on the Rights of the Child and its 2000 Optional Protocol on the Involvement of Children in Armed Conflict;

(e) The rules and principles of customary international law;

(f) The judicial decisions of international courts and tribunals;

(g) Relevant and applicable international human rights instruments;

(h) Other relevant international treaties and conventions ratified or acceded to by the Republic of the Philippines; and

(i) Teachings of the most highly qualified publicists and authoritative commentaries on the foregoing sources as subsidiary means for the determination of rules of international law.

Section 16. *Suppletory Application of the Revised Penal Code and Other General or Special Laws.* - The provisions of the Revised Penal Code and other general or special laws shall have a suppletory application to the provisions of this Act.

CHAPTER VIII JURISDICTION

Section 17. *Jurisdiction.*- The State shall exercise jurisdiction over persons, whether military or civilian, suspected or accused of a crime defined and penalized in this Act, regardless of where the crime is committed, provided, any one of the following conditions is met:

(a) The accused is a Filipino citizen;

(b) The accused, regardless of citizenship or residence, is present in the Philippines; or

(c) The accused has committed the said crime against a Filipino citizen.

In the interest of justice, the relevant Philippine authorities may dispense with the investigation or prosecution of a crime punishable under this Act if another court or international tribunal is already conducting the investigation or undertaking the prosecution of such crime. Instead, the authorities may surrender or extradite suspected or accused persons in the Philippines to the appropriate international court, if any, or to another State pursuant to the applicable extradition laws and treaties.

No criminal proceedings shall be initiated against foreign nationals suspected or accused of having committed the crimes defined and penalized in this Act if they have been tried by a competent court outside the Philippines in respect of the same offense and acquitted, or having been convicted, already served their sentence.

Section 18. *Philippine Court, Prosecutors and Investigators.* - The Regional Trial Court of the Philippines shall have original and exclusive jurisdiction over the crimes punishable under this Act. Their judgments may be appealed or elevated to the Court of Appeals and to the Supreme Court as provided by law.

The Supreme Court shall designate special courts to try cases involving crimes punishable under this Act. For these cases, the Commission on Human Rights, the Department of Justice, the Philippine National Police or other concerned law enforcement agencies shall designate prosecutors or investigators as the case may be.

The State shall ensure that judges, prosecutors and investigators, especially those designated for purposes of this Act, receive effective training in human rights, International Humanitarian Law and International Criminal Law.

CHAPTER IX FINAL PROVISIONS

Section 19. *Separability Clause.* - If, for any reason or reasons, any part or provision of this Statute shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 20. *Repealing Clause.* - All laws, presidential decrees and issuances, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Statute are hereby repealed or modified accordingly.

Section 21. *Effectivity.* - This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in two (2) newspapers general circulation.

SPL | *Related to Crimes Against the Fundamental Laws of the State*

Book TWO Title TWO

BP Blg 880 | The Public Assembly Act of 1985

BATAS PAMBANSA BLG. 880

AN ACT ENSURING THE FREE EXERCISE BY THE PEOPLE OF THEIR RIGHT PEACEABLY TO ASSEMBLE AND PETITION THE GOVERNMENT FOR OTHER PURPOSES

Section 1. *Title* - This Act shall be known as "The Public Assembly Act of 1985."

Section 2. *Declaration of policy* - The constitutional right of the people peaceably to assemble and petition the government for redress of grievances is essential and vital to the strength and stability of the State. To this end, the State shall ensure the free exercise of such right without prejudice to the rights of others to life, liberty and equal protection of the law.

Section 3. *Definition of terms* - For purposes of this Act:

(a) "Public assembly" means any rally, demonstration, march, parade, procession or any other form of mass or concerted action held in a public place for the purpose of presenting a lawful cause; or expressing an opinion to the general public on any particular issue; or protesting or influencing any state of affairs whether political, economic or social; or petitioning the government for redress of grievances.

The processions, rallies, parades, demonstrations, public meetings and assemblages for religious purposes shall be governed by local ordinances: Provided, however, That the declaration of policy as provided in Section 2 of this Act shall be faithfully observed.

The definition herein contained shall not include picketing and other concerted action in strike areas by workers and employees resulting from a labor dispute as defined by the Labor Code, its implementing rules and regulations, and by the Batas Pambansa Bilang 227.

(b) "Public place" shall include any highway, boulevard, avenue, road, street, bridge or other thoroughfare, park, plaza, square, and/or any open space of public ownership where the people are allowed access.

(c) "Maximum tolerance" means the highest degree of restraint that the military, police and other peacekeeping authorities shall observe during a public assembly or in the dispersal of the same.

(d) "Modification of permit" shall include the change of the place and time of the public assembly, rerouting of the parade or street march, the volume of loud-speakers or sound system and similar changes.

Section 4. *Permit when required and when not required* - A written permit shall be required for any person or persons to organize and hold a public assembly in a public place. However, no permit shall be required if the public assembly shall be done or made in a freedom park duly established by law or ordinance or in private property, in which case only the consent of the owner or the one entitled to its legal possession is required, or in the campus of a government-owned and operated educational institution which shall be subject to the rules and regulations of said educational institution. Political meetings or rallies held during any election campaign period as provided for by law are not covered by this Act.

Section 5. *Application requirements* - All applications for a permit shall comply with the following guidelines:

(a) The applications shall be in writing and shall include the names of the leaders or organizers; the purpose of such public assembly; the date, time and duration thereof, and place or streets to be used for the intended activity; and the probable number of persons participating, the transport and the public address systems to be used.

(b) The application shall incorporate the duty and responsibility of applicant under Section 8 hereof.

(c) The application shall be filed with the office of the mayor of the city or municipality in whose jurisdiction the intended activity is to be held, at least five (5) working days before the scheduled public assembly.

(d) Upon receipt of the application, which must be duly acknowledged in writing, the office of the city or municipal mayor shall cause the same to immediately be posted at a conspicuous place in the city or municipal building.

Section 6. *Action to be taken on the application* -

(a) It shall be the duty of the mayor or any official acting in his behalf to issue or grant a permit unless there is clear and convincing evidence that the public assembly will create a clear and present danger to public order, public safety, public convenience, public morals or public health.

(b) The mayor or any official acting in his behalf shall act on the application within two (2) working days from the date the application was filed, failing which, the permit shall be deemed granted. Should for any reason the mayor or any official acting in his behalf refuse to accept the application for a permit, said application shall be posted by the applicant on the premises of the office of the mayor and shall be deemed to have been filed.

(c) If the mayor is of the view that there is imminent and grave danger of a substantive evil warranting the denial or modification of the permit, he shall immediately inform the applicant who must be heard on the matter.

(d) The action on the permit shall be in writing and served on the application within twenty-four hours.

(e) If the mayor or any official acting in his behalf denies the application or modifies the terms thereof in his permit, the applicant may contest the decision in an appropriate court of law.

(f) In case suit is brought before the Metropolitan Trial Court, the Municipal Trial Court, the Municipal Circuit Trial Court, the Regional Trial Court, or the Intermediate Appellate Court, its decisions may be appealed to the appropriate court within forty-eight (48) hours after receipt of the same. No appeal bond and record on appeal shall be required. A decision granting such permit or modifying it in terms satisfactory to the applicant shall, be immediately executory.

(g) All cases filed in court under this Section shall be decided within twenty-four (24) hours from date of filing. Cases filed hereunder shall be immediately endorsed to the executive judge for disposition or, in his absence, to the next in rank.

(h) In all cases, any decision may be appealed to the Supreme Court.

(i) Telegraphic appeals to be followed by formal appeals are hereby allowed.

Section 7. *Use of public thoroughfare* - Should the proposed public assembly involve the use, for an appreciable length of time, of any public highway, boulevard, avenue, road or street, the mayor or any official acting in his behalf may, to prevent grave public inconvenience, designate the route thereof which is convenient to the participants or reroute the vehicular traffic to another direction so that there will be no serious or undue interference with the free flow of commerce and trade.

Section 8. *Responsibility of applicant* - It shall be the duty and responsibility of the leaders and organizers of a public assembly to take all reasonable measures and steps to the end that the intended public assembly shall be conducted peacefully in accordance with the terms of the permit. These shall include but not be limited to the following:

(a) To inform the participants of their responsibility under the permit;

(b) To police the ranks of the demonstrators in order to prevent non-demonstrators from disrupting the lawful activities of the public assembly;

(c) To confer with local government officials concerned and law enforcers to the end that the public assembly may be held peacefully;

(d) To see to it that the public assembly undertaken shall not go beyond the time stated in the permit; and

(e) To take positive steps that demonstrators do not molest any person or do any act unduly interfering with the rights of other persons not participating in the public assembly.

Section 9. *Non-interference by law enforcement authorities* - Law enforcement agencies shall not interfere with the holding of a public assembly. However, to adequately ensure public safety, a law enforcement contingent under the command of a responsible police officer may be detailed and stationed in a place at least one hundred (100) meter away from the area of activity ready to maintain peace and order at all times.

Section 10. *Police assistance when requested* - It shall be imperative for law enforcement agencies, when their assistance is requested by the leaders or organizers, to perform their duties always mindful that their responsibility to provide proper protection to those exercising their right peaceably to assemble and the freedom of expression is primordial. Towards this end, law enforcement agencies shall observe the following guidelines:

(a) Members of the law enforcement contingent who deal with the demonstrators shall be in complete uniform with their nameplates and units to which they belong displayed prominently on the front and dorsal parts of their uniform and must observe the policy of "maximum tolerance" as herein defined;

(b) The members of the law enforcement contingent shall not carry any kind of firearms but may be equipped with baton or riot sticks, shields, crash helmets with visor, gas masks, boots or ankle high shoes with shin guards;

(c) Tear gas, smoke grenades, water cannons, or any similar anti-riot device shall not be used unless the public assembly is attended by actual violence or serious threats of violence, or deliberate destruction of property.

Section 11. *Dispersal of public assembly with permit* - No public assembly with a permit shall be dispersed. However, when an assembly becomes violent, the police may disperse such public assembly as follows:

(a) At the first sign of impending violence, the ranking officer of the law enforcement contingent shall call the attention of the leaders of the public assembly and ask the latter to prevent any possible disturbance;

(b) If actual violence starts to a point where rocks or other harmful objects from the participants are thrown at the police or at the non-participants, or at any property causing damage to such property, the ranking officer of the law enforcement contingent shall audibly warn the participants that if the disturbance persists, the public assembly will be dispersed;

(c) If the violence or disturbances prevailing as stated in the preceding subparagraph should not stop or abate, the ranking officer of the law enforcement contingent shall audibly issue a warning to the participants of the public assembly, and after allowing a reasonable period of

time to lapse, shall immediately order it to forthwith disperse;

(d) No arrest of any leader, organizer or participant shall also be made during the public assembly unless he violates during the assembly a law, statute, ordinance or any provision of this Act. Such arrest shall be governed by Article 125 of the Revised Penal Code, as amended:

(e) Isolated acts or incidents of disorder or branch of the peace during the public assembly shall not constitute a group for dispersal.

Section 12. *Dispersal of public assembly without permit* - When the public assembly is held without a permit where a permit is required, the said public assembly may be peacefully dispersed.

Section 13. *Prohibited acts* - The following shall constitute violations of this Act:

(a) The holding of any public assembly as defined in this Act by any leader or organizer without having first secured that written permit where a permit is required from the office concerned, or the use of such permit for such purposes in any place other than those set out in said permit: Provided, however, That no person can be punished or held criminally liable for participating in or attending an otherwise peaceful assembly;

(b) Arbitrary and unjustified denial or modification of a permit in violation of the provisions of this Act by the mayor or any other official acting in his behalf.

(c) The unjustified and arbitrary refusal to accept or acknowledge receipt of the application for a permit by the mayor or any official acting in his behalf;

(d) Obstructing, impeding, disrupting or otherwise denying the exercise of the right to peaceful assembly;

(e) The unnecessary firing of firearms by a member of any law enforcement agency or any person to disperse the public assembly;

(f) Acts in violation of Section 10 hereof;

(g) Acts described hereunder if committed within one hundred (100) meters from the area of activity of the public assembly or on the occasion thereof;

1. the carrying of a deadly or offensive weapon or device such as firearm, pillbox, bomb, and the like;

2. the carrying of a bladed weapon and the like;

3 the malicious burning of any object in the streets or thoroughfares;

4. the carrying of firearms by members of the law enforcement unit;

5. the interfering with or intentionally disturbing the holding of a public assembly by the use of a motor vehicle, its horns and loud sound systems.

Section 14. *Penalties* - Any person found guilty and convicted of any of the prohibited acts defined in the immediately preceding Section shall be punished as follows:

(a) violation of subparagraph (a) shall be punished by imprisonment of one month and one day to six months;

(b) violations of subparagraphs (b), (c), (d), (e), (f), and item 4, subparagraph (g) shall be punished by imprisonment of six months and one day to six years;

(c) violation of item 1, subparagraph (g) shall be punished by imprisonment of six months and one day to six years without prejudice to prosecution under Presidential Decree No. 1866;

(d) violations of item 2, item 3, or item 5 of subparagraph (g) shall be punished by imprisonment of one day to thirty days.

Section 15. *Freedom parks* - Every city and municipality in the country shall within six months after the effectivity of this Act establish or designate at least one suitable "freedom park" or mall in their respective jurisdictions which, as far as practicable, shall be centrally located within the poblacion where demonstrations and meetings may be held at any time without the need of any prior permit.

In the cities and municipalities of Metropolitan Manila, the respective mayors shall establish the freedom parks within the period of six months from the effectivity of this Act.

Section 16. *Constitutionality* - Should any provision of this Act be declared invalid or unconstitutional, the validity or constitutionality of the other provisions shall not be affected thereby.

Section 17. *Repealing clause* - All laws, decrees, letters of instructions, resolutions, orders, ordinances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

Section 18. *Effectivity* - This Act shall take effect upon its approval.

Approved, October 22, 1985.

SPL | *Related to Crimes Against Public Order*

Book TWO Title THREE

RA No 10591 | Comprehensive Firearms and Ammunition Regulation Act

REPUBLIC ACT No. 10591

AN ACT PROVIDING FOR A COMPREHENSIVE LAW ON FIREARMS AND AMMUNITION AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

ARTICLE I TITLE, DECLARATION OF POLICY AND DEFINITION OF TERMS

Section 1. *Short Title.* – This Act shall be known as the "Comprehensive Firearms and Ammunition Regulation Act".

Section 2. *Declaration of State Policy.* – It is the policy of the State to maintain peace and order and protect the people against violence. The State also recognizes the right of its qualified citizens to self-defense through, when it is the reasonable means to repel the unlawful aggression under the circumstances, the use of firearms. Towards this end, the State shall provide for a comprehensive law regulating the ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition, or parts thereof, in order to provide legal support to law enforcement agencies in their campaign against crime, stop the proliferation of illegal firearms or weapons and the illegal manufacture of firearms or weapons, ammunition and parts thereof.

Section 3. *Definition of Terms.* – As used in this Act:

(a) *Accessories* refer to parts of a firearm which may enhance or increase the operational efficiency or accuracy of a firearm but will not constitute any of the major or minor internal parts thereof such as, but not limited to, laser scope, telescopic sight and sound suppressor or silencer.

(b) *Ammunition* refers to a complete unfixed unit consisting of a bullet, gunpowder, cartridge case and primer or loaded shell for use in any firearm.

(c) *Antique firearm* refers to any: (1) firearm which was manufactured at least seventy-five (75) years prior to the current date but not including replicas; (2) firearm which is certified by the National Museum of the Philippines to

be curio or relic of museum interest; and (3) any other firearm which derives a substantial part of its monetary value from the fact that it is novel, rare, bizarre or because of its association with some historical figure, period or event.

(d) *Arms smuggling* refers to the import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition, from or across the territory of one country to that of another country which has not been authorized in accordance with domestic law in either or both country/countries.

(e) *Authority to import* refers to a document issued by the Chief of the Philippine National Police (PNP) authorizing the importation of firearms, or their parts, ammunition and other components.

(f) *Authorized dealer* refers to any person, legal entity, corporation, partnership or business entity duly licensed by the Firearms and Explosive Office (FEO) of the PNP to engage in the business of buying and selling ammunition, firearms or part thereof, at wholesale or retail basis.

(g) *Authorized importer* refers to any person, legal entity, corporation, partnership or business duly licensed by the FEO of the PNP to engage in the business of importing ammunition and firearms, or parts thereof into the territory of the Republic of the Philippines for purposes of sale or distribution under the provisions of this Act.

(h) *Authorized manufacturer* refers to any person, legal entity, corporation, or partnership duly licensed by the FEO of the PNP to engage in the business of manufacturing firearms, and ammunition or parts thereof for purposes of sale or distribution.1âwphi1

(i) *Confiscated firearm* refers to a firearm that is taken into custody by the PNP, National Bureau of Investigation (NBI), Philippine Drug Enforcement Agency (PDEA), and all other law enforcement agencies by reason of their mandate and must be necessarily reported or turned over to the PEO of the PNP.

(j) *Demilitarized firearm* refers to a firearm deliberately made incapable of performing its main purpose of firing a projectile.

(k) *Duty detail order* refers to a document issued by the juridical entity or employer wherein the details of the disposition of firearm is spelled-out, thus indicating the name of the employee, the firearm information, the specific duration and location of posting or assignment and the authorized bonded firearm custodian for the juridical entity to whom such firearm is turned over after the lapse of the order.

(l) *Firearm* refers to any handheld or portable weapon, whether a small arm or light weapon, that expels or is designed to expel a bullet, shot, slug, missile or any projectile, which is discharged by means of expansive force of gases from burning gunpowder or other form of combustion or any similar instrument or implement. For purposes of this Act, the barrel, frame or receiver is considered a firearm.

(m) *Firearms Information Management System (FIMS)* refers to the compilation of all data and information on firearms ownership and disposition for record purposes.

(n) *Forfeited firearm* refers to a firearm that is subject to forfeiture by reason of court order as accessory penalty or for the disposition by the FEO of the PNP of firearms considered as abandoned, surrendered, confiscated or revoked in compliance with existing rules and regulations.

(o) *Gun club* refers to an organization duly registered with and accredited in good standing by the FEO of the PNP which is established for the purpose of propagating responsible and safe gun ownership, proper appreciation and use of firearms by its members, for the purpose of sports and shooting competition, self-defense and collection purposes.

(p) *Gunsmith* refers to any person, legal entity, corporation, partnership or business duly licensed by the FEO of the PNP to engage in the business of repairing firearms and other weapons or constructing or assembling firearms and weapons from finished or manufactured parts thereof on a per order basis and not in commercial quantities or of making minor parts for the purpose of repairing or assembling said firearms or weapons.

(q) *Imitation firearm* refers to a replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to believe that such imitation firearm is a real firearm.

(r) *Licensed citizen* refers to any Filipino who complies with the qualifications set forth in this Act and duly issued with a license to possess or to carry firearms outside of the residence in accordance with this Act.

(s) *Licensed, juridical entity* refers to corporations, organizations, businesses including security agencies and local government units (LGUs) which are licensed to own and possess firearms in accordance with this Act.

(t) *Light weapons* are: Class-A Light weapons which refer to self-loading pistols, rifles and carbines, submachine guns, assault rifles and light machine guns not exceeding caliber 7.62MM which have fully automatic mode; and Class-B Light weapons which refer to weapons designed for use by two (2) or more persons serving as a crew, or rifles and machine guns exceeding caliber 7.62MM such as heavy machine guns, handheld underbarrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a caliber of less than 100MM.

(u) *Long certificate of registration* refers to licenses issued to government agencies or offices or government-owned or -controlled corporations for firearms to be used by their officials and employees who are qualified to possess firearms as provider in this Act, excluding security guards.

(v) *Loose firearm* refers to an unregistered firearm, an obliterated or altered firearm, firearm which has been lost or stolen, illegally manufactured firearms, registered firearms in the possession of an individual other than the licensee and those with revoked licenses in accordance with the rules and regulations.

(w) *Major part or components of a firearm* refers to the barrel, slide, frame, receiver, cylinder or the bolt assembly. The term also includes any part or kit designed and intended for use in converting a semi-automatic burst to a full automatic firearm.

(x) *Minor parts of a firearm* refers to the parts of the firearm other than the major parts which are necessary to effect and complete the action of expelling a projectile by way of combustion, except those classified as accessories.

(y) *Permit to carry firearm outside of residence* refers to a written authority issued to a licensed citizen by the Chief of the PNP which entitles such person to carry his/her registered or lawfully issued firearm outside of the residence for the duration and purpose specified in the authority.

(z) *Permit to transport firearm* refers to a written authority issued to a licensed citizen or entity by the Chief of the PNP or by a PNP Regional Director which entitles such person or entity to transport a particular firearm from and to a specific location within the duration and purpose in the authority.

(aa) *Residence* refers to the place or places of abode of the licensed citizen as indicated in his/her license.

(bb) *Shooting range* refers to a facility established for the purpose of firearms training and skills development, firearm testing, as well as for sports and competition shooting either for the exclusive use of its members or

open to the general public, duly registered with and accredited in good standing by the FEO of the PNP.

(cc) *Short certificate of registration* refers to a certificate issued by the FEO of the PNP for a government official or employee who was issued by his/her employer department, agency or government-owned or -controlled corporation a firearm covered by the long certificate of registration.

(dd) *Small arms* refer to firearms intended to be or primarily designed for individual use or that which is generally considered to mean a weapon intended to be fired from the hand or shoulder, which are not capable of fully automatic bursts of discharge, such as:

(1) Handgun which is a firearm intended to be fired from the hand, which includes:

(i) A pistol which is a hand-operated firearm having a chamber integral with or permanently aligned with the bore which may be self-loading; and

(ii) Revolver which is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

(2) Rifle which is a shoulder firearm or designed to be fired from the shoulder that can discharge a bullet through a rifled barrel by different actions of loading, which may be classified as lever, bolt, or self-loading; and

(3) Shotgun which is a weapon designed, made and intended to fire a number of ball shots or a single projectile through a smooth bore by the action or energy from burning gunpowder.

(ee) *Sports shooting competition* refers to a defensive, precision or practical sport shooting competition duly authorized by the FEO of the PNP.

(ff) *Tampered, obliterated* or *altered firearm* refers to any firearm whose serial number or other identification or ballistics characteristics have been intentionally tampered with, obliterated or altered without authority or in order to conceal its source, identity or ownership.

(gg) *Thermal weapon sight* refers to a battery operated, uncooled thermal imaging device which amplifies available thermal signatures so that the viewed scene becomes clear to the operator which is used to locate and engage targets during daylight and from low light to total darkness and operates in adverse conditions such as light rain, light snow, and dry smoke or in conjunction with other optical and red dot sights.

ARTICLE II OWNERSHIP AND POSSESSION OF FIREARMS

Section 4. *Standards and Requisites for Issuance of and Obtaining a License to Own and Possess Firearms.* – In order to qualify and acquire a license to own and possess a firearm or firearms and ammunition, the applicant must be a Filipino citizen, at least twenty-one (21) years old and has gainful work, occupation or business or has filed an Income Tax Return (ITR) for the preceding year as proof of income, profession, business or occupation.

In addition, the applicant shall submit the following certification issued by appropriate authorities attesting the following:

(a) The applicant has not been convicted of any crime involving moral turpitude;

(b) The applicant has passed the psychiatric test administered by a PNP-accredited psychologist or psychiatrist;

(c) The applicant has passed the drug test conducted by an accredited and authorized drug testing laboratory or clinic;

(d) The applicant has passed a gun safety seminar which is administered by the PNP or a registered and authorized gun club;

(e) The applicant has filed in writing the application to possess a registered firearm which shall state the personal circumstances of the applicant;

(f) The applicant must present a police clearance from the city or municipality police office; and

(g) The applicant has not been convicted or is currently an accused in a pending criminal case before any court of law for a crime that is punishable with a penalty of more than two (2) years.

For purposes of this Act, an acquittal or permanent dismissal of a criminal case before the courts of law shall qualify the accused thereof to qualify and acquire a license.

The applicant shall pay the reasonable licensing fees as may be provided in the implementing rules and regulations of this Act.

An applicant who intends to possess a firearm owned by a juridical entity shall submit his/her duty detail order to the FEO of the PNP.

Section 5. *Ownership of Firearms and Ammunition by a Juridical Entity.* – A juridical person maintaining its own security force may be issued a regular license to own and possess firearms and ammunition under the following conditions:

(a) It must be Filipino-owned and duly registered with the Securities and Exchange Commission (SEC);

(b) It is current, operational and a continuing concern;

(c) It has completed and submitted all its reportorial requirements to the SEC; and

(d) It has paid all its income taxes for the year, as duly certified by the Bureau of Internal Revenue.

The application shall be made in the name of the juridical person represented by its President or any of its officers mentioned below as duly authorized in a board resolution to that effect: *Provided,* That the officer applying for the juridical entity, shall possess all the qualifications required of a citizen applying for a license to possess firearms.

Other corporate officers eligible to represent the juridical person are: the vice president, treasurer, and board secretary.

Security agencies and LGUs shall be included in this category of licensed holders but shall be subject to additional requirements as may be required by the Chief of the PNP.

Section 6. *Ownership of Firearms by the National Government.* – All firearms owned by the National Government shall be registered with the FEO of the PNP in the name of the Republic of the Philippines. Such registration shall be exempt from all duties and taxes that may otherwise be levied on other authorized owners of firearms. For reason of national security, firearms of the Armed Forces of the Philippines (AFP), Coast Guard and other law enforcement agencies shall only be reported to the FEO of the PNP.

Section 7. *Carrying of Firearms Outside of Residence or Place of Business.* – A permit to carry firearms outside of residence shall be issued by the Chief of the PNP or his/her duly authorized representative to any qualified person whose life is under actual threat or his/her life is in imminent danger due to the nature of his/her profession, occupation or business.

It shall be the burden of the applicant to prove that his/her life is under actual threat by submitting a threat assessment certificate from the PNP.

For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business:

(a) Members of the Philippine Bar;

(b) Certified Public Accountants;

(c) Accredited Media Practitioners;

(d) Cashiers, Bank Tellers;

(e) Priests, Ministers, Rabbi, Imams;

(f) Physicians and Nurses;

(g) Engineers; and

(h) Businessmen, who by the nature of their business or undertaking, are exposed to high risk of being targets of criminal elements.

ARTICLE III REGISTRATION AND LICENSING

Section 8. *Authority to Issue License.* – The Chief of the PNP, through the FEO of the PNP, shall issue licenses to qualified individuals and to cause the registration of firearms.

Section 9. *Licenses Issued to Individuals.* – Subject to the requirements set forth in this Act and payment of required fees to be determined by the Chief of the PNP, a qualified individual may be issued the appropriate license under the following categories;

Type 1 license – allows a citizen to own and possess a maximum of two (2) registered firearms;

Type 2 license – allows a citizen to own and possess a maximum of five (5) registered firearms;

Type 3 license – allows a citizen to own and possess a maximum of ten (10) registered firearms;

Type 4 license – allows a citizen to own and possess a maximum of fifteen (15) registered firearms; and

Type 5 license – allows a citizen, who is a certified gun collector, to own and possess more than fifteen (15) registered firearms.

For Types 1 to 5 licenses, a vault or a container secured by lock and key or other security measures for the safekeeping of firearms shall be required.

For Types 3 to 5 licenses, the citizen must comply with the inspection and bond requirements.

Section 10. *Firearms That May Be Registered.* – Only small arms may be registered by licensed citizens or licensed juridical entities for ownership, possession and concealed carry. A light weapon shall be lawfully acquired or possessed exclusively by the AFP, the PNP and other law enforcement agencies authorized by the President in the performance of their duties: *Provided,* That private individuals who already have licenses to possess Class-A light weapons upon the effectivity of this Act shall not be deprived of the privilege to continue possessing the same and renewing the licenses therefor, for the sole reason that these firearms are Class "A" light weapons, and shall be required to comply with other applicable provisions of this Act.

Section 11. *Registration of Firearms.* – The licensed citizen or licensed juridical entity shall register his/her/its firearms so purchased with the FEO of the PNP in accordance with the type of license such licensed citizen or licensed juridical entity possesses. A certificate of registration of the firearm shall be issued upon payment of reasonable fees.

For purposes of this Act, registration refers to the application, approval, record-keeping and monitoring of firearms with the FEO of the PNP in accordance with the type of license issued to any person under Section 9 of this Act.

Section 12. *License to Possess Ammunition Necessarily Included.* – The licenses granted to qualified citizens or juridical entities as provided in Section 9 of this Act shall include the license to possess ammunition with a maximum of fifty (50) rounds for each registered firearm: *Provided;* That the FEO of the PNP may allow more ammunition to be possessed by licensed sports shooters.

Section 13. *Issuance of License to Manufacture or Deal In Firearms and Ammunition.* – Any person desiring to manufacture or deal in firearms, parts of firearms or ammunition thereof, or instruments and implements used or intended to be used in the manufacture of firearms, parts of firearms or ammunition, shall make an application to:

(a) The Secretary of the Department of the Interior and Local Government (DILG) in the case of an application for a license to manufacture; and

(b) The Chief of the PNP in the case of a license to deal in firearms and firearms parts, ammunition and gun repair.

The applicant shall state the amount of capitalization for manufacture or cost of the purchase and sale of said articles intended to be transacted by such applicant; and the types of firms, ammunition or implements which the applicant intends to manufacture or purchase and sell under the license applied for; and such additional information as may be especially requested by the Secretary of the DILG or the Chief of the PNP.

The Secretary of the DILG or the Chief of the PNP may approve or disapprove such application based on the prescribed guidelines. In the case of approval, the Secretary of the DILG or the Chief of the PNP shall indicate the amount of the bond to be executed by the applicant before the issuance of the license and the period of time by which said license shall be effective, unless sooner revoked by their authority.

Upon approval of the license to manufacture or otherwise deal in firearms by the Secretary of the DILG or the Chief of the PNP as the case may be, the same shall be transmitted to the FEO of the PNP which shall issue the license in accordance with the approved terms and conditions, upon the execution and delivery by the applicant of the required bond conditioned upon the faithful compliance on the part of the licensee to the laws and regulations relative to the business licensed.

Section 14. *Scope of License to Manufacture Firearms and Ammunition.* – The scope of the License to Manufacture firearms and ammunition shall also include the following:

(a) The authority to manufacture and assemble firearms, ammunition, spare parts and accessories, ammunition components, and reloading of ammunitions, within sites, areas, and factories stated therein. The Secretary of the DILG shall approve such license;

(b) The license to deal in or sell all the items covered by the License to Manufacture, such as parts, firearms or ammunition and components;

(c) The authority to subcontract the manufacturing of parts and accessories necessary for the firearms which the manufacturer is licensed to manufacture: *Provided,* That the subcontractor of major parts or major components is also licensed to manufacture firearms and ammunition; and

(d) The authority to import machinery, equipment, and firearm parts and ammunition components for the manufacture thereof. Firearm parts and ammunition components to be imported shall, however, be limited to those authorized to be manufactured as reflected in the approved License to Manufacture. The Import Permit shall be under the administration of the PNP.

A licensed manufacturer of ammunition is also entitled to import various reference firearms needed to test the ammunition manufactured under the License to Manufacture. A licensed manufacturer of firearms, on the other hand, is entitled to import various firearms for reference, test and evaluation for manufacture of similar, types of firearms covered by the License to Manufacture.

An export permit shall, however, be necessary to export manufactured parts or finished products of firearms and ammunition. The Export Permit of firearms and ammunition shall be under the administration of the PNP.

Section 15. *Registration of Locally Manufactured and Imported Firearms.* – Local manufacturers and importers of firearms and major parts thereof shall register the same as follows:

(a) For locally manufactured firearms and major parts thereof, the initial registration shall be done at the manufacturing facility: *Provided,* That firearms intended for export shall no longer be subjected to ballistic identification procedures; and

(b) For imported firearms and major parts thereof, the registration shall be done upon arrival at the FEO of the PNP storage facility.

Section 16. *License and Scope of License to Deal.* – The License to Deal authorizes the purchase, sale and general business in handling firearms and ammunition, major and minor parts of firearms, accessories, spare parts, components, and reloading machines, which shall be issued by the Chief of the PNP.

Section 17. *License and Scope of License for Gunsmiths.* – The license for gunsmiths shall allow the grantee to repair registered firearms. The license shall include customization of firearms from finished or manufactured parts thereof on per order basis and not in commercial quantities and making the minor parts thereof, i.e. pins, triggers, trigger bows, sights and the like only for the purpose of repairing the registered firearm. The license for gunsmiths shall be issued by the Chief of the PNP.

Section 18. *Firearms for Use in Sports and Competitions.* – *A* qualified individual shall apply for a permit to transport his/her registered firearm/s from his/her residence to the firing range/s and competition sites as may be warranted.

Section 19. *Renewal of Licenses and Registration.* – All types of licenses to possess a firearm shall be renewed every two (2) years. Failure to renew the license on or before the date of its expiration shall cause the revocation of the license and of the registration of the firearm/s under said licensee.

The registration of the firearm shall be renewed every four (4) years. Failure to renew the registration of the firearm on or before the date of expiration shall cause the revocation of the license of the firearm. The said firearm shall be confiscated or forfeited in favor of the government after due process.

The failure to renew a license or registration within the periods stated above on two (2) occasions shall cause the holder of the firearm to be perpetually disqualified from applying for any firearm license. The application for the renewal of the license or registration may be submitted to the FEO of the PNP, within six (6) months before the date of the expiration of such license or registration.

Section 20. *Inspection and Inventory.* – The Chief of the PNP or his/her authorized representative shall require the submission of reports, inspect or examine the inventory and records of a licensed manufacturer, dealer or importer of firearms and ammunition during reasonable hours.

ARTICLE IV ACQUISITION, DEPOSIT OF FIREARMS, ABANDONED, DEMILITARIZED AND ANTIQUE FIREARMS

Section 21. *Acquisition or Purchase and Sale of Firearms and Ammunition.* – Firearms and ammunition may only be acquired or purchased from authorized dealers, importers or local manufacturers and may be transferred or sold only from a licensed citizen or licensed juridical entity to another licensed citizen or licensed juridical entity: *Provided,* That, during election periods, the sale and registration of firearms and ammunition and the issuance of the corresponding licenses to citizens shall be allowed on the condition that the transport or delivery thereof shall strictly comply with the issuances, resolutions, rules and regulations promulgated by the Commission on Elections.

Section 22. *Deposit of Firearms by Persons Arriving From Abroad.* – A person arriving in the Philippines who is legally in possession of any firearm or ammunition in his/her country of origin and who has declared the existence of the firearm upon embarkation and disembarkation but whose firearm is not registered in the Philippines in accordance with this Act shall deposit the same upon written receipt with the Collector of Customs for delivery to the FEO of the PNP for safekeeping, or for the issuance of a permit to transport if the person is a competitor in a sports shooting competition. If the importation of the same is allowed and the party in question desires to obtain a domestic firearm license, the same should be undertaken in accordance with the provisions of this Act. If no license is desired or leave to import is not granted, the firearm or ammunition in question shall remain in the custody of the FEO of the PNP until otherwise disposed of in-accordance with law.

Section 23. *Return of Firearms to Owner upon Departure from the Philippines.* – Upon the departure from the Philippines of any person whose firearm or ammunition is in the custody of the FEO of the PNP, the same shall, upon timely request, be delivered to the person through the Collector of Customs. In the case of a participant in a local sports shooting competition, the firearm must be presented to the Collector of Customs before the same is allowed to be loaded on board the carrier on which the person is to board.

Section 24. *Safekeeping of Firearms and Ammunition.* – Any licensee may deposit a registered firearm to the FEO of the PNP, or any Police Regional Office for safekeeping. Reasonable fees for storage shall be imposed.

Section 25. *Abandoned Firearms and Ammunition.* – Any firearm or ammunition deposited in the custody of the FEO of the PNP pursuant to the provisions of this Act, shall be deemed to have been abandoned by the owner or his/her authorized representative if he/she failed to reclaim the same within five (5) years or failed to advise the FEO of the PNP of the disposition to be made thereof. Thereafter, the FEO of the PNP may dispose of the same after compliance with established procedures.

Section 26. *Death or Disability of Licensee.* – Upon the death or legal disability of the holder of a firearm license, it shall be the duty of his/her next of kin, nearest relative, legal representative, or other person who shall knowingly come into possession of such firearm or ammunition, to deliver the same to the FEO of the PNP or Police Regional Office, and such firearm or ammunition shall be retained by the police custodian pending the issuance of a license and its registration in accordance, with this Act. The failure to deliver the firearm or ammunition within six (6) months after the death or legal disability of the licensee shall render the possessor liable for illegal possession of the firearm.

Section 27. *Antique Firearm.* – Any person who possesses an antique firearm shall register the same and secure a collector's license from the FEO of the PNP. Proper storage of antique firearm shall be strictly imposed. Noncompliance of this provision shall be considered as illegal possession of the firearm as penalized in this Act.

ARTICLE V PENAL PROVISIONS

Section 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* – The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

(a) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm;

(b) The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed if three (3) or more small arms or Class-A light weapons are unlawfully acquired or possessed by any person;

(c) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess a Class-A light weapon;

(d) The penalty of *reclusion perpetua* shall be imposed upon any person who shall, unlawfully acquire or possess a Class-B light weapon;

(e) The penalty of one (1) degree higher than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions:

(1) Loaded with ammunition or inserted with a loaded magazine;

(2) Fitted or mounted with laser or any gadget used to guide the shooter to hit the target such as thermal weapon sight (TWS) and the like;

(3) Fitted or mounted with sniper scopes, firearm muffler or firearm silencer;

(4) Accompanied with an extra barrel; and

(5) Converted to be capable of firing full automatic bursts.

(f) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a small arm;

(g) The penalty *of prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a small arm or Class-A light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a small arm, the former violation shall be absorbed by the latter;

(h) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a Class-A light weapon;

(i) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a Class-A light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-A light weapon, the former violation shall be absorbed by the latter;

(j) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a Class-B light weapon; and

(k) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a Class-B light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-B light weapon, the former violation shall be absorbed by the latter.

Section 29. *Use of Loose Firearm in the Commission of a Crime.* – The use of a loose firearm, when inherent in the commission of a crime punishable under the Revised Penal Code or other special laws, shall be considered as an aggravating circumstance: *Provided,* That if the crime committed with the use of a loose firearm is penalized by the law with a maximum penalty which is lower than that prescribed in the preceding section for illegal possession of firearm, the penalty for illegal possession of firearm shall be imposed in lieu of the penalty for the crime charged: *Provided, further,* That if the crime committed with the use of a loose firearm is penalized by the law with a maximum penalty which is equal to that imposed under the preceding section for illegal possession of firearms, the penalty of *prision mayor* in its minimum period shall be imposed in addition to the penalty for the crime punishable under the Revised Penal Code or other special laws of which he/she is found guilty.

If the violation of this Act is in furtherance of, or incident to, or in connection with the crime of rebellion or insurrection, or attempted *coup d' etat,* such violation shall be absorbed as an element of the crime of rebellion or insurrection, or attempted *coup d' etat*.

If the crime is committed by the person without using the loose firearm, the violation of this Act shall be considered as a distinct and separate offense.

Section 30. *Liability of Juridical Person.* – The penalty of *prision mayor* in its minimum to *prision mayor* in its medium period shall be imposed upon the owner, president, manager, director or other responsible officer of/any public or private firm, company, corporation or entity who shall willfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding section, or willfully or knowingly allow any of them to use unregistered firearm or firearms without any legal authority to be carried outside of their residence in the course of their employment.

Section 31. *Absence of Permit to Carry Outside of Residence.* – The penalty of *prision correccional* and a fine of Ten thousand pesos (P10,000.00) shall be imposed upon any person who is licensed to own a firearm but who shall carry the registered firearm outside his/her residence without any legal authority therefor.

Section 32. *Unlawful Manufacture, Importation, Sale or Disposition of Firearms or Ammunition or Parts Thereof, Machinery, Tool or Instrument Used or Intended to be Used in the Manufacture of Firearms, Ammunition or Parts Thereof.* – The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed upon any person who shall unlawfully engage in the manufacture, importation, sale or disposition of a firearm or ammunition, or a major part of a firearm or ammunition, or machinery, tool or instrument used or intended to be used by the same person in the manufacture of a firearm, ammunition, or a major part thereof.

The possession of any machinery, tool or instrument used directly in the manufacture of firearms, ammunition, or major parts thereof by any person whose business, employment or activity does not lawfully deal with the possession of such article, shall be *prima facie* evidence that such article is intended to be used in the unlawful or illegal manufacture of firearms, ammunition or parts thereof.

The penalty of *prision mayor* in its minimum period to *prision mayor* in its medium period shall be imposed upon any laborer, worker or employee of a licensed firearms dealer who shall unlawfully take, sell or otherwise dispose of parts of firearms or ammunition which the company manufactures and sells, and other materials used by the company in the manufacture or sale of firearms or ammunition. The buyer or possessor of such stolen part or material, who is aware that such part or material was stolen, shall suffer the same penalty as the laborer, worker or employee.

If the violation or offense is committed by a corporation, partnership, association or other juridical entity, the penalty provided for in this section shall be imposed upon the directors, officers, employees or other officials or persons therein who knowingly and willingly participated in the unlawful act.

Section 33. *Arms Smuggling.* – The penalty of *reclusion perpetua* shall be imposed upon any person who shall engage or participate in arms smuggling as defined in this Act.

Section 34. *Tampering, Obliteration or Alteration of Firearms Identification.* – The penalty of *prision correccional* to *prision mayor* in its minimum period shall be imposed upon any person who shall tamper, obliterate or alter without authority the barrel, slide, frame, receiver, cylinder, or bolt assembly, including the name of the maker, model, or serial number of any firearm, or who shall replace without authority the barrel, slide, frame, receiver, cylinder, or bolt assembly, including its individual or peculiar identifying characteristics essential in forensic examination of a firearm or light weapon.

The PNP shall place this information, including its individual or peculiar identifying characteristics into the

database of integrated firearms identification system of the PNP Crime Laboratory for future use and identification of a particular firearm.

Section 35. *Use of an Imitation Firearm.* – An imitation firearm used in the commission of a crime shall be considered a real firearm as defined in this Act and the person who committed the crime shall be punished in accordance with this Act: *Provided,* That injuries caused on the occasion of the conduct of competitions, sports, games, or any recreation activities involving imitation firearms shall not be punishable under this Act.

Section 36. *In Custodia Legis.* – During the pendency of any case filed in violation of this Act, seized firearm, ammunition, or parts thereof, machinery, tools or instruments shall remain in the custody of the court. If the court decides that it has no adequate means to safely keep the same, the court shall issue an order to turn over to the PNP Crime Laboratory such firearm, ammunition, or parts thereof, machinery, tools or instruments in its custody during the pendency of the case and to produce the same to the court when so ordered. No bond shall be admitted for the release of the firearm, ammunition or parts thereof, machinery, tool or instrument. Any violation of this paragraph shall be punishable by *prision mayor* in its minimum period to *prision mayor* in its medium period.

Section 37. *Confiscation and Forfeiture.* – The imposition of penalty for any violation of this Act shall carry with it the accessory penalty of confiscation and forfeiture of the firearm, ammunition, or parts thereof, machinery, tool or instrument in favor of the government which shall be disposed of in accordance with law.

Section 38. *Liability for Planting Evidence.* – The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall willfully and maliciously insert; place, and/or attach, directly or indirectly, through any overt or covert act, any firearm, or ammunition, or parts thereof in the person, house, effects, or in the immediate vicinity of an innocent individual for the purpose of implicating or incriminating the person, or imputing the commission of any violation of the provisions of this Act to said individual. If the person found guilty under this paragraph is a public officer or employee, such person shall suffer the penalty of *reclusion perpetua*.

Section 39. *Grounds for Revocation, Cancellation or Suspension of License or Permit.* – The Chief of the PNP or his/her authorized representative may revoke, cancel or suspend a license or permit on the following grounds:

(a) Commission of a crime or offense involving the firearm, ammunition, of major parts thereof;

(b) Conviction of a crime involving moral turpitude or any offense where the penalty carries an imprisonment of more than six (6) years;

(c) Loss of the firearm, ammunition, or any parts thereof through negligence;

(d) Carrying of the firearm, ammunition, or major parts thereof outside of residence or workplace without, the proper permit to carry the same;

(e) Carrying of the firearm, ammunition, or major parts thereof in prohibited places;

(f) Dismissal for cause from the service in case of government official and employee;

(g) Commission of any of the acts penalized under Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002";

(h) Submission of falsified documents or misrepresentation in the application to obtain a license or permit;

(i) Noncompliance of reportorial requirements; and

(j) By virtue of a court order.

Section 40. *Failure to Notify Lost or Stolen Firearm or Light Weapon.* – A fine of Ten thousand pesos (P10,000.00) shall be imposed upon any licensed firearm holder who fails to report to the FEO of the PNP that the subject firearm has been lost or stolen within a period of thirty (30) days from the date of discovery.

Likewise, a fine of Five thousand pesos (P5,000.00) shall be imposed upon any person holding a valid firearm license who changes residence or office address other than that indicated in the license card and fails within a period of thirty (30) days from said transfer to notify the FEO of the PNP of such change of address.

Section 41. *Illegal Transfer/Registration of Firearms.* – It shall be unlawful to transfer possession of any firearm to any person who has not yet obtained or secured the necessary license or permit thereof.

The penalty of *prision correccional* shall be imposed upon any person who shall violate the provision of the preceding paragraph. In addition, he/she shall be disqualified to apply for a license to possess other firearms and all his/her existing firearms licenses whether for purposes of commerce or possession, shall be revoked. If government-issued firearms, ammunition or major parts of firearms or light weapons are unlawfully disposed, sold or transferred by any law enforcement agent or public officer to private individuals, the penalty of *reclusion temporal* shall be imposed.

Any public officer or employee or any person who shall facilitate the registration of a firearm through fraud, deceit, misrepresentation or submission of falsified documents shall suffer the penalty of *prision correccional*.

ARTICLE VI FINAL PROVISIONS

Section 42. *Firearms Repository.* – The FEO of the PNP shall be the sole repository of all firearms records to include imported and locally manufactured firearms and ammunition. Within one (1) year upon approval of this Act, all military and law enforcement agencies, government agencies, LGUs and government-owned or -controlled corporations shall submit an inventory of all their firearms and ammunition to the PNP.

Section 43. *Final Amnesty.* – Persons in possession of unregistered firearms and holders of expired license or unregistered firearms shall register and renew the same through the Final General Amnesty within six (6) months from the promulgation of the implementing rules and regulations of this Act. During the interim period of six (6) months, no person applying for license shall be charged of any delinquent payment accruing to the firearm subject for registration. The PNP shall conduct an intensive nationwide campaign to ensure that the general public is properly informed of the provisions of this Act.

Section 44. *Implementing Rules and Regulations.* – Within one hundred twenty (120) days from the effectivity of this Act, the Chief of the PNP, after public hearings and consultation with concerned sectors of society shall formulate the necessary rules and regulations for the effective implementation of this Act to be published in at least two (2) national newspapers of general circulation.

Section 45. *Repealing Clause.* – This Act repeals Sections 1, 2, 5 and 7 of Presidential Decree No. 1866, as amended, and Section 6 of Republic Act No. 8294 and all other laws, executive orders, letters of instruction, issuances, circulars, administrative orders, rules or regulations that are inconsistent herewith.

Section 46. *Separability Clause.* – If any provision of this Act or any part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

Section 47. *Effectivity.* – This Act shall take effect after fifteen (15) days from its publication in a newspaper of nationwide circulation.

PD No 1866 | Illegal Possession of Firearms, Ammunition or Explosives

As amended by RA No 8294, 9516, 10591

Presidential Decree No. 1866 June 29, 1983

CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES"

WHEREAS, there has been an upsurge of crimes vitally affecting public order and safety due to the proliferation of illegally possessed and manufactured firearms, ammunition and explosives;

WHEREAS, these criminal acts have resulted in loss of human lives, damage to property and destruction of valuable resources of the country;

WHEREAS, there are various laws and presidential decrees which penalized illegal possession and manufacture of firearms, ammunition and explosives;

WHEREAS, there is a need to consolidate, codify and integrate said laws and presidential decrees to harmonize their provisions;

WHEREAS, there are some provisions in said laws and presidential decrees which must be updated and revised in order to more effectively deter violators of the law on firearms, ammunition and explosives.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree:

~~**Section 1.** *Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms of Ammunition*~~

~~**Section 2.** *Presumption of Illegal Manufacture of Firearms or Ammunition*~~[6]

Section 3.. *Unlawful Manufacture, Sales, Acquisition, Disposition, Importation or Possession of an Explosive or Incendiary Device*. - The penalty of *reclusion perpetua* shall be imposed upon any person who shall willfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any explosive or incendiary device, with knowledge of its existence and its explosive or incendiary character, where the explosive or incendiary device is capable of producing destructive effect on contiguous objects or causing injury or death to any person, including but not limited to, hand grenade(s), rifle grenade(s), 'pillbox bomb', 'molotov cocktail bomb', 'fire bomb', and other similar explosive and incendiary devices.

Provided, That mere possession of any explosive or incendiary device shall be *prima facie* evidence that the person had knowledge of the existence and the explosive or incendiary character of the device.

Provided, *however*, That a temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device, without the knowledge of its existence or its explosive or incendiary character, shall not be a violation of this Section.

Provided, *Further*, That the temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device for the sole purpose of surrendering it to the proper authorities shall not be a violation of this Section.

Provided, *finally*, That in addition to the instances provided in the two (2) immediately preceding paragraphs, the court may determine the absence of the intent to possess, otherwise referred to as *'animus possidendi'*, in accordance with the facts and circumstances of each case and the application of other pertinent laws, among other things, Articles 11 and 12 of the Revised Penal Code, as amended.

(as amended by RA No 8294, 9516)

Section 3-A. *Unlawful Manufacture, Sales, Acquisition, Disposition, Importation or Possession of a Part, Ingredient, Machinery, Tool or Instrument Used or Intended to be Used for the Manufacture, Construction, Assembly, Delivery or Detonation*. - The penalty of reclusion perpetua shall be imposed upon any person who shall willfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise, used or intended to be used by that person for its manufacture, construction, assembly, delivery or detonation, where the explosive or incendiary device is capable or is intended to be made capable of producing destructive effect on contiguous objects or causing injury or death to any person.

Provided, That the mere possession of any part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, by any person whose business activity, or employment does not lawfully deal with the possession of such article shall be *prima facie* evidence that such article is intended to be used by that person in the unlawful/illegal manufacture, construction, assembly, delivery or detonation of an explosive or incendiary device.

Provided, *however*, That a temporary incidental, casual, harmless or transient possession or control of any part, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, without the knowledge of its existence or character as part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, shall not be a violation of this Section.

Provided, *Further*, That the temporary, incidental, casual, harmless, or transient possession or control of any part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device for the sole purpose of surrendering it to the proper authorities shall not be a violation of this Section.

Provided, *finally*, That in addition to the instances provided in the two (2) immediately preceding paragraphs, the court may determine the absence of the intent to possess, otherwise referred to as *'animus possidendi'*, in accordance with the facts and circumstances of each case and the application of other pertinent laws, among other things, Articles 11 and 12 of the Revised Penal Code, as amended.

Section 3-B. *Penalty for the Owner, President, Manager, Director or Other Responsible Officer of Any Public or Private Firm, Company, Corporation or Entity*. - The penalty of *reclusion perpetua* shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any explosive or incendiary device or parts thereof owned or controlled by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

Section 3-C. *Relationship of Other Crimes with a Violation of this Decree and the Penalty Therefor*. - When a violation of Section 3, 3-A or 3-B of this Decree is a necessary means for committing any of the crimes defined in the Revised Penal Code or special laws, or is in furtherance of, incident to, in connection with, by reason of, or on occasion of any of the crimes defined in the Revised Penal Code or special laws, the penalty of *reclusion perpetua* and a fine ranging from One hundred Thousand pesos (P100,000.00) to One million pesos (P1,000,000.00) shall be imposed.

Section 3-D. *Former Conviction or Acquittal; Double Jeopardy*. - Subject to the provisions of the Rules of Court on double jeopardy, if the application thereof is more favorable to the accused, the conviction or acquittal of

[6] **Repealed by RA No 10591**

the accused or the dismissal of the case for violation of this Decree shall be a bar to another prosecution of the same accused for any offense where the violation of this Decree was a necessary means for committing the offense or in furtherance of which, incident to which, in connection with which, by reason of which, or on occasion of which, the violation of this Decree was committed, and vice versa.

Section 4. *Responsibility and liability of Law Enforcement Agencies and Other Government Officials and Employees in Testifying as Prosecution Witnesses*. - Any member of law enforcement agencies or any other government official and employee who, after due notice, fails or refuses, intentionally or negligently, to appear as a witness for the prosecution of the defense in any proceeding, involving violations of this Decree, without any valid reason, shall be punished with *reclusion temporal* and a fine of Five hundred Thousand pesos (P500,000.00) in addition to the administrative liability he/she may be meted out by his/her immediate superior and/or appropriate body.

The immediate superior of the member of the law enforcement agency or any other government employee mentioned in the preceding paragraph shall be penalized with prision correccional and a fine of not less than Ten Thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office if despite due notice to them and to the witness concerned, the former does not exert reasonable effort to present the latter to the court.

The member of the law enforcement agency or any other government employee mentioned in the preceding paragraphs shall not be transferred or reassigned to any other government office located in another territorial jurisdiction during the pendency of the case in court. However, the concerned member of the law enforcement agency or government employee may be transferred or reassigned for compelling reasons: *Provided*, That his/her immediate superior shall notify the court where the case is pending of the order to transfer or reassign, within twenty-four (24) hours from its approval: *Provided, further*, That his/her immediate superior shall be penalized with *prision correccional* and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office, should he/she fail to notify the court of such order to transfer or reassign.

Prosecution and punishment under this Section shall be without prejudice to any liability for violation of any existing law.

Section 4-A. *Criminal Liability for Planting of Evidence*. - Any person who is found guilty of 'planting' any explosive or incendiary device or any part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise, shall suffer the penalty of *reclusion perpetua*.

Planting of evidence shall mean the willful act by any person of maliciously and surreptitiously inserting, placing, adding or attaching, directly or indirectly, through any overt or covert act, whatever quantity of any explosive or incendiary device or any part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise in the person, house, effects or in the immediate vicinity of an innocent individual for the purpose of implicating incriminating or imputing the commission of any violation of this Decree.

Section 4-B. *Continuous Trial*. - In cases involving violations of this Decree, the judge shall set the case for continuous trial on a daily basis from Monday to Friday or other short-term trial calendar so as to ensure speedy trial. Such case shall be terminated within ninety (90) days from arraignment of the accused.

Section 4-C. *Authority to Import, Sell or Possess Chemicals or Accessories for Explosives*. - Only persons or entities issued a manufacturer's license, dealer's license or purchaser's license by the Philippine National Police (PNP)-Firearms and Explosives Division may import any of the chemical or accessories that can be used in the manufacture of explosives or explosive ingredients from foreign suppliers, or possess or sell them to licensed dealers or end users, as the case may be.

Section 4-D. *Types of Chemicals/Accessories Covered*. - The chemicals and accessories mentioned in the preceding Section shall exclusively refer to chlorates, nitrates, nitric acid and such other chemicals and accessories that can be used for the manufacture of explosives and explosive ingredients.

Section 4-E. *Record of Transactions*. - Any person or entity who intends to import, sell or possess the aforecited chemicals or accessories shall file an application with the chief of the PNP, stating therein the purpose for which the license and/or permit is sought and such other information as may be required by the said official. The concerned person or entity shall maintain a permanent record of all transactions entered into in relation with the aforecited chemicals or accessories, which documents shall be open to inspection by the appropriate authorities.

Section 4-F. *Cancellation of License*. - Failure to comply with the provision of Section 4-C, 4-D and 4-E shall be sufficient cause for the cancellation of the license and the confiscation of all such chemicals or accessories, whether or not lawfully imported, purchased or possessed by the subject person or entity.

~~**Section 5.** *Tampering of Firearm's Serial Number*~~[7]

Section 6. *Repacking or Altering the Composition of Lawfully Manufactured Explosives*. - The penalty of prision correccional shall be imposed upon any person who shall unlawfully repack, alter or modify the composition of any lawfully manufactured explosives. ***(as amended by RA No 8294)***

~~**Section 7.** *Unauthorized Issuance of Authority to Carry Firearm and/or Ammunition Outside of Residence*.~~[8]

Section 8. *Rules and Regulations*. - The Chief of the Philippine Constabulary shall promulgate the rules and regulations for the effective implementation of this Decree.

Section 9. *Repealing Clause*. - The provisions of Republic Act No. 4, Presidential Decree No. 9, Presidential Decree No. 1728 and all laws, decrees, orders, instructions, rules and regulations which are inconsistent with this Decree are hereby repealed, amended or modified accordingly.

Section 10. *Effectivity*. - This Decree shall take effect after fifteen (15) days following the completion of its publication in the Official Gazette.

Done in the City of Manila, this 29th day of June, in the year of Our Lord, nineteen hundred and eighty-three.

RA No 9372 | **Human Security Act of 2007**

Republic Act No. 9372 March 6, 2007

AN ACT TO SECURE THE STATE AND PROTECT OUR PEOPLE FROM TERRORISM

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* - This Act shall henceforth be known as the "**Human Security Act of 2007**."

SEC. 2. *Declaration of Policy.* - It is declared a policy of the State to protect life, liberty, and property from acts of

[7] ***Supra***
[8] ***Supra.***

terrorism, to condemn terrorism as inimical and dangerous to the national security of the country and to the welfare of the people, and to make terrorism a crime against the Filipino people, against humanity, and against the law of nations.

In the implementation of the policy stated above, the State shall uphold the basic rights and fundamental liberties of the people as enshrined in the Constitution.

The State recognizes that the fight against terrorism requires a comprehensive approach, comprising political, economic, diplomatic, military, and legal means duly taking into account the root causes of terrorism without acknowledging these as justifications for terrorist and/or criminal activities. Such measures shall include conflict management and post-conflict peace-building, addressing the roots of conflict by building state capacity and promoting equitable economic development.

Nothing in this Act shall be interpreted as a curtailment, restriction or diminution of constitutionally recognized powers of the executive branch of the government. It is to be understood, however that the exercise of the constitutionally recognized powers of the executive department of the government shall not prejudice respect for human rights which shall be absolute and protected at all times.

SEC. 3. *Terrorism.*- Any person who commits an act punishable under any of the following provisions of the Revised Penal Code:

a. Article 122 (Piracy in General and Mutiny in the High Seas or in the Philippine Waters);

b. Article 134 (Rebellion or Insurrection);

c. Article 134-a (Coup d' Etat), including acts committed by private persons;

d. Article 248 (Murder);

e. Article 267 (Kidnapping and Serious Illegal Detention);

f. Article 324 (Crimes Involving Destruction), or under

1. Presidential Decree No. 1613 (The Law on Arson);

2. Republic Act No. 6969 (Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990);

3. Republic Act No. 5207, (Atomic Energy Regulatory and Liability Act of 1968);

4. Republic Act No. 6235 (Anti-Hijacking Law);

5. Presidential Decree No. 532 (Anti-Piracy and Anti-Highway Robbery Law of 1974); and,

6. Presidential Decree No. 1866, as amended (Decree Codifying the Laws on Illegal and Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunitions or Explosives)

thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand shall be guilty of the crime of terrorism and shall suffer the penalty of forty (40) years of imprisonment, without the benefit of parole as provided for under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

SEC. 4. *Conspiracy to Commit Terrorism.* - Persons who conspire to commit the crime of terrorism shall suffer the penalty of forty (40) years of imprisonment.

There is conspiracy when two or more persons come to an agreement concerning the commission of the crime of terrorism as defined in Section 3 hereof and decide to commit the same.

SEC. 5. *Accomplice.* - Any person who, not being a principal under Article 17 of the Revised Penal Code or a conspirator as defined in Section 4 hereof, cooperates in the execution of either the crime of terrorism or conspiracy to commit terrorism by previous or simultaneous acts shall suffer the penalty of from seventeen (17) years, four months one day to twenty (20) years of imprisonment.

SEC. 6. *Accessory.* - Any person who, having knowledge of the commission of the crime of terrorism or conspiracy to commit terrorism, and without having participated therein, either as principal or accomplice under Articles 17 and 18 of the Revised Penal Code, takes part subsequent to its commission in any of the following manner: (a) by profiting himself or assisting the offender to profit by the effects of the crime; (b) by concealing or destroying the body of the crime, or the effects, or instruments thereof, in order to prevent its discovery; (c) by harboring, concealing, or assisting in the escape of the principal or conspirator of the crime, shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

Notwithstanding the above paragraph, the penalties prescribed for accessories shall not be imposed upon those who are such with respect to their spouses, ascendants, descendants, legitimate, natural, and adopted brothers and sisters, or relatives by affinity within the same degrees, with the single exception of accessories falling within the provisions of subparagraph (a).

SEC. 7. *Surveillance of Suspects and Interception and Recording of Communications.* -The provisions of Republic Act No. 4200 (Anti-Wire Tapping Law) to the contrary notwithstanding, a police or law enforcement official and the members of his team may, upon a written order of the Court of Appeals, listen to, intercept and record, with the use of any mode, form, kind or type of electronic or other surveillance equipment or intercepting and tracking devices, or with the use of any other suitable ways and means for that purpose, any communication, message, conversation, discussion, or spoken or written words between members of a judicially declared and outlawed terrorist organization, association, or group of persons or of any person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism.

Provided, That surveillance, interception and recording of communications between lawyers and clients, doctors and patients, journalists and their sources and confidential business correspondence shall not be authorized.

SEC. 8. *Formal Application for Judicial Authorization.* - The written order of the authorizing division of the Court of Appeals to track down, tap, listen to, intercept, and record communications, messages, conversations, discussions, or spoken or written words of any person suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall only be granted by the authorizing division of the Court of Appeals upon an ex parte written application of a police or of a law enforcement official who has been duly authorized in writing by the Anti-Terrorism Council created in Section 53 of this Act to file such ex parte application, and upon examination under oath or affirmation of the applicant and the witnesses he may produce to establish: (a) that there is probable cause to believe based on personal knowledge of facts or circumstances that the said crime of terrorism or conspiracy to commit terrorism has been committed, or is being committed, or is about to be committed; (b) that there is probable cause to believe based on personal knowledge of facts or circumstances that evidence, which is essential to the conviction of any charged or suspected person for, or to the solution or prevention of, any such crimes, will be obtained; and, (c) that there is no other effective means readily available for acquiring such evidence.

SEC. 9. *Classification and Contents of the Order of the Court.* - The written order granted by the authorizing division of the Court of Appeals as well as its order, if any, to extend or renew the same, the original application of the applicant, including his application to extend or renew, if any, and the written authorizations of the Anti-Terrorism Council shall be deemed and are hereby declared as classified information: Provided, That the person being surveilled or whose communications, letters, papers, messages, conversations, discussions,

spoken or written words and effects have been monitored, listened to, bugged or recorded by law enforcement authorities has the right to be informed of the acts done by the law enforcement authorities in the premises or to challenge, if he or she intends to do so, the legality of the interference before the Court of Appeals which issued the written order. The written order of the authorizing division of the Court of Appeals shall specify the following: (a) the identity, such as name and address, if known, of the charged or suspected person whose communications, messages, conversations, discussions, or spoken or written words are to be tracked down, tapped, listened to, intercepted, and recorded and, in the case of radio, electronic, or telephonic (whether wireless or otherwise) communications, messages, conversations, discussions, or spoken or written words, the electronic transmission systems or the telephone numbers to be tracked down, tapped, listened to, intercepted, and recorded and their locations or if the person suspected of the crime of terrorism or conspiracy to commit terrorism is not fully known, such person shall be subject to continuous surveillance provided there is a reasonable ground to do so; (b) the identity (name, address, and the police or law enforcement organization) of the police or of the law enforcement official, including the individual identity (names, addresses, and the police or law enforcement organization) of the members of his team, judicially authorized to track down, tap, listen to, intercept, and record the communications, messages, conversations, discussions, or spoken or written words; (c) the offense or offenses committed, or being committed, or sought to be prevented; and, (d) the length of time within which the authorization shall be used or carried out.

SEC. 10. ***Effective Period of Judicial Authorization.*** - Any authorization granted by the authorizing division of the Court of Appeals, pursuant to Section 9(d) of this Act, shall only be effective for the length of time specified in the written order of the authorizing division of the Court of Appeals, which shall not exceed a period of thirty (30) days from the date of receipt of the written order of the authorizing division of the Court of Appeals by the applicant police or law enforcement official.

The authorizing division of the Court of Appeals may extend or renew the said authorization for another non-extendible period, which shall not exceed thirty (30) days from the expiration of the original period: Provided, That the authorizing division of the Court of Appeals is satisfied that such extension or renewal is in the public interest: and *Provided, further*, That the ex parte application for extension or renewal, which must be filed by the original applicant, has been duly authorized in writing by the Anti-Terrorism Council.

In case of death of the original applicant or in case he is physically disabled to file the application for extension or renewal, the one next in rank to the original applicant among the members of the team named in the original written order of the authorizing division of the Court of Appeals shall file the application for extension or renewal: Provided, That, without prejudice to the liability of the police or law enforcement personnel under Section 20 hereof, the applicant police or law enforcement official shall have thirty (30) days after the termination of the period granted by the Court of Appeals as provided in the preceding paragraphs within which to file the appropriate case before the Public Prosecutor's Office for any violation of this Act.

If no case is filed within the thirty (30)-day period, the applicant police or law enforcement official shall immediately notify the person subject of the surveillance, interception and recording of the termination of the said surveillance, interception and recording. The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon the applicant police or law enforcement official who fails to notify the person subject of the surveillance, monitoring, interception and recording as specified above.

SEC. 11. ***Custody of Intercepted and Recorded Communications.*** - All tapes, discs, and recordings made pursuant to the authorization of the authorizing division of the Court of Appeals, including all excerpts and summaries thereof as well as all written notes or memoranda made in connection therewith, shall, within forty-eight (48) hours after the expiration of the period fixed in the written order of the authorizing division of the Court of Appeals or within forty-eight (48) hours after the expiration of any extension or renewal granted by the authorizing division of the Court of Appeals, be deposited with the authorizing Division of the Court of Appeals in a sealed envelope or sealed package, as the case may be, and shall be accompanied by a joint affidavit of the applicant police or law enforcement official and the members of his team.

In case of death of the applicant or in case he is physically disabled to execute the required affidavit, the one next in rank to the applicant among the members of the team named in the written order of the authorizing division of the Court of Appeals shall execute with the members of the team that required affidavit.

It shall be unlawful for any person, police officer or any custodian of the tapes, discs and recording, and their excerpts and summaries, written notes or memoranda to copy in whatever form, to remove, delete, expunge, incinerate, shred or destroy in any manner the items enumerated above in whole or in part under any pretext whatsoever.

Any person who removes, deletes, expunges, incinerates, shreds or destroys the items enumerated above shall suffer a penalty of not less than six years and one day to twelve (12) years of imprisonment.

SEC. 12. ***Contents of Joint Affidavit.*** - The joint affidavit of the police or of the law enforcement official and the individual members of his team shall state: (a) the number of tapes, discs, and recordings that have been made, as well as the number of excerpts and summaries thereof and the number of written notes and memoranda, if any, made in connection therewith; (b) the dates and times covered by each of such tapes, discs, and recordings; (c) the number of tapes, discs, and recordings, as well as the number of excerpts and summaries thereof and the number of written notes and memoranda made in connection therewith that have been included in the deposit; and (d) the date of the original written authorization granted by the Anti-Terrorism Council to the applicant to file the ex parte application to conduct the tracking down, tapping, intercepting, and recording, as well as the date of any extension or renewal of the original written authority granted by the authorizing division of the Court of Appeals.

The joint affidavit shall also certify under oath that no duplicates or copies of the whole or any part of any of such tapes, discs, and recordings, and that no duplicates or copies of the whole or any part of any of such excerpts, summaries, written notes, and memoranda, have been made, or, if made, that all such duplicates and copies are included in the sealed envelope or sealed package, as the case may be, deposited with the authorizing division of the Court of Appeals.

It shall be unlawful for any person, police or law enforcement official to omit or exclude from the joint affidavit any item or portion thereof mentioned in this Section.

Any person, police or law enforcement officer who violates any of the acts prescribed in the preceding paragraph shall suffer the penalty of not less than ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 13. ***Disposition of Deposited Material.*** -The sealed envelope or sealed package and the contents thereof, which are deposited with the authorizing division of the Court of Appeals, shall be deemed and are hereby declared classified information, and the sealed envelope or sealed package shall not be opened and its contents (including the tapes, discs, and recordings and all the

excerpts and summaries thereof and the notes and memoranda made in connection therewith) shall not be divulged, revealed, read, replayed, or used as evidence unless authorized by written order of the authorizing division of the Court of Appeals, which written order shall be granted only upon a written application of the Department of Justice filed before the authorizing division of the Court of Appeals and only upon a showing that the Department of Justice has been duly authorized in writing by the Anti-Terrorism Council to file the application with proper written notice the person whose conversation, communication, message discussion or spoken or written words have been the subject of surveillance, monitoring, recording and interception to open, reveal, divulge, and use the contents of the sealed envelope or sealed package as evidence.

Any person, law enforcement official or judicial authority who violates his duty to notify in writing the persons subject of the surveillance as defined above shall suffer the penalty of six years and one day to eight years of imprisonment.

SEC. 14. ***Application to Open Deposited Sealed Envelope or Sealed Package.*** - The written application with notice to the party concerned to open the deposited sealed envelope or sealed package shall clearly state the purpose or reason: (a) for opening the sealed envelope or sealed package; (b) for revealing or disclosing its classified contents; (c) for replaying, divulging, and or reading any of the listened to, intercepted, and recorded communications, messages, conversations, discussions, or spoken or written words (including any of the excerpts and summaries thereof and any of the notes or memoranda made in connection therewith); [and, (d) for using any of said listened to, intercepted, and recorded communications, messages, conversations, discussions, or spoken or written words (including any of the excerpts and summaries thereof and any of the notes or memoranda made in connection therewith) as evidence.

Any person, law enforcement official or judicial authority who violates his duty to notify as defined above shall suffer the penalty of six years and one day to eight years of imprisonment.

SEC. 15. ***Evidentiary Value of Deposited Materials.*** - Any listened to, intercepted, and recorded communications, messages, conversations, discussions, or spoken or written words, or any part or parts thereof, or any information or fact contained therein, including their existence, content, substance, purport, effect, or meaning, which have been secured in violation of the pertinent provisions of this Act, shall absolutely not be admissible and usable as evidence against anybody in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

SEC. 16. ***Penalty for Unauthorized or Malicious Interceptions and/or Recordings.*** - Any police or law enforcement personnel who, not being authorized to do so by the authorizing division of the Court of Appeals, tracks down, taps, listens to, intercepts, and records in whatever manner or form any communication, message, conversation, discussion, or spoken or written word of a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall be guilty of an offense and shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

In addition to the liability attaching to the offender for the commission of any other offense, the penalty of ten (10) years and one day to twelve (12) years of imprisonment and the accessory penalty of perpetual absolute disqualification from public office shall be imposed upon any police or law enforcement personnel who maliciously obtained an authority from the Court of Appeals to track down, tap, listen to, intercept, and record in whatever manner or form any communication, message, conversation, discussion, or spoken or written words of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism: Provided, That notwithstanding Section 13 of this Act, the party aggrieved by such authorization shall be allowed access to the sealed envelope or sealed package and the contents thereof as evidence for the prosecution of any police or law enforcement personnel who maliciously procured said authorization.

SEC. 17. ***Proscription of Terrorist Organizations, Association, or Group of Persons.*** - Any organization, association, or group of persons organized for the purpose of engaging in terrorism, or which, although not organized for that purpose, actually uses the acts to terrorize mentioned in this Act or to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand shall, upon application of the Department of Justice before a competent Regional Trial Court, with due notice and opportunity to be heard given to the organization, association, or group of persons concerned, be declared as a terrorist and outlawed organization, association, or group of persons by the said Regional Trial Court.

SEC. 18. ***Period of Detention Without Judicial Warrant of Arrest.*** - The provisions of Article 125 of the Revised Penal Code to the contrary notwithstanding, any police or law enforcement personnel, who, having been duly authorized in writing by the Anti-Terrorism Council has taken custody of a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall, without incurring any criminal liability for delay in the delivery of detained persons to the proper judicial authorities, deliver said charged or suspected person to the proper judicial authority within a period of three days counted from the moment the said charged or suspected person has been apprehended or arrested, detained, and taken into custody by the said police, or law enforcement personnel: Provided, That the arrest of those suspected of the crime of terrorism or conspiracy to commit terrorism must result from the surveillance under Section 7 and examination of bank deposits under Section 27 of this Act.

The police or law enforcement personnel concerned shall, before detaining the person suspected of the crime of terrorism, present him or her before any judge at the latter's residence or office nearest the place where the arrest took place at any time of the day or night. It shall be the duty of the judge, among other things, to ascertain the identity of the police or law enforcement personnel and the person or persons they have arrested and presented before him or her, to inquire of them the reasons why they have arrested the person and determine by questioning and personal observation whether or not the suspect has been subjected to any physical, moral or psychological torture by whom and why. The judge shall then submit a written report of what he/she had observed when the subject was brought before him to the proper court that has jurisdiction over the case of the person thus arrested. The judge shall forthwith submit his/her report within three calendar days from the time the suspect was brought to his/her residence or office.

Immediately after taking custody of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism, the police or law enforcement personnel shall notify in writing the judge of the court nearest the place of apprehension or arrest: Provided ,That where the arrest is made during Saturdays, Sundays, holidays or after office hours, the written notice shall be served at the residence of the judge nearest the place where the accused was arrested.

The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon the police or law enforcement personnel who fails to notify and judge as Provided in the preceding paragraph.

SEC. 19. ***Period of Detention in the Event of an Actual or Imminent Terrorist Attack.*** - In the event of an actual or imminent terrorist attack, suspects may not be detained for more than three days without the written

approval of a municipal, city, provincial or regional official of a Human Rights Commission or judge of the municipal, regional trial court, the Sandiganbayan or a justice of the Court of Appeals nearest the place of the arrest. If the arrest is made during Saturdays, Sundays, holidays or after office hours, the arresting police or law enforcement personnel shall bring the person thus arrested to the residence of any of the officials mentioned above that is nearest the place where the accused was arrested. The approval in writing of any of the said officials shall be secured by the police or law enforcement personnel concerned within five days after the date of the detention of the persons concerned: *Provided, however*, That within three days after the detention the suspects, whose connection with the terror attack or threat is not established, shall be released immediately.

SEC. 20. *Penalty for Failure to Deliver Suspect to the Proper Judicial Authority within Three Days.* - The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon any police or law enforcement personnel who has apprehended or arrested, detained and taken custody of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism and fails to deliver such charged or suspected person to the proper judicial authority within the period of three days.

SEC. 21. *Rights of a Person under Custodial Detention.* - The moment a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism is apprehended or arrested and detained, he shall forthwith be informed, by the arresting police or law enforcement officers or by the police or law enforcement officers to whose custody the person concerned is brought, of his or her right: (a) to be informed of the nature and cause of his arrest, to remain silent and to have competent and independent counsel preferably of his choice. If the person cannot afford the services of counsel of his or her choice, the police or law enforcement officers concerned shall immediately contact the free legal assistance unit of the Integrated Bar of the Philippines (IBP) or the Public Attorney's Office (PAO). It shall be the duty of the free legal assistance unit of the IBP or the PAO thus contacted to immediately visit the person(s) detained and provide him or her with legal assistance. These rights cannot be waived except in writing and in the presence of the counsel of choice; (b) informed of the cause or causes of his detention in the presence of his legal counsel; (c) allowed to communicate freely with his legal counsel and to confer with them at any time without restriction; (d) allowed to communicate freely and privately without restrictions with the members of his family or with his nearest relatives and to be visited by them; and, (e) allowed freely to avail of the service of a physician or physicians of choice.

SEC. 22. *Penalty for Violation of the Rights of a Detainee.* - Any police or law enforcement personnel, or any personnel of the police or other law enforcement custodial unit that violates any of the aforesaid rights of a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall be guilty of an offense and shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

Unless the police or law enforcement personnel who violated the rights of a detainee or detainees as stated above is duly identified, the same penalty shall be imposed on the police officer or hear or leader of the law enforcement unit having custody of the detainee at the time the violation was done.

SEC. 23. *Requirement for an Official Custodial Logbook and its Contents.* - The police or other law enforcement custodial unit in whose care and control the person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism has been placed under custodial arrest and detention shall keep a securely and orderly maintained official logbook, which is hereby declared as a public document and opened to and made available for .the inspection and scrutiny of the lawyer or lawyers of the person under custody or any member of his or her family or relative by consanguinity or affinity within the fourth civil degree or his or her physician at any time of the day or night without any form of restriction. The logbook shall contain a clear and concise record of: (a) the name, description, and address of the detained person; (b) the date and exact time of his initial admission for custodial arrest and detention; (c) the name and address of the physician or physicians who examined him physically and medically; (d) the state of his health and physical condition at the time of his initial admission for custodial detention; (e) the date and time of each removal of the detained person from his cell for interrogation or for any purpose; (f) the date and time of his return to his cell; (g) the name and address of the physician or physicians who physically and medically examined him after each interrogation; (h) a summary of the physical and medical findings on the detained person after each of such interrogation; (i) the names and addresses of his family members and nearest relatives, if any and if available; (j) the names and addresses of persons, who visit the detained person; (k) the date and time of each of such visits; (1) the date and time of each request of the detained person to communicate and confer with his legal counsel or counsels; (m) the date and time of each visit, and date and time of each departure of his legal counsel or counsels; and, (n) all other important events bearing on and all relevant details regarding the treatment of the detained person while under custodial arrest and detention.

The said police or law enforcement custodial unit shall upon demand of the aforementioned lawyer or lawyers or members of the family or relatives within the fourth civil degree of consanguinity or affinity of the person under custody or his or her physician issue a certified true copy of the entries of the logbook relative to the concerned detained person without delay or restriction or requiring any fees whatsoever including documentary stamp tax, notarial fees, and the like. This certified true copy may be attested by the person who has custody of the logbook or who allowed the party concerned to scrutinize it at the time the demand for the certified true copy is made.

The police or other law enforcement custodial unit who fails to comply with the preceding paragraph to keep an official logbook shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 24. *No Torture or Coercion in Investigation and Interrogation.* - No threat, intimidation, or coercion, and no act which will inflict any form of physical pain or torment, or mental, moral, or psychological pressure, on the detained person, which shall vitiate his freewill, shall be employed in his investigation and interrogation for the crime of terrorism or the crime of conspiracy to commit terrorism; otherwise, the evidence obtained from said detained person resulting from such threat, intimidation, or coercion, or from such inflicted physical pain or torment, or mental, moral, or psychological pressure, shall be, in its entirety, absolutely not admissible and usable as evidence in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

SEC. 25. *Penalty for Threat, Intimidation, Coercion, or Torture in the Investigation and Interrogation of a Detained Person.* - Any person or persons who use threat, intimidation, or coercion, or who inflict physical pain or torment, or mental, moral, or psychological pressure, which shall vitiate the free-will of a charged or suspected person under investigation and interrogation for the crime of terrorism or the crime of conspiracy to commit terrorism shall be guilty of an offense and shall suffer the penalty of twelve (12) years and one day to twenty (20) years of imprisonment.

When death or serious permanent disability of said detained person occurs as a consequence of the use of such threat, intimidation, or coercion, or as a consequence of the infliction on him of such physical

pain or torment, or as a consequence of the infliction on him of such mental, moral, or psychological pressure, the penalty shall be twelve (12) years and one day to twenty (20) years of imprisonment.

SEC. 26. *Restriction on Travel.* - In cases where evidence of guilt is not strong, and the person charged with the crime of terrorism or conspiracy to commit terrorism is entitled to bail and is granted the same, the court, upon application by the prosecutor, shall limit the right of travel of the accused to within the municipality or city where he resides or where the case is pending, in the interest of national security and public safety, consistent with Article III, Section 6 of the Constitution. Travel outside of said municipality or city, without the authorization of the court, shall be deemed a violation of the terms and conditions of his bail, which shall then be forfeited as provided under the Rules of Court.

He/she may also be placed under house arrest by order of the court at his or her usual place of residence.

While under house arrest, he or she may not use telephones, cellphones, e-mails, computers, the internet or other means of communications with people outside the residence until otherwise ordered by the court.

The restrictions abovementioned shall be terminated upon the acquittal of the accused or of the dismissal of the case filed against him or earlier upon the discretion of the court on motion of the prosecutor or of the accused.

SEC. 27. *Judicial Authorization Required to Examine Bank Deposits, Accounts, and Records.* - The provisions of Republic Act No. 1405 as amended, to the contrary notwithstanding, the justices of the Court of Appeals designated as a special court to handle anti-terrorism cases after satisfying themselves of the existence of probable cause in a hearing called for that purpose that: (1) a person charged with or suspected of the crime of terrorism or, conspiracy to commit terrorism, (2) of a judicially declared and outlawed terrorist organization, association, or group of persons; and (3) of a member of such judicially declared and outlawed organization, association, or group of persons, may authorize in writing any police or law enforcement officer and the members of his/her team duly authorized in writing by the anti-terrorism council to: (a) examine, or cause the examination of, the deposits, placements, trust accounts, assets and records in a bank or financial institution; and (b) gather or cause the gathering of any relevant information about such deposits, placements, trust accounts, assets, and records from a bank or financial institution. The bank or financial institution concerned, shall not refuse to allow such examination or to provide the desired information, when so, ordered by and served with the written order of the Court of Appeals.

SEC. 28. *Application to Examine Bank Deposits, Accounts, and Records.* - The written order of the Court of Appeals authorizing the examination of bank deposits, placements, trust accounts, assets, and records: (1) of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism; (2) of any judicially declared and outlawed terrorist organization, association, or group of persons, or (3) of any member of such organization, association, or group of persons in a bank or financial institution, and the gathering of any relevant information about the same from said bank or financial institution, shall only be granted by the authorizing division of the Court of Appeals upon an ex parte application to that effect of a police or of a law enforcement official who has been duly authorized in writing to file such ex parte application by the Anti-Terrorism Council created in Section 53 of this Act to file such ex parte application, and upon examination under oath or affirmation of the applicant and, the witnesses he may produce to establish the facts that will justify the need and urgency of examining and freezing the bank deposits, placements, trust accounts, assets, and records: (1) of the person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism; (2) of a judicially declared and outlawed terrorist organization, association or group of persons; or (3) of any member of such organization, association, or group of persons.

SEC. 29. *Classification and Contents of the Court Order Authorizing the Examination of Bank Deposits, Accounts, and Records.* - The written order granted by the authorizing division of the Court of Appeals as well as its order, if any, to extend or renew the same, the original ex parte application of the applicant, including his ex parte application to extend or renew, if any, and the written authorizations of the Anti-Terrorism Council, shall be deemed and are hereby declared as classified information: Provided, That the person whose bank deposits, placements, trust accounts, assets, and records have been examined, frozen, sequestered and seized by law enforcement authorities has the right to be informed of the acts done by the law enforcement authorities in the premises or to challenge, if he or she intends to do so, the legality of the interference. The written order of the authorizing division of the Court of Appeals designated to handle cases involving terrorism shall specify: (a) the identify of the said: (1) person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism; (2) judicially declared and outlawed terrorist organization, association, or group of persons; and (3) member of such judicially declared and outlawed organization, association, or group of persons, as the case may be. whose deposits, placements, trust accounts, assets, and records are to be examined or the information to be gathered; (b) the identity of the bank or financial Institution where such deposits, placements, trust accounts, assets, and records are held and maintained; (c) the identity of the persons who will conduct the said examination and the gathering of the desired information; and, (d) the length of time the authorization shall be carried out.

SEC. 30. *Effective Period of Court Authorization to Examine and Obtain Information on Bank Deposits, Accounts, and Records.* - The authorization issued or granted by the authorizing division of the Court of Appeals to examine or cause the examination of and to freeze bank deposits, placements, trust accounts, assets, and records, or to gather information about the same, shall be effective for the length of time specified in the written order of the authorizing division of the Court of Appeals, which shall not exceed a period of thirty (30) days from the date of receipt of the written order of the authorizing division of the Court of Appeals by the applicant police or law enforcement official.

The authorizing division of the Court of Appeals may extend or renew the said authorization for another period, which shall not exceed thirty (30) days renewable to another thirty (30) days from the expiration of the original period: Provided, That the authorizing division of the Court of Appeals is satisfied that such extension or renewal is in the public interest: and, Provided, further, That the application for extension or renewal, which must be filed by the original applicant, has been duly authorized in writing by the Anti-Terrorism Council.

In case of death of the original applicant or in case he is physically disabled to file the application for extension or renewal, the one next in rank to the original applicant among the members of the ream named in the original written order of the authorizing division of the Court of Appeals shall file the application for extension or renewal: Provided, That, without prejudice to the liability of the police or law enforcement personnel under Section 19 hereof, the applicant police or law enforcement official shall have thirty (30) days after the termination of the period granted by the Court of Appeals as provided in the preceding paragraphs within which to file the appropriate case before the Public Prosecutor's Office for any violation of this Act.

If no case is filed within the thirty (30)-day period, the applicant police or law enforcement official shall immediately notify in writing the person subject of the bank examination and freezing of bank deposits,

placements, trust accounts, assets and records. The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon the applicant police or law enforcement official who fails to notify in writing the person subject of the bank examination and freezing of bank deposits, placements, trust accounts, assets and records.

Any person, law enforcement official or judicial authority who violates his duty to notify in writing as defined above shall suffer the penalty of six years and one day to eight years of imprisonment.

SEC. 31. ***Custody of Bank Data and Information Obtained after Examination of Deposits, Placements, Trust Accounts, Assets and Records.*** - All information, data, excerpts, summaries, notes, memoranda, working sheets, reports, and other documents obtained from the examination of the bank deposits, placements, trust accounts, assets and records of: (1) a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism; (2) a judicially declared and outlawed terrorist organization, association, or group of persons; or (3) a member of any such organization, association, or group of persons shall, within forty-eight (48) hours after the expiration of the period fixed in the written order of the authorizing division of the Court of Appeals or within forty-eight (48) hours after the expiration of the extension or renewal granted by the authorizing division of the Court of Appeals, be deposited with the authorizing division of the Court of Appeals in a sealed envelope or sealed package, as the case may be, and shall be accompanied by a joint affidavit of the applicant police or law enforcement official and the persons who actually conducted the examination of said bank deposits, placements, trust accounts, assets and records.

SEC. 32. ***Contents of Joint Affidavit.*** - The joint affidavit shall state: (a) the identifying marks, numbers, or symbols of the deposits, placements, trust accounts, assets, and records examined; (b) the identity and address of the bank or financial institution where such deposits, placements, trust accounts, assets, and records are held and maintained; (c) the number of bank deposits, placements, trust accounts, assets, and records discovered, examined, and frozen; (d) the outstanding balances of each of such deposits, placements, trust accounts, assets; (e) all information, data, excerpts, summaries, notes, memoranda, working sheets, reports, documents, records examined and placed in the sealed envelope or sealed package deposited with the authorizing division of the Court of Appeals; (f) the date of the original written authorization granted by the Anti-Terrorism Council to the applicant to file the ex parte Application to conduct the examination of the said bank deposits, placements, trust accounts, assets and records, as well as the date of any extension or renewal of the original written authorization granted by the authorizing division of the Court of Appeals; and (g) that the items Enumerated were all that were found in the bank or financial institution examined at the time of the completion of the examination.

The joint affidavit shall also certify under oath that no duplicates or copies of the information, data, excerpts, summaries, notes, memoranda, working sheets, reports, and documents acquired from the examination of the bank deposits, placements, trust accounts, assets and records have been made, or, if made, that all such duplicates and copies are placed in the sealed envelope or sealed package deposited with the authorizing division of the Court of Appeals.

It shall be unlawful for any person, police officer or custodian of the bank data and information obtained after examination of deposits, placements, trust accounts, assets and records to copy, to remove, delete, expunge, incinerate, shred or destroy in any manner the items enumerated above in whole or in part under any pretext whatsoever,

Any person who copies, removes, deletes, expunges, incinerates, shreds or destroys the items enumerated above shall suffer a penalty of not less than six years and one day to twelve (12) years of imprisonment.

SEC. 33. ***Disposition of Bank Materials.*** - The sealed envelope or sealed package and the contents thereof, which are deposited with the authorizing division of the Court of Appeals, shall be deemed and are hereby declared classified information and the sealed envelope or sealed package shall not be opened and its contents shall not be divulged, revealed, read, or used as evidence unless authorized in a written order of the authorizing division of the Court of Appeals, which written order shall be granted only upon a written application of the Department of Justice filed before the authorizing division of the Court of Appeals and only upon a showing that the Department of Justice has been duly authorized in writing by the Anti-Terrorism Council to file the application, with notice in writing to the party concerned not later than three days before the scheduled opening, to open, reveal, divulge, and use the contents of the sealed envelope or sealed package as evidence.

Any person, law enforcement official or judicial authority who violates his duty to notify in writing as defined above shall suffer the penalty of six years and one day to eight years of imprisonment.

SEC. 34. ***Application to Open Deposited Bank Materials.*** - The written application, with notice in writing to the party concerned not later than three days of the scheduled opening, to open the sealed envelope or sealed package shall clearly state the purpose and reason: (a) for opening the sealed envelope or sealed package; (b) for revealing and disclosing its classified contents; and, (c) for using the classified information, data, excerpts, summaries, notes, memoranda, working sheets, reports, and documents as evidence.

SEC. 35. ***Evidentiary Value of Deposited Bank Materials.*** - Any information, data, excerpts, summaries, notes, memoranda, work sheets, reports, or documents acquired from the examination of the bank deposits, placements, trust accounts, assets and records of: (1) a person charged or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism; (2) a judicially declared and outlawed terrorist organization, association, or group of persons; or (3) a member of such organization, association, or group of persons, which have been secured in violation of the provisions of this Act, shall absolutely not be admissible and usable as evidence against anybody in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

SEC. 36. ***Penalty for Unauthorized or Malicious Examination of a Bank or a Financial Institution.*** - Any person, police or law enforcement personnel who examines the deposits, placements, trust accounts, assets, or records in a bank or financial institution of: (1) a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism; (2) a judicially declared and outlawed terrorist organization, association, or group of persons; or (3) a member of such organization, association, or group of persons, without being authorized to do so by the Court of Appeals, shall be guilty of an offense and shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

In addition to the liability attaching to the offender for the commission of any other offense, the penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon any police or law enforcement personnel, who maliciously obtained an authority from the Court of Appeals to examine the deposits, placements, trust accounts, assets, or records in a bank or financial institution of: (1) a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism; (2) a judicially declared and outlawed terrorist organization, association, or group of persons; or (3) a member of such organization, association, or group

of persons: Provided, That notwithstanding Section 33 of this Act, the party aggrieved by such authorization shall upon motion duly filed be allowed access to the sealed envelope or sealed package and the contents thereof as evidence for the prosecution of any police or law enforcement personnel who maliciously procured said authorization.

SEC. 37. *Penalty of Bank Officials and Employees Defying a Court Authorization.* - An employee, official, or a member of the board of directors of a bank or financial institution, who refuses to allow the examination of the deposits, placements, trust accounts, assets, and records of: (1) a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism; (2) a judicially declared and outlawed organization, association, or group of persons; or (3) a member of such judicially declared and outlawed organization, association, or group of persons in said bank or financial institution, when duly served with the written order of the authorizing division of the Court of Appeals, shall be guilty of an offense and shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 38. *Penalty for False or Untruthful Statement or Misrepresentation of Material Fact in Joint Affidavits.* - Any false or untruthful statement or misrepresentation of material fact in the joint affidavits required respectively in Section 12 and Section 32 of this Act shall constitute a criminal offense and the affiants shall suffer individually the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 39. *Seizure and Sequestration.* - The deposits and their outstanding balances, placements, trust accounts, assets, and records in any bank or financial institution, moneys, businesses, transportation and communication equipment, supplies and other implements, and property of whatever kind and nature belonging: (1) to any person suspected of or charged before a competent Regional Trial Court for the crime of terrorism or the crime of conspiracy to commit terrorism; (2) to a judicially declared and outlawed organization, association, or group of persons; or (3) to a member of such organization, association, or group of persons shall be seized, sequestered, and frozen in order to prevent their use, transfer, or conveyance for purposes that are inimical to the safety and security of the people or injurious to the interest of the State.

The accused or a person suspected of may withdraw such sums as may be reasonably needed by the monthly needs of his family including the services of his or her counsel and his or her family's medical needs upon approval of the court. He or she may also use any of his property that is under seizure or sequestration or frozen because of his/her indictment as a terrorist upon permission of the court for any legitimate reason.

Any person who unjustifiably refuses to follow the order of the proper division of the Court of Appeals to allow the person accused of the crime of terrorism or of the crime of conspiracy to commit terrorism to withdraw such sums from sequestered or frozen deposits, placements, trust accounts, assets and records as may be necessary for the regular sustenance of his/her family or to use any of his/her property that has been seized, sequestered or frozen for legitimate purposes while his/her case is pending shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 40. *Nature of Seized. Sequestered and Frozen Bank Deposits, Placements, Trust Accounts, Assets and Records.* - The seized, sequestered and frozen bank deposits, placements, trust accounts, assets and records belonging to a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism shall be deemed as property held in trust by the bank or financial institution for such person and the government during the pendency of the investigation of the person suspected of or during the pendency of the trial of the person charged with any of the said crimes, as the case may be and their use or disposition while the case is pending shall be subject to the approval of the court before which the case or cases are pending.

SEC. 41. *Disposition of the Seized, Sequestered and Frozen Bank Deposits, Placements, Trust Accounts, Assets and Record.* - If the person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism is found, after his investigation, to be innocent by the investigating body, or is acquitted, after his arraignment or his case is dismissed before his arraignment by a competent court, the seizure, sequestration and freezing of his bank deposits, placements, trust accounts, assets and records shall forthwith be deemed lifted by the investigating body or by the competent court, as the case may be, and his bank deposits, placements, trust accounts, assets and records shall be deemed released from such seizure, sequestration and freezing, and shall be restored to him without any delay by the bank or financial institution concerned without any further action on his part. The filing of any appeal on motion for reconsideration shall not state the release of said funds from seizure, sequestration and freezing.

If the person charged with the crime of terrorism or conspiracy to commit terrorism is convicted by a final judgment of a competent trial court, his seized, sequestered and frozen bank deposits, placements, trust accounts, assets and records shall be automatically forfeited in favor of the government.

Upon his or her acquittal or the dismissal of the charges against him or her, the amount of Five hundred thousand pesos (P500.000.00) a day for the period in which his properties, assets or funds were seized shall be paid to him on the concept of liquidated damages. The amount shall be taken from the appropriations of the police or law enforcement agency that caused the filing of the enumerated charges against him/her.

SEC. 42. *Penalty for Unjustified Refusal to Restore or Delay in Restoring Seized, Sequestered and Frozen Bank Deposits, Placements, Trust Accounts, Assets and Records.* - Any person who unjustifiably refuses to restore or delays the restoration of seized, sequestered and frozen bank deposits, placements, trust accounts, assets and records of a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism after such suspected person has been found innocent by the investigating body or after the case against such charged person has been dismissed or after he is acquitted by a competent court shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 43. *Penalty for the Loss, Misuse, Diversion or Dissipation of Seized, Sequestered and Frozen Bank Deposits, Placements, Trust Accounts, Assets and Records.* - Any person who is responsible for the loss, misuse, diversion, or dissipation of the whole or any part of the seized, sequestered and frozen bank deposits, placements, trust accounts, assets and records of a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 44. *Infidelity in the Custody of Detained Persons.* - Any public officer who has direct custody of a detained person or under the provisions of this Act and who by his deliberate act, misconduct, or inexcusable negligence causes or allows the escape of such detained person shall be guilty of an offense and shall suffer the penalty of: (a) twelve (12) years and one day to twenty (20) years of imprisonment, if the detained person has already been convicted and sentenced in a final judgment of a competent court; and (b) six years and one day to twelve (12) years of imprisonment, if the detained person has not been convicted and sentenced in a final judgment of a competent court.

SEC. 45. *Immunity and Protection of Government Witnesses.* - The provisions of Republic Act No. 6981 (Witness Protection, Security and Benefits Act) to the

contrary notwithstanding, the immunity of government witnesses testifying under this Act shall be governed by Sections 17 and 18 of Rule 119 of the Rules of Court: Provided, however, That said witnesses shall be entitled to benefits granted to witnesses under said Republic Act No.6981.

SEC. 46. *Penalty for Unauthorized Revelation of Classified Materials.* - The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon any person, police or law enforcement agent, judicial officer or civil servant who, not being authorized by the Court of Appeals to do so, reveals in any manner or form any classified information under this Act.

SEC. 47. *Penalty for Furnishing False Evidence, Forged Document, or Spurious Evidence.* - The penalty of twelve (12) years and one day to twenty (20) years of imprisonment shall be imposed upon any person who knowingly furnishes false testimony, forged document or spurious evidence in any investigation or hearing under this Act.

SEC. 48. *Continuous Trial.* - In cases of terrorism or conspiracy to commit terrorism, the judge shall set the continuous trial on a daily basis from Monday to Friday or other short-term trial calendar so as to ensure speedy trial.

SEC. 49. *Prosecution Under This Act Shall be a Bar to Another Prosecution under the Revised Penal Code or any Special Penal Laws.* - When a person has been prosecuted under a provision of this Act, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for any offense or felony which is necessarily included in the offense charged under this Act.

SEC. 50. *Damages for Unproven Charge of Terrorism.* - Upon acquittal, any person who is accused of terrorism shall be entitled to the payment of damages in the amount of Five hundred thousand pesos (P500,000.00) for every day that he or she has been detained or deprived of liberty or arrested without a warrant as a result of such an accusation. The amount of damages shall be automatically charged against the appropriations of the police agency or the Anti-Terrorism Council that brought or sanctioned the filing of the charges against the accused. It shall also be released within fifteen (15) days from the date of the acquittal of the accused. The award of damages mentioned above shall be without prejudice to the right of the acquitted accused to file criminal or administrative charges against those responsible for charging him with the case of terrorism.

Any officer, employee, personnel, or person who delays the release or refuses to release the amounts awarded to the individual acquitted of the crime of terrorism as directed in the paragraph immediately preceding shall suffer the penalty of six months of imprisonment.

If the deductions are less than the amounts due to the detained persons, the amount needed to complete the compensation shall be taken from the current appropriations for intelligence, emergency, social or other funds of the Office of the President.

In the event that the amount cannot be covered by the current budget of the police or law enforcement agency concerned, the amount shall be automatically included in the appropriations of the said agency for the coming year.

SEC. 51. *Duty to Record and Report the Name and Address of the Informant.* - The police or law enforcement officers to whom the name or a suspect in the crime of terrorism was first revealed shall record the real name and the specific address of the informant.

The police or law enforcement officials concerned shall report the informant's name and address to their superior officer who shall transmit the information to the Congressional Oversight Committee or to the proper court within five days after the suspect was placed under arrest or his properties were sequestered, seized or frozen.

The name and address of the informant shall be considered confidential and shall not be unnecessarily revealed until after the proceedings against the suspect shall have been terminated.

SEC. 52. *Applicability of the Revised Penal Code.* - The provisions of Book I of the Revised Penal Code shall be applicable to this Act.

SEC. 53. *Anti-Terrorism Council.* - An Anti-Terrorism Council, hereinafter referred to, for brevity, as the "Council," is hereby created. The members of the Council are: (1) the Executive Secretary, who shall be its Chairperson; (2) the Secretary of Justice, who shall be its Vice Chairperson; and (3) the Secretary of Foreign Affairs; (4) the Secretary of National Defense; (5) the Secretary of the Interior and Local Government; (6) the Secretary of Finance; and (7) the National Security Advisor, as its other members.

The Council shall implement this Act and assume the responsibility for the proper and effective implementation of the anti-terrorism policy of the country. The Council shall keep records of its proceedings and decisions. All records of the Council shall be subject to such security classifications as the Council may, in its judgment and discretion, decide to adopt to safeguard the safety of the people, the security of the Republic, and the welfare of the nation.

The National Intelligence Coordinating Agency shall be the Secretariat of the Council. The Council shall define the powers, duties, and functions of the National Intelligence Coordinating Agency as Secretariat of the Council. The National Bureau of Investigation, the Bureau of Immigration, the Office of Civil Defense, the Intelligence Service of the Armed Forces of the Philippines, the Anti-Money Laundering Council, the Philippine Center on Transnational Crime, and the Philippine National Police intelligence and investigative elements shall serve as support agencies for the Council.

The Council shall formulate and adopt comprehensive, adequate, efficient, and effective anti-terrorism plans, programs, and counter-measures to suppress and eradicate terrorism in the country and to protect the people from acts of terrorism. Nothing herein shall be interpreted to empower the Anti-Terrorism Council to exercise any judicial or quasi-judicial power or authority.

SEC. 54. *Functions of the Council.* - In pursuit of its mandate in the previous Section, the Council shall have the following functions with due regard for the rights of the people as mandated by the Constitution and pertinent laws:

1. Formulate and adopt plans, programs and counter-measures against terrorists and acts of terrorism in the country;

2. Coordinate all national efforts to suppress and eradicate acts of terrorism in the country and mobilize the entire nation against terrorism prescribed in this Act;

3. Direct the speedy investigation and prosecution of all persons accused or detained for the crime of terrorism or conspiracy to commit terrorism and other offenses punishable under this Act, and monitor the progress of their cases;

4. Establish and maintain comprehensive data-base information system on terrorism, terrorist activities, and counter-terrorism operations;

5. Freeze the funds property, bank deposits, placements, trust accounts, assets and records belonging to a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism, pursuant to Republic Act No. 9160, otherwise known as the Anti-Money Laundering Act of 2001, as amended;

6. Grant monetary rewards and other incentives to informers who give vital information leading to the

apprehension, arrest, detention, prosecution, and conviction of person or persons who are liable for the crime of terrorism or conspiracy to commit terrorism;

7. Establish and maintain coordination with and the cooperation and assistance of other nations in the struggle against international terrorism; and

8. Request the Supreme Court to designate specific divisions of the Court of Appeals and Regional Trial Courts in Manila, Cebu City and Cagayan de Oro City, as the case may be, to handle all cases involving the crime of terrorism or conspiracy to commit terrorism and all matters incident to said crimes. The Secretary of Justice shall assign a team of prosecutors from: (a) Luzon to handle terrorism cases filed in the Regional Trial Court in Manila; (b) from the Visayas to handle cases filed in Cebu City; and (c) from Mindanao to handle cases filed in Cagayan de Oro City.

SEC. 55. *Role of the Commission on Human Rights.* - The Commission on Human Rights shall give the highest priority to the investigation and prosecution of violations of civil and political rights of persons in relation to the implementation of this Act; and for this purpose, the Commission shall have the concurrent jurisdiction to prosecute public officials, law enforcers, and other persons who may have violated the civil and political rights of persons suspected of, or detained for the crime of terrorism or conspiracy to commit terrorism.

SEC. 56. *Creation of a Grievance Committee.* - There is hereby created a Grievance Committee composed of the Ombudsman, as chair, and the Solicitor General, and an undersecretary from the Department of Justice (DOJ), as members, to receive and evaluate complaints against the actuations of the police and law enforcement officials in the implementation of this Act. The Committee shall hold office in Manila. The Committee shall have three subcommittees that will be respectively headed by the Deputy Ombudsmen in Luzon, the Visayas and Mindanao. The subcommittees shall respectively hold office at the Offices of Deputy Ombudsman. Three Assistant Solicitors General designated by the Solicitor General, and the regional prosecutors of the DOJ assigned to the regions where the Deputy Ombudsmen hold office shall be members thereof. The three subcommittees shall assist the Grievance Committee in receiving, investigating and evaluating complaints against the police and other law enforcement officers in the implementation of this Act. If the evidence warrants it, they may file the appropriate cases against the erring police and law enforcement officers. Unless seasonably disowned or denounced by the complainants, decisions or judgments in the said cases shall preclude the filing of other cases based on the same cause or causes of action as those that were filed with the Grievance Committee or its branches.

SEC. 57. *Ban on Extraordinary Rendition.* - No person suspected or convicted of the crime of terrorism shall be subjected to extraordinary rendition to any country unless his or her testimony is needed for terrorist related police investigations or judicial trials in the said country and unless his or her human rights, including the right against torture, and right to counsel, are officially assured by the requesting country and transmitted accordingly and approved by the Department of Justice.

SEC. 58. *Extra-Territorial Application of this Act.* - Subject to the provision of an existing treaty of which the Philippines is a signatory and to any contrary provision of any law of preferential application, the provisions of this Act shall apply: (1) to individual persons who commit any of the crimes defined and punished in this Act within the terrestrial domain, interior waters, maritime zone, and airspace of the Philippines; (2) to individual persons who, although physically outside the territorial limits of the Philippines, commit, conspire or plot to commit any of the crimes defined and punished in this Act inside the territorial limits of the Philippines; (3) to individual persons who, although physically outside the territorial limits of the Philippines, commit any of the said crimes on board Philippine ship or Philippine airship; (4) to individual persons who commit any of said crimes within any embassy, consulate, or diplomatic premises belonging to or occupied by the Philippine government in an official capacity; (5) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes against Philippine citizens or persons of Philippines descent, where their citizenship or ethnicity was a factor in the commission of the crime; and (6) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes directly against the Philippine government.

SEC. 59. *Joint Oversight Committee.* - There is hereby created a Joint Oversight Committee to oversee the implementation of this Act. The Oversight Committee shall be composed of five members each from the Senate and the House in addition to the Chairs of the Committees of Public Order of both Houses who shall also Chair the Oversight Committee in the order specified herein. The membership of the Committee for every House shall at least have two opposition or minority members. The Joint Oversight Committee shall have its own independent counsel. The Chair of the Committee shall rotate every six months with the Senate chairing it for the first six months and the House for the next six months. In every case, the ranking opposition or minority member of the Committee shall be the Vice Chair. Upon the expiration of one year after this Act is approved by the President, the Committee shall review the Act particularly the provision that authorize the surveillance of suspects of or persons charged with the crime of terrorism. To that end, the Committee shall summon the police and law enforcement officers and the members of the Anti-Terrorism Council and require them to answer questions from the members of Congress and to submit a written report of the acts they have done in the implementation of the law including the manner in which the persons suspected of or charged with the crime of terrorism have been dealt with in their custody and from the date when the movements of the latter were subjected to surveillance and his or her correspondences, messages, conversations and the like were listened to or subjected to monitoring, recording and tapping. Without prejudice to its submitting other reports, the Committee shall render a semiannual report to both Houses of Congress. The report may include where necessary a recommendation to reassess the effects of globalization on terrorist activities on the people, provide a sunset clause to or amend any portion of the Act or to repeal the Act in its entirety. The courts dealing with anti-terrorism cases shall submit to Congress and the President a report every six months of the status of anti-terrorism cases that have been filed with them starting from the date this Act is implemented.

SEC. 60. *Separability Clause.* - If for any reason any part or provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall remain and continue to be in full force and effect.

SEC. 61. *Repealing Clause.* - All laws, decrees, executive orders, rules or regulations or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 62. *Special Effectivity Clause.* - After the bill shall have been signed into law by the President, the Act shall be published in three newspapers of national circulation; three newspapers of local circulation, one each in Ilocos Norte, Baguio City and Pampanga; three newspapers of local circulation, one each in Cebu, Iloilo and Tacloban; and three newspapers of local circulation, one each in Cagayan de Oro, Davao and General Santos city.

The title of the Act and its provisions defining the acts of terrorism that are punished shall be aired everyday at primetime for seven days, morning, noon and night over three national television and radio networks; three radio

and television networks, one each in Cebu, Tacloban and Iloilo; and in five radio and television networks, one each in Lanao del Sur, Cagayan de Oro, Davao City, Cotabato City and Zamboanga City. The publication in the newspapers of local circulation and the announcements over local radio and television networks shall be done in the dominant language of the community. After the publication required above shall have been done, the Act shall take effect two months after the elections are held in May 2007. Thereafter, the provisions of this Act shall be automatically suspended one month before and two months as after the holding of any election.

RA No 10168 | **The Terrorism Financing Prevention and Suppression Act of 2012**

REPUBLIC ACT NO. 10168 June 20, 2012

AN ACT DEFINING THE CRIME OF FINANCING OF TERRORISM, PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Short Title.* – This Act shall be known as "The Terrorism Financing Prevention and Suppression Act of 2012?.

Section 2. *Declaration of Policy.* – It is the policy of the State to protect life, liberty, and property from acts of terrorism and to condemn terrorism and those who support and finance it and to recognize it as inimical and dangerous to national security and the welfare of the people, and to make the financing of terrorism a crime against the Filipino people, against humanity, and against the law of nations.

The State, likewise, recognizes and adheres to international commitments to combat the financing of terrorism, specifically to the International Convention for the Suppression of the Financing of Terrorism, as well as other binding terrorism-related resolutions of the United Nations Security Council pursuant to Chapter 7 of the Charter of the United Nations (UN).

Toward this end, the State shall reinforce its fight against terrorism by criminalizing the financing of terrorism and related offenses, and by preventing and suppressing the commission of said offenses through freezing and forfeiture of properties or funds while protecting human rights.

Section 3. *Definition of Terms.* – As used in this Act:

(a) *Anti-Money Laundering Council (AMLC)* refers to the Council created by virtue of Republic Act No. 9160, as amended, otherwise known as the "Anti-Money Laundering Act of 2001, as amended".

(b) *Anti-Terrorism Council (ATC)* refers to the Council created by, virtue of Republic Act No. 9372, otherwise known as the "Human Security Act of 2007?.

(c) *Covered institutions* refer to or shall have the same meaning as defined under the Anti-Money Laundering Act (AMLA), as amended.

(d) *Dealing, with regard to property or funds* refers to receipt, acquisition, transacting, representing, concealing, disposing or converting, transferring or moving, use as security of or providing financial services.

(e) *Designated persons refers to:*

(1) any person or entity designated and/or identified as a terrorist, one who finances terrorism, or a terrorist organization or group under the applicable United Nations Security Council Resolution or by another jurisdiction or supranational jurisdiction;

(2) any organization, association, or group of persons proscribed pursuant to Section 17 of the Human Security Act of 2007; or

(3) any person, organization, association, or group of persons whose funds or property, based on probable cause are subject to seizure and sequestration under Section 39 of the Human Security Act of 2007.

(f) *Forfeiture* refers to a court order transferring in favor of the government, after due process, ownership of property or funds representing, involving, or relating to financing of terrorism as defined in Section 4 or an offense under Sections 5, 6, 7, 8, or 9 of this Act.

(g) Freeze refers to the blocking or restraining of specific property or funds from being transacted, converted, concealed, moved or disposed without affecting the ownership thereof.

(h) *Property or funds* refer to financial assets, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets.

(i) *Terrorist* refers to any natural person who: (1) commits, or attempts, or conspires to commit terrorist acts by any means, directly or indirectly, unlawfully and willfully; (2) participates, as a principal or as an accomplice, in terrorist acts; (3) organizes or directs others to commit terrorist acts; or (4) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

(j) Terrorist acts refer to the following:

(1) Any act in violation of Section 3 or Section 4 of the Human Security Act of 2007;

(2) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act;

(3) Any act which constitutes an offense under this Act, that is within the scope of any of the following treaties of which the Republic of the Philippines is a State party:

(a) Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970 ;

(b) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 ;

(c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;

(d) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;

(e) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980 ;

(f) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988 ;

(g) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 ;

(h) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988; or

(i) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

(k) *Terrorist organization, association or a group of persons* refers to any entity owned or controlled by any terrorist or group of terrorists that: (1) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and willfully; (2) participates as an accomplice in terrorist acts; (3) organizes or directs others to commit terrorist acts; or (4) contributes to the commission of terrorist acts by a group of persons acting with common purpose of furthering the terrorist act where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.

Section 4. *Financing of Terrorism.* – Any person who, directly or indirectly, willfully and without lawful excuse, possesses, provides, collects or uses property or funds or makes available property, funds or financial service or other related services, by any means, with the unlawful and willful intention that they should be used or with the knowledge that they are to be used, in full or in part: (a) to carry out or facilitate the commission of any terrorist act; (b) by a terrorist organization, association or group; or (c) by an individual terrorist, shall be guilty of the crime of financing of terrorism and shall suffer the penalty of reclusion temporal in its maximum period to reclusion perpetua and a fine of not less than Five hundred thousand pesos (Php500,000.00) nor more than One million pesos (Php1,000,000.00).

Any person who organizes or directs others to commit financing of terrorism under the immediately preceding paragraph shall likewise be guilty of an offense and shall suffer the same penalty as herein prescribed.

For purposes of this Act, knowledge or intent may be established by direct evidence or inferred from the attendant circumstances.

For an act to constitute a crime under this Act, it shall not be necessary that the funds were actually used to carry out a crime referred to in Section 3(j).

Section 5. *Attempt or Conspiracy to Commit the Crimes of Financing of Terrorism and Dealing with Property or Funds of Designated Persons.* – Any attempt to commit any crime under Section 4 or Section 8 under this Act shall be penalized by a penalty two degrees lower than that prescribed for the commission of the same as provided under this Act.

Any conspiracy to commit any crime under Section 4 or Section 8 of this Act shall be penalized by the same penalty prescribed for the commission of such crime under the said sections.

There is conspiracy to commit the offenses punishable under Sections 4 and 8 of this Act when two (2) or more persons come to an agreement concerning the commission of such offenses and decided to commit it.

Section 6. *Accomplice.* – Any person who, not being a principal under Article 17 of the Revised Penal Code or a conspirator as defined in Section 5 hereof, cooperates in the execution of either the crime of financing of terrorism or conspiracy to commit the crime of financing of terrorism by previous or simultaneous acts shall suffer the penalty one degree lower than that prescribed for the conspirator.

Section 7. *Accessory.* – Any person who, having knowledge of the commission of the crime of financing of terrorism but without having participated therein as a principal, takes part subsequent to its commission, by profiting from it or by assisting the principal or principals to profit by the effects of the crime, or by concealing or destroying the effects of the crime in order to prevent its discovery, or by harboring, concealing or assisting in the escape of a principal of the crime shall be guilty as an accessory to the crime of financing of terrorism and shall be imposed a penalty two degrees lower than that prescribed for principals in the crime of financing terrorism.

Section 8. *Prohibition Against Dealing with Property or Funds of Designated Persons.* – Any person who, not being an accomplice under Section 6 or accessory under Section 7 in relation to any property or fund: (i) deals directly or indirectly, in any way and by any means, with any property or fund that he knows or has reasonable ground to believe is owned or controlled by a designated person, organization, association or group of persons, including funds derived or generated from property or funds owned or controlled, directly or indirectly, by a designated person, organization, association or group of persons; or (ii) makes available any property or funds, or financial services or other related services to a designated and/or identified person, organization, association, or group of persons, shall suffer the penalty of reclusion temporal in its maximum period to reclusion perpetua and a fine of not less than Five hundred thousand pesos (Php500,000.00) nor more than One million pesos (Php1,000,000.00).

Section 9. *Offense by a Juridical Person, Corporate Body or Alien.* – If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or allowed by their gross negligence, the commission of the crime or who shall have knowingly permitted or failed to prevent its commission. If the offender is a juridical person, the court may suspend or revoke its license. If the offender is an alien, the alien shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed.

Section 10. *Authority to Investigate Financing of Terrorism.* – The AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to investigate: (a) any property or funds that are in any way related to financing of terrorism or acts of terrorism; (b) property or funds of any person or persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of terrorism or acts of terrorism as defined herein.

The AMLC may also enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including government-owned and -controlled corporations in undertaking measures to counter the financing of terrorism, which may include the use of its personnel, facilities and resources.

For purposes of this section and notwithstanding the provisions of Republic Act No. 1405, otherwise known as the "Law on Secrecy of Bank Deposits", as amended; Republic Act No. 6426, otherwise known as the "Foreign Currency Deposit Act of the Philippines", as amended; Republic Act No. 8791, otherwise known as "The General Banking Law of 2000? and other laws, the AMLC is hereby authorized to inquire into or examine deposits and investments with any banking institution or non-bank financial institution and their subsidiaries and affiliates without a court order.

Section 11. *Authority to Freeze.* – The AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to issue an ex parte order to freeze without delay: (a) property or funds that are in any way related to financing of terrorism or acts of terrorism; or (b) property or funds of any person, group of persons, terrorist organization, or association, in relation to whom there is probable cause to believe that they are committing or attempting or conspiring to commit, or participating in or facilitating the commission of financing of terrorism or acts of terrorism as defined herein.

The freeze order shall be effective for a period not exceeding twenty (20) days. Upon a petition filed by the AMLC before the expiration of the period, the effectivity of the freeze order may be extended up to a period not exceeding six (6) months upon order of the Court of Appeals: Provided, That the twenty-day period shall be

tolled upon filing of a petition to extend the effectivity of the freeze order.

Notwithstanding the preceding paragraphs, the AMLC, consistent with the Philippines ' international obligations, shall be authorized to issue a freeze order with respect to property or funds of a designated organization, association, group or any individual to comply with binding terrorism-related Resolutions, including Resolution No. 1373, of the UN Security Council pursuant to Article 41 of the Charter of the UN. Said freeze order shall be effective until the basis for the issuance thereof shall have been lifted. During the effectivity of the freeze order, an aggrieved party may, within twenty (20) days from issuance, file with the Court of Appeals a petition to determine the basis of the freeze order according to the principle of effective judicial protection.

However, if the property or funds subject of the freeze order under the immediately preceding paragraph are found to be in any way related to financing of terrorism or acts of terrorism committed within the jurisdiction of the Philippines , said property or funds shall be the subject of civil forfeiture proceedings as hereinafter provided.

Section 12. *Exceptions for Investigative Requirements.* – Notwithstanding the immediately preceding provision, the AMLC may decide to defer the issuance of a freeze order for as long as necessary for any specific investigative/prosecutorial purposes.

Section 13. *Humanitarian Exemptions.* – The person whose property or funds have been frozen under the first paragraph of Section 11 may withdraw such sums as the court determines to be reasonably needed for monthly family needs and sustenance including the services of counsel and the family medical needs of such person.1âwphi1

The person whose property or funds have been frozen under the third paragraph of Section 11 may withdraw such sums as the AMLC determines to be reasonably needed for monthly family needs including the services of counsel and the family medical needs of such person.

Section 14. *Appropriation and Use of Funds of Public Attorney's Office (PAO).* – Any appropriation and use of funds of PAO to provide free legal assistance or services to persons charged of the offenses defined and penalized herein shall not be construed as a violation of this Act, thereby exempting the PAO from any liability.

Section 15. *Publication of Designation.* – The Department of Foreign Affairs with respect to designation under Section 3 (e) (1) of this Act, and the ATC with respect to designation under Section 3 (e) (2) and (3) and Section 11 of this Act, shall publish a list of the designated persons to which this Act or the Human Security Act applies. The concerned agencies shall ensure that an electronic version of the document is made available to the public on their respective website.

Each respective agency or authority shall ensure that information on procedures established in rules and regulations issued pursuant to this Act for delisting, unfreezing and exemptions for basic, necessary or extraordinary expenses shall likewise be made available in their respective website.

Section 16. *Duty of the Covered Institutions and/or Relevant Government Agencies Upon Receipt of the Freeze Order.* – Upon receipt of the notice of a freeze order, the covered institutions and/or relevant government agencies shall immediately preserve the subject property or funds in accordance with the order of the AMLC and shall forthwith serve a copy of the notice of the freeze order upon the owner or holder of the property or funds. Any responsible officer or other person who fails to comply with a freeze order shall suffer the penalty of imprisonment from six (6) months to four (4) years and a fine of not less than One hundred thousand pesos (Php100,000.00) nor more than Five hundred thousand pesos (Php500,000.00), at the discretion of the court, without prejudice to the administrative sanctions that the AMLC may impose on the erring covered institution.

Section 17. *Predicate Offense to Money Laundering.* – Financing of terrorism under Section 4 and offenses punishable under Sections 5, 6, and 7 of this Act shall be predicate offenses to money laundering as defined in Republic Act No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001?, as amended, and subject to its suspicious transaction reporting requirement.

Section 18. *Civil Forfeiture.* – The procedure for the civil forfeiture of property or funds found to be in any way related to financing of terrorism under Section 4 and other offenses punishable under Sections 5, 6, and 7 of this Act shall be made in accordance with the AMLA, as amended, its Revised Implementing Rules and Regulations and the Rules of Procedure promulgated by the Supreme Court.

Section 19. *Extra-Territorial Application of this Act.* – Subject to the provision of an existing treaty, including the International Convention for the Suppression of the Financing of Terrorism of which the Philippines is a State Party, and to any contrary provision of any law of preferential application, the criminal provisions of this Act shall apply: (a) to individual persons who, although physically outside the territorial limits of the Philippines, commit, conspire or plot to commit any of the crimes defined and punished in this Act inside the territorial limits of the Philippines; (b) to individual persons who, although physically outside the territorial limits of the Philippines, commit any of the said crimes on board Philippine ship or Philippine airship; (c) to individual persons who commit any of said crimes within any embassy, consulate, or diplomatic premises belonging to or occupied by the Philippine government in an official capacity; (d) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes against Philippine citizens or persons of Philippine descent, where their citizenship or ethnicity was a factor in the commission of the crime; and (e) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes directly against the Philippine government.

The provisions of this Act shall likewise apply to a Filipino national who, although outside the territorial jurisdiction of the Philippines , commit, conspire or plot to commit any of the crimes defined and punished in this Act.

In case of an alien whose extradition is requested pursuant to the International Convention for the Suppression of the Financing of Terrorism, and that alien is not extradited to the requesting State, the Republic of the Philippines, without exception whatsoever and whether or not the offense was committed in the Philippines, shall submit the case without undue delay to the Department of Justice for the purpose of prosecution in the same manner as if the act constituting the offense had been committed in the Philippines, in which case, the courts of the Philippines shall have jurisdiction over the offense.

Section 20. *Extradition.* – The Philippines may, at its option, subject to the principle of reciprocity, consider the International Convention for the Suppression of the Financing of Terrorism as a legal basis for requesting or granting extradition in respect of the offenses set forth under this Act.

Section 21. *Applicability of the Revised Penal Code.* – The provisions of Book I of the Revised Penal Code shall apply suppletorily to this Act.

Section 22. *Implementing Rules and Regulations.* - Within thirty (30) days from the effectivity of this Act, the AMLC, in coordination with relevant government agencies, shall promulgate rules and regulations to implement effectively the provisions of this Act.

The rules and regulations to be promulgated may include, but not limited to, designation, delisting, notification of matters of interest of persons affected by

the Act, exceptions for basic, necessary and extraordinary expenses, matters of evidence, definition of probable cause, inter-agency coordination, publication of relevant information, administrative offenses and penalties, procedures and forms, and other mechanisms for implementation of the Act.

Section 23. *Separability Clause.* – If, for any reason, any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in force and effect.

Section 24. *Repealing Clause.* – All laws, decrees, executive orders, proclamations, rules and regulations, and other issuances, or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 25. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

PD No 90 | **Unlawful Rumor-Mongering**

PRESIDENTIAL DECREE No. 90 January 6, 1973

DECLARING UNLAWFUL RUMOR-MONGERING AND SPREADING FALSE INFORMATION

WHEREAS, a primordial objective of Proclamation No. 1081 dated September 21, 1972 is the early restoration of peace, order and tranquility throughout the country;

WHEREAS, one of the most insidious means of disrupting such peace, order and tranquility is the utterance, publication, distribution, circulation and spread of rumors, false news or information and gossip that cause divisive effects among the people, discredit of or distrust for the duly constituted authorities and/or that undermine the stability of the government and the objectives of the New Society and, therefore, inimical to the best interests of the State;

WHEREAS, to attain the aforesaid primordial objective of Proclamation No. 1081, it is imperative that such acts be curbed and penalized;

NOW, THEREFORE, I, FERDINAND E. MARCOS, in my capacity as Commander-in-Chief of all the Armed Forces of the Philippines and pursuant to Proclamation No. 1081 dated September 21, 1972, do hereby order and decree that any person who shall offer, publish, distribute, circulate and spread rumors, false news and information and gossip, or cause the publication, distribution, circulation or spreading of the same, which cause or tend to cause panic, divisive effects among the people, discredit of or distrust for the duly constituted authorities, undermine the stability of the Government and the objectives of the New Society, endanger the public order, or cause damage to the interest or credit of the State shall, upon conviction, be punished by prision correccional. In case the offender is a government official or employee, the accessory penalty of absolute perpetual disqualification from holding any public office shall be imposed.

Done in the City of Manila, this 6th day of January, in the year of Our Lord, nineteen hundred and seventy-three.

SPL | *Related to Crimes Against Public Interest*

Book TWO Title FOUR

RA No 10863 | **Customs Modernization and Tariff Act**

SECTION 1005. ***Failure to Pay Correct Duties and Taxes on Imported Goods.*** — Any person who, after being subjected to post clearance audit and examination as provided in Section 1000 of this Act, is found to have incurred deficiencies in duties and taxes paid for imported goods, shall be penalized according to two (2) degrees of culpability subject to any mitigating, aggravating, or extraordinary factors that are clearly established by available evidence as described hereunder:

(a) *Negligence*. — When a deficiency results from an offender's failure, through an act or acts of omission or commission, to exercise reasonable care and competence in ensuring that a statement made is correct, the offender shall be charged for committing negligence, and, if found guilty shall be penalized with a fine equivalent to one hundred twenty-five percent (125%) of the revenue loss: *Provided*, That subject to Section 108 of this Act, no substantial penalty shall be imposed on an inadvertent error amounting to simple negligence, as defined by rules promulgated by the Secretary of Finance, upon recommendation of the Commissioner;

(b) *Fraud*. — When the material false statement or act in connection with the transaction was committed or omitted knowingly, voluntarily and intentionally, as established by clear and convincing evidence, the offender who is charged for committing fraud and is found guilty thereof, shall be penalized with a fine equivalent to six (6) times of the revenue loss and/or imprisonment of not less than two (2) years, but not more than eight (8) years.

The decision of the Commissioner, upon proper hearing, to impose penalties as prescribed in this section may be appealed in accordance with Section 1104 of this Act.

TITLE XIV *Offenses and Penalties*

CHAPTER 1 *Crimes and Other Offenses*

SECTION 1400. ***Misdeclaration, Misclassification, Undervaluation in Goods Declaration.*** — Misdeclaration as to quantity, quality, description, weight, or measurement of the goods, or misclassification through insufficient or wrong description of the goods or use of wrong tariff heading resulting to a discrepancy in duty and tax to be paid between what is legally determined upon assessment and what is declared, shall be subject to a surcharge equivalent to two hundred fifty percent (250%) of the duty and tax due. No surcharge shall be imposed when the discrepancy in duty is less than ten percent (10%), or when the declared tariff heading is rejected in a formal customs dispute settlement process involving difficult or highly technical question of tariff classification, or when the tariff classification declaration relied on an official government ruling.

There is undervaluation when: (a) the declared value fails to disclose in full the price actually paid or payable or any dutiable adjustment to the price actually paid or payable; or (b) when an incorrect valuation method is used or the valuation rules are not properly observed, resulting in a discrepancy in duty and tax to be paid between what is legally determined as the correct value against the declared value. When the undervaluation is established without the need to go through the formal dispute settlement process provided for in this Act, a surcharge shall be imposed equivalent to two hundred fifty percent (250%) of the duty and tax due. No surcharge shall be imposed when the discrepancy in duty is less than ten percent (10%), or the declared value is rejected as a result of an official ruling or decision under the customs dispute settlement process involving difficult or highly technical question relating to the application of customs valuation rules.

A discrepancy in duty and tax to be paid between what is legally determined and what is declared amounting to more than thirty percent (30%) shall constitute a *prima facie* evidence of fraud.

When the misdeclaration, misclassification or undervaluation is intentional or fraudulent, such as when a false or altered document is submitted or when false

statements or information are knowingly made, a surcharge shall be imposed equivalent to five hundred percent (500%) of the duty and tax due and that the goods shall be subject to seizure regardless of the amount of the discrepancy without prejudice to the application of fines or penalties provided under Section 1401 of this Act against the importer and other person or persons who willfully participated in the fraudulent act.

SECTION 1401. *Unlawful Importation or Exportation.* — Any person who shall fraudulently import or export or bring into or outside of the Philippines any goods, or assist in so doing, contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such goods after importation, or shall commit technical smuggling as defined in this Act shall be penalized by:

(a) Imprisonment of not less than thirty (30) days and one (1) day but not more than six (6) months, or a fine of not less than twenty-five thousand pesos (P25,000.00) but not more than seventy-five thousand pesos (P75,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, of the goods unlawfully imported does not exceed two hundred fifty thousand pesos (P250,000.00);

(b) Imprisonment of not less than six (6) months and one (1) day but not more than one (1) year, or a fine of not less than seventy-five thousand pesos (P75,000.00) but not more than one hundred fifty thousand pesos (P150,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds two hundred fifty thousand pesos (P250,000.00) but not more than five hundred thousand pesos (P500,000.00);

(c) Imprisonment of not less than one (1) year and one (1) day but not more than three (3) years, or a fine of not less than one hundred fifty thousand pesos (P150,000.00) but not more than three hundred thousand pesos (P300,000.00) or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00);

(d) Imprisonment of not less than three (3) years and one (1) day but not more than six (6) years, or a fine of not less than three hundred thousand pesos (P300,000.00) but not more than one million five hundred thousand pesos (P1,500,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds one million pesos (P1,000,000.00) but not more than five million pesos (P5,000,000.00);

(e) Imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years, or a fine of not less than one million five hundred thousand pesos (P1,500,000.00) but not more than fifteen million pesos (P15,000,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds five million pesos (P5,000,000.00) but not more than fifty million pesos (P50,000,000.00);

(f) Imprisonment of not less than twelve (12) years and one (1) day but not more than twenty (20) years, or a fine of not less than fifteen million pesos (P15,000,000.00) but not more than fifty million pesos (P50,000,000.00), or both, if the appraised value of the goods unlawfully imported, to be determined in the manner prescribed under this Act, including duties and taxes, exceeds fifty million pesos (P50,000,000.00) but not more than two hundred million pesos (P200,000,000.00);

(g) If the appraised value of the goods unlawfully imported to be determined in the manner prescribed under this Act, including duties and taxes, exceeds two hundred million pesos (P200,000,000.00) or if the aggregate amount of the appraised value of the goods which are the subject of unlawful importation committed in more than one instance, including duties and taxes, exceeds two hundred million pesos (P200,000,000.00), the same shall be deemed as a heinous crime and shall be punishable with a penalty of *reclusion perpetua* and a fine of not less than fifty million pesos (P50,000,000.00); and

(h) The penalty of *prision mayor* shall be imposed when the crime of serious physical injuries shall have been committed, and the penalty of *reclusion perpetua* shall be imposed when the crime of homicide shall have been committed by reason or on the occasion of the unlawful importation.

In applying the above scale of penalties, an offender who is a foreigner shall be deported without further proceedings after serving the sentence. If the offender is a public officer or employee, the penalty which is the next higher in degree shall be imposed in addition to the penalty of perpetual disqualification from public office, and disqualification to vote and to participate in any public election. If the offender fails to pay the fine, subsidiary imprisonment shall be served.

When, upon trial for violation of this section, the defendant is shown to have had possession of the goods in question, possession shall be deemed sufficient evidence to authorize conviction unless the defendant shall explain the possession to the satisfaction of the court: *Provided,* That each act of unlawful importation or exportation shall be deemed as a separate offense: *Provided, however*, That payment of the tax due after apprehension shall not constitute a valid defense in any prosecution under this section: *Provided, further,* That outright smuggling shall also be punishable under this section: *Provided, finally,* That the rights and privileges provided in this Act for the importers, consignees, exporters, service providers, third parties and other third parties who committed this offense shall be revoked.

SECTION 1402. *Failure or Refusal of Party to Give Evidence or Submit Documents for Assessment.* — When the owner, importer or consignee of any imported goods, or the agent of either, fails or refuses, upon lawful demand in writing by any customs officer to appear, lawfully depose, or submit to examination or to answer any material question or refuses to produce records, accounts or invoices in possession pertaining to the value, classification or disposition of the goods in question and deemed material in assessing the same, the District Collector shall assess a surcharge of twenty percent (20%) on the durable value of the goods which is the subject of the importation.

SECTION 1403. *Other Fraudulent Practices against Customs Revenue*. — Any person who makes or attempts to make any entry of imported or exported goods by means of any false or fraudulent statement, document or practice or knowingly and willfully files any false or fraudulent claim for payment of drawback or refund of duties shall, for each act, be punished in accordance with the penalties prescribed in Section 1401 of this Act.

SECTION 1404. *Failure to Declare Baggage.* — Whenever dutiable goods are not declared by any person arriving within the Philippines, such goods shall be seized and the person may obtain release of such goods, if not imported contrary to any law, upon payment of a surcharge equivalent to thirty percent (30%) of the landed cost of such goods, in addition to all duties, taxes and other charges due. Nothing in this section shall preclude the filing of criminal action against the offender.

SECTION 1405. *Vessel, Seacraft, or Aircraft Departing Before Undergoing Customs Formalities.* — Any vessel, seacraft, or aircraft arriving within the limits of a Customs District from a foreign port which departs before undergoing customs formalities, without being compelled to do so by stress of weather, pursuit or duress of enemies, or other necessity, shall be liable for a fine of

not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SECTION 1406. ***Obstruction to Boarding Officer.*** — If the master or pilot-in-command or any member of the complement of any vessel or aircraft arriving at the Philippine port obstructs or hinders any officer from lawfully going on board such vessel or aircraft for the purpose of enforcing this Act, or intentionally causes any officer to be so obstructed or hindered, the vessel or aircraft shall be liable to a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SECTION 1407. ***Unlawful Boarding or Leaving of Vessel or Aircraft.*** — If, upon arrival at the Philippine port, any master of a vessel or pilot-in-command of an aircraft engaged in a foreign trade permits any person to board or leave the vessel or aircraft without the permission of the customs officer-in-charge, the owner or operator of such vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SECTION 1408. ***Unloading of Cargo before Arrival at Port of Entry.*** — If, upon the arrival within the limits of any Customs District of the Philippines of any vessel or aircraft engaged in foreign trade, the master or pilot-in-command thereof permits any part of the cargo to be unloaded before arrival at the port of entry, and without authority from a proper customs officer, the owner, operator, or agent of such vessel or aircraft shall be liable for a fine of not less five hundred thousand pesos (P500,000.00) but not more than two million pesos (P2,000,000.00): *Provided,* That no fine shall accrue upon satisfactory proof to the proper District Collector that the unloading was rendered necessary by stress of weather, accident or other necessity: *Provided, however,* That the fine imposed herein shall be without prejudice to the application of fines or penalties provided under Section 1401 of this Act.

SECTION 1409. ***Unloading of Cargo at Improper Time or Place After Arrival.*** — The owner or operator of any vessel or aircraft from which cargo is discharged upon arrival in the Philippines at a time or place other than that designated by the District Collector, shall be fined not less one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00): *Provided,* That no fine shall accrue upon satisfactory proof to the proper District Collector that the unloading was rendered necessary by stress of weather, accident or other necessity.

SECTION 1410. ***Failure to Exhibit or Deposit Documents.*** — When the master of a vessel or pilot-in-command of an aircraft engaged in foreign trade fails to submit to the District Collector at the time of entry of the vessel or aircraft the register or other documents in lieu thereof, together with the clearance and other documents granted by the customs officers to the vessel or aircraft at the last foreign port of departure, or fails to exhibit any certificate or other documents required to be then exhibited, the owner or operator of such vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SECTION 1411. ***Bringing of Unmanifested Arms, Explosives or War Equipment.*** — The owner, operator, or agent of a vessel or aircraft arriving at a port in the Philippines bearing cargo consisting of firearms, gunpowder, cartridges, dynamite or any other explosives, munitions or equipment of war not contained in the manifest of the vessel or aircraft, or which are concealed on board, shall be liable for a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00).

SECTION 1412. ***Failure to Supply Advance and Requisite Manifests.*** — Failure to transmit the electronic manifest within the required time as may be prescribed by the Bureau, prior to arrival of the carrying vessel or aircraft at the port of entry shall make the owner, operator, or agent of the vessel or aircraft liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

If the transit time from port of origin to port of entry is at least seventy-two (72) hours, the shipping or forwarding agent of the carrier or the vessel who fails to submit the manifest at least twenty-four (24) hours before entry shall likewise be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SECTION 1413. ***Disappearance of Manifested Goods.*** — When any package or goods mentioned in the manifest meant to be unloaded at the port of destination is not unloaded upon the arrival of the vessel or aircraft, its agent shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00) unless the disappearance of the package or the goods in question was not due to the negligence of the master of the vessel or pilot-in-command of an aircraft, and is explained to the satisfaction of the District Collector.

The owner, operator, or agent of a vessel or aircraft shall be liable for the payment of the same fine when a package or goods listed in the manifest does not tally materially in character or otherwise with the description thereof in the manifest.

SECTION 1414. ***Discrepancy between Actual and Declared Weight of Manifested Goods.*** — If the gross weight of goods or package described in the manifest or bill of lading exceeds the declared weight by more than ten percent (10%), and such discrepancy was due to the negligence of the master or pilot-in-command, the owner, employee, operator or agent of the importing vessel or aircraft shall be liable for a fine of not more than twenty percent (20%) of the value of the package or goods in respect to which the deficiency exists.

SECTION 1415. ***Discrepancy with the Master's or Pilot's-in-Command Report.*** — When a vessel or aircraft arriving from a foreign port is compelled by necessity to unload in another port other than the port of entry and permission is granted by the District Collector for the unloading of the vessel or aircraft or the delivery of any part of the cargo and it shall be found that there is discrepancy between the cargo unloaded and the report of the master or the pilot-in-command and such discrepancy is not satisfactorily explained, the owner, operator or agent of the vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SECTION 1416. ***Failure to Report Fraud.*** — A master, pilot-in-command or other officer, owner or agent of any vessel or aircraft trading with or within the Philippines who has knowledge of the commission of fraud that shall result in the loss or diminution of customs revenue but fails to report all information relative thereto to the District Collector shall be penalized with imprisonment of not less than six (6) months and one (1) day but not more than one (1) year and shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00). If the offender is a foreigner, the offender shall be deported after serving the sentence. If the offender is a public officer or employee, the offender shall suffer additional penalty of perpetual disqualification to hold public office, to vote and to participate in any election. All the benefits due from service in the government, including the separation and retirement benefits, shall be forfeited.

SECTION 1417. ***False Statement of Vessel's or Aircraft's Destination.*** — When the master or pilot-in-command of a vessel or aircraft loaded with goods shall make a false statement as to the next destination of such vessel or aircraft when that information is required by a customs

officer, the owner or operator of such vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00). The arrival of a vessel or aircraft at a different port other than the one it had been originally authorized and cleared for without having been impelled to do so by necessity, shall be *prima facie* proof that the original statement of the actual destination of the vessel or aircraft was false.

SECTION 1418. *Affixing Seals.* — Any person who, without authority, affixes or attaches a customs seal, fastening, or any mark, or fastening purporting to be a customs seal, to any vessel, aircraft, vehicle, warehouse, or package, shall be penalized with imprisonment of not less than six (6) months and one (1) day but not more than one (1) year, and shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00). If the offender is a foreigner, the offender shall be deported after serving the sentence. If the offender is a public officer or employee, the offender shall suffer an additional penalty of perpetual disqualification to hold public office and disqualification from exercising the right to vote and to participate in any election.

SECTION 1419. *Breaking of Seal Placed by Customs Officers*. — If any seal placed by a customs officer upon any vessel or aircraft or compartment thereof, or upon any box, trunk or other package of goods on board is broken, the owner, operator, or agent of the vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00) for each broken or destroyed seal.

SECTION 1420. *Breaking of Lock or Fastening Placed by Customs Officers.* — If any lock or other fastening device placed by a customs officer upon any hatch door, or other means of communication in the hold of a vessel or aircraft, or other part thereof for the security of the same during the night time, is unlawfully opened, broken or removed, or if any of the goods contained in the hold or in the other compartments so secured is clandestinely abstracted and landed, the owner, operator, or agent of the vessel or aircraft shall be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00).

SECTION 1421. *Removal, Breakage, and Alteration of Marks*. — Any person who, without authority, willfully removes, breaks, injures, defaces or alters any customs seal or other fastening or mark placed upon any vessel, vehicle, on land, sea or air, warehouse or package containing merchandise or baggage in bond or in customs custody, shall be punished with the penalty prescribed in Section 1420 hereof.

SECTION 1422. *Unauthorized Withdrawal of Imported Goods from Bonded Warehouse.* — Any person who causes the unauthorized withdrawal of imported goods stored from a CBW shall be liable for payment of a surcharge of fifty percent (50%) of duties, taxes, customs fees, and charges, found to be due and unpaid. The amount of surcharge shall be added to the duties, taxes and charges due on the goods withdrawn. If the delinquency lasts for more than one (1) year, the surcharge shall be increased by twenty-five percent (25%) of the unpaid duties and taxes annually: *Provided,* That where the withdrawal is attended with fraud, such as when a fake or altered withdrawal permit is submitted, the warehouse operator shall be held liable under the pertinent provisions of this Act, without prejudice to the suspension or revocation of the warehousing privileges granted by the Bureau pursuant to this Act.

SECTION 1423. *Removing or Repacking Goods in Warehouse.* — Any person who fraudulently conceals, removes, or repacks merchandise in any warehouse or fraudulently alters, defaces, or obliterates any mark or numbers placed upon packages deposited in such warehouse, or shall aid or abet any such acts, shall be punished with the penalties prescribed in Section 1418 hereof.

Merchandise so concealed, removed, or repacked, or packages upon which marks, numbers or the values thereof have been so altered, defaced, or obliterated shall be forfeited in favor of the government.

SECTION 1424. *Removing Goods from Customs Custody.* — Any person who enters any warehouse, or any vehicle loaded with or containing merchandise with intent to unlawfully remove therefrom any merchandise or baggage in such vessel, vehicle or warehouse or otherwise in customs custody or control, or any person who receives or transports any merchandise or baggage unlawfully removed from any such vessel, vehicle or warehouse, or shall aid or abet such removal, shall suffer the penalties provided in Section 1401 hereof.

SECTION 1425. *Failure to Pay Duties, Taxes and Other Charges*. — For failure to pay the duties, taxes and other charges of an assessment within fifteen (15) days from the date of final assessment, a surcharge of ten percent (10%) of the total assessed amount or balance thereon shall be added and collected, which surcharge shall be increased to twenty-five percent (25%) if the delinquency lasts for more than one (1) year.

SECTION 1426. *Breach of Security.* — Upon breach of security required to be filed under this Act, the District Collector, subject to the approval of the Commissioner, may accept in satisfaction thereof a smaller sum than that mentioned in the penalty clause of the security, but in no case less than the amount necessary to indemnify the government for the damage occasioned by such breach.

SECTION 1427. *Failure to Keep Importation Records and Full Access to Customs Officers*. — Any person who fails to keep all the records of importations or books of accounts, business and computer systems and all customs commercial data in the manner prescribed under this Act, shall be punished with imprisonment of not less than three (3) years and one (1) day but not more than six (6) years and/or a fine of one million pesos (P1,000,000.00). This penalty shall likewise be imposed against importers and brokers who deny an authorized customs officer full and free access to such records, books of accounts, business and computer systems, and all customs commercial data including payment records, without prejudice to the imposition of the administrative sanctions by the Bureau against contumacious importers, including the authority to hold delivery or release of their imported goods.

SECTION 1428. *Concealment or Destruction of Evidence of Fraud*. — Any person who willfully conceals or destroys any invoice, book, or document relating to any goods liable to duty after an inspection thereof has been demanded by the District Collector or at any time conceals or destroys any such invoice, book, or document for the purpose of suppressing any evidence of fraud therein contained, shall be penalized with imprisonment of not less than three (3) years and one (1) day but not more than six (6) years and shall be liable for a fine of not less than three hundred thousand pesos (P300,000.00) but not more than one million pesos (P1,000,000.00).

SECTION 1429. *Other Offenses.* — The owner or operator of a vessel, aircraft or train shall be liable for a fine for the following acts:

(a) For anchoring at any dock, pier, wharf, quay, or bulkhead other than a port of entry, a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00) for overseas vessels;

(b) For dumping of garbage or slops over the sides of the vessel within three (3) miles from the nearest coastline, a fine of not less than one million pesos (P1,000,000.00) but not more than ten million pesos (P10,000,000.00);

(c) For dumping or causing to spread crude oil, kerosene, or gasoline in the bay or at the piers within three (3) miles from the nearest coastline, a fine of not less than one million pesos (P1,000,000.00) but not more than ten million pesos (P10,000,000.00) for each offense;

(d) For loading gasoline or any other petroleum products at a place other than that designated by the regulations, a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00) for each offense;

(e) For causing the emission and spread of harmful gas, fumes and chemicals, a fine of not less than one million pesos (P1,000,000.00) but not more than ten million pesos (P10,000,000.00) for each offense; and

(f) For transporting hazardous waste, radioactive waste and other toxic substances as provided under the Basel Convention and Republic Act No. 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990", the penalty shall be forfeiture of the vessel in favor of the government.

The fines imposed herein shall be without prejudice to the application of fines or penalties provided under special laws and regulations.

SECTION 1430. ***Violations of This Act and Rules and Regulations in General.*** — Any person who violates any other provision of this Act or the rules and regulations issued pursuant thereto, shall be penalized with imprisonment of not less than thirty (30) days and one (1) day but not more than one (1) year, or be liable for a fine of not less than one hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00), or both. If the offender is a foreigner, the offender shall be deported after serving the sentence. If the offender is a public officer or employee, the offender shall be disqualified from holding public office, from exercising the right to vote and to participate in any public election for ten (10) years.

CHAPTER 2 *Penalties Imposed Upon Bureau Employees*

SECTION 1431. ***Statutory Offenses of Officers and Employees***. — Every officer, agent, or employee of the Bureau or of any other agency of the government charged with the enforcement of the provisions of this Act, who shall be found guilty of any delinquency as described below shall be penalized with imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years, and perpetual disqualification to hold public office, from exercising the right to vote and to participate in any public election and a fine of not less than five hundred thousand pesos (P500,000.00); but not more than one million pesos (P1,000,000.00):

(a) Extortion or willful oppression under color of law;

(b) Knowingly demanding other or greater sums that are authorized by law or receive any fee, compensation, or reward except as by law prescribed, for the performance of any duty;

(c) Willfully neglecting to give receipts, as required by law, for any sum collected in the performance of duty, or who willfully neglect to perform any of the duties enjoined by law;

(d) Conspiring or colluding with another or others to defraud the customs revenue or otherwise violate the law;

(e) Providing an opportunity for any person to defraud the government of customs revenue or failing to do any act with the intent to enable any person to defraud the government of customs revenue;

(f) Negligently or designedly permitting the violation of the law by any other person;

(g) Making or signing for any false entry or entries in any book, making or signing any false certificate or return in any case where the law requires the making by them of such entry certificate or return;

(h) Failing to report knowledge or information to their superior officer about an act or acts of fraud committed in revenue collection as required by law;

(i) Demanding or accepting or attempting, without authority, to collect directly or indirectly as payment or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law;

(j) Unlawfully disclosing confidential information gained during any investigation or audit, or using such information for personal gain or to the detriment of the government, the Bureau, or third parties.

All the benefits due from service in the government, including separation and retirement benefits, of an officer, agent, or employee of the Bureau or of any other agency of the government charged with the enforcement of the provisions of this Act found guilty of the foregoing violations shall be forfeited.

SECTION 1432. ***Failure to Report Fraud***. — Any employee of the Bureau who has knowledge of any fraud committed against the government pertaining to customs revenue, and who fails to report all information relative thereto to the District Collector, shall be penalized with imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00). The offender shall suffer the additional penalty of perpetual disqualification to hold public office, to vote and to participate in any election. All the benefits of the offender due from service in the government, including separation and retirement benefits, shall be forfeited.

SECTION 1433. ***Liability for Other Offenses.*** — The fines and penalties imposed in this chapter shall be without prejudice to the application of fines or penalties provided under Chapter 1 of this title and special laws and regulations.

(Customs Modernization and Tariff Act, Republic Act No. 10863, [May 30, 2016])

RA No 623 | An Act To Regulate The Use Of Duly Stamped Or Marked Bottles, Boxes, Casks, Kegs, Barrels And Other Similar Containers

June 5, 1951 REPUBLIC ACT NO. 623

AN ACT TO REGULATE THE USE OF DULY STAMPED OR MARKED BOTTLES, BOXES, CASKS, KEGS, BARRELS AND OTHER SIMILAR CONTAINERS

SECTION 1. Persons engaged or licensed to engage in the manufacture, bottling, or selling of soda water, mineral or aerated waters, cider, milk, cream or other lawful beverages in bottles, boxes, casks, kegs, or barrels, and other similar containers, or in the manufacture, compressing or selling of gases such as oxygen, acetylene, nitrogen, carbon dioxide, ammonia, hydrogen, chloride, helium, sulphur dioxide, butane, propane, freon, methyl chloride or similar gases contained in steel cylinders, tanks, flasks, accumulators or similar containers, with their names or the names of their principals of products, or other marks of ownership stamped or marked thereon, may register with the Philippines Patent Office a description of the names or marks, and the purpose for which the containers so marked are used by them, under the same conditions, rules, and regulations, made applicable by law or regulation to the issuance of trademarks. ***(as amended by RA No 5700)***

SECTION 2. It shall be unlawful for any person, without the written consent of the manufacturer, bottle, or seller, who has successfully registered the marks of ownership

in accordance with the provisions of the next preceding section, to fill such bottles, boxes, kegs, barrels, steel cylinders, tanks, flasks, accumulators, or other similar containers so marked or stamped, for the purpose of sale, or to sell, dispose of, buy or traffic in, or wantonly destroy the same, whether filled or not to use the same for drinking vessels or glasses or drain pipes, foundation pipes, for any other purpose than that registered by the manufacturer, bottler or seller. Any violation of this section shall be punished by a fine of not more than one thousand pesos or imprisonment of not more than one year or both. ***(as amended by RA No 5700)***

SECTION 3. The use by any person other than the registered manufacturer, bottler or seller, without written permission of the latter of any such bottler, cask, barrel, keg, box, steel cylinders, tanks, flasks, accumulators, or other similar containers, or the possession thereof without written permission of the manufacturer, by any junk dealer or dealer in casks, barrels, kegs, boxes, steel cylinders, tanks, flasks, accumulators, or other similar containers, the same being duly marked or stamped and registered as herein provided, shall give rise to a prima facie presumption that such use or possession is unlawful. ***(as amended by RA No 5700)***

SECTION 4. The criminal action provided in this Act shall is no way affect any civil action to which the registered manufacturer, bottler, or seller, may be entitled by law or contract.

SECTION 5. No action shall be brought under this Act against any person to whom the registered manufacturer, bottler, or seller, has transferred by way of sale, any of the containers herein referred to, but the sale of the beverage contained in the said containers shall not include the sale of the containers unless specifically so provided.

SECTION 6. The provision of this Act shall not be interpreted as prohibiting the use of bottles as containers for "sisi", "bagoong", "patis", and similar native products.

SECTION 7. This Act shall take effect upon its approval.

Approved: June 5, 1951

Published in the Official Gazette, Vol. 47, No. 6, p. 2834 in June 1951

(Regulating the Use of Duly Stamped or Marked Bottles, Boxes, Casks, Kegs, Barrels and Other Similar Containers, Republic Act No. 623, [June 5, 1951])

RA No 6085 | **Regulating the Use of Aliases**

REPUBLIC ACT No. 6085

AN ACT AMENDING COMMONWEALTH ACT NUMBERED ONE HUNDRED FORTY-TWO REGULATING THE USE OF ALIASES.

Section 1. Except as a pseudonym solely for literary, cinema, television, radio or other entertainment purposes and in athletic events where the use of pseudonym is a normally accepted practice, no person shall use any name different from the one with which he was registered at birth in the office of the local civil registry, or with which he was baptized for the first time, or, in case of an alien, with which he was registered in the bureau of immigration upon entry; or such substitute name as may have been authorized by a competent court: *Provided*, That persons, whose births have not been registered in any local civil registry and who have not been baptized, have one year from the approval of this act within which to register their names in the civil registry of their residence. The name shall comprise the patronymic name and one or two surnames.

Section 2. Any person desiring to use an alias shall apply for authority therefor in proceedings like those legally provided to obtain judicial authority for a change of name, and no person shall be allowed to secure such judicial authority for more than one alias. The petition for an alias shall set forth the person's baptismal and family name and the name recorded in the civil registry, if different, his immigrant's name, if an alien, and his pseudonym, if he has such names other than his original or real name, specifying the reason or reasons for the use of the desired alias. The judicial authority for the use of alias the Christian name and the alien immigrant's name shall be recorded in the proper local civil registry, and no person shall use any name or names other, than his original or real name unless the same is or are duly recorded in the proper local civil registry."

Section 3. No person having been baptized with a name different from that with which he was registered at birth in the local civil registry, or in case of an alien, registered in the bureau of immigration upon entry, or any person who obtained judicial authority to use an alias, or who uses a pseudonym, shall represent himself in any public or private transaction or shall sign or execute any public or private document without stating or affixing his real or original name and all names or aliases or pseudonym he is or may have been authorized to use.

Section 4. Six months from the approval of this act and subject to the provisions of section 1 hereof, all persons who have used any name and/or names and alias or aliases different from those authorized in section one of this act and duly recorded in the local civil registry, shall be prohibited to use such other name or names and/or alias or aliases.

Section 5. Any violation of this Act shall be punished with imprisonment of from one year to five years and a fine of P5,000 to P10,000.

Section 6. This Act shall take effect upon its approval, and all Acts, rules or regulations of laws inconsistent herewith are hereby repealed.

Approved: August 4, 1969.

RA No 8293 | **Intellectual Property Code of the Philippines** as amended by RA No 10372

Section 155. *Remedies; Infringement*. - Any person who shall, without the consent of the owner of the registered mark:

155.1. Use in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark or the same container or a dominant feature thereof in connection with the sale, offering for sale, distribution, advertising of any goods or services including other preparatory steps necessary to carry out the sale of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or

155.2. Reproduce, counterfeit, copy or colorably imitate a registered mark or a dominant feature thereof and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive, shall be liable in a civil action for infringement by the registrant for the remedies hereinafter set forth: Provided, That the infringement takes place at the moment any of the acts stated in Subsection 155.1 or this subsection are committed regardless of whether there is actual sale of goods or services using the infringing material. (Sec. 22, R.A. No 166a)

Section 168. *Unfair Competition, Rights, Regulation and Remedies*. - 168.1. A person who has identified in the mind of the public the goods he manufactures or deals in, his business or services from those of others, whether or not a registered mark is employed, has a property right in the goodwill of the said goods, business or services so

identified, which will be protected in the same manner as other property rights.

168.2. Any person who shall employ deception or any other means contrary to good faith by which he shall pass off the goods manufactured by him or in which he deals, or his business, or services for those of the one having established such goodwill, or who shall commit any acts calculated to produce said result, shall be guilty of unfair competition, and shall be subject to an action therefor.

168.3. In particular, and without in any way limiting the scope of protection against unfair competition, the following shall be deemed guilty of unfair competition:

(a) Any person, who is selling his goods and gives them the general appearance of goods of another manufacturer or dealer, either as to the goods themselves or in the wrapping of the packages in which they are contained, or the devices or words thereon, or in any other feature of their appearance, which would be likely to influence purchasers to believe that the goods offered are those of a manufacturer or dealer, other than the actual manufacturer or dealer, or who otherwise clothes the goods with such appearance as shall deceive the public and defraud another of his legitimate trade, or any subsequent vendor of such goods or any agent of any vendor engaged in selling such goods with a like purpose;

(b) Any person who by any artifice, or device, or who employs any other means calculated to induce the false belief that such person is offering the services of another who has identified such services in the mind of the public; or

(c) Any person who shall make any false statement in the course of trade or who shall commit any other act contrary to good faith of a nature calculated to discredit the goods, business or services of another.

168.4. The remedies provided by Sections 156, 157 and 161 shall apply mutatis mutandis. (Sec. 29, R.A. No. 166a)

Section 169. *False Designations of Origin; False Description or Representation*. - 169.1. Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which:

(a) Is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person; or

(b) In commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities, shall be liable to a civil action for damages and injunction provided in Sections 156 and 157 of this Act by any person who believes that he or she is or is likely to be damaged by such act.

Section 170. *Penalties*. - Independent of the civil and administrative sanctions imposed by law, a criminal penalty of imprisonment from two (2) years to five (5) years and a fine ranging from Fifty thousand pesos (P50,000) to Two hundred thousand pesos(P200,000), shall be imposed on any person who is found guilty of committing any of the acts mentioned in Section 155, Section 168 and Subsection 169.1. (Arts. 188 and 189, Revised Penal Code)

PART IV *The Law on Copyright*

CHAPTER I *Preliminary Provisions*

SECTION 171. *Definitions*. — For the purpose of this Act, the following terms have the following meaning:

171.1. "Author" is the natural person who has created the work;

171.2. A "collective work" is a work which has been created by two (2) or more natural persons at the initiative and under the direction of another with the understanding that it will be disclosed by the latter under his own name and that contributing natural persons will not be identified;

171.3. 'Communication to the public' or 'communicate to the public' means any communication to the public, including broadcasting, rebroadcasting, retransmitting by cable, broadcasting and retransmitting by satellite, and includes the making of a work available to the public by wire or wireless means in such a way that members of the public may access these works from a place and time individually chosen by them; (as amended by RA No 10372)

171.4. A "computer" is an electronic or similar device having information-processing capabilities, and a "computer program" is a set of instructions expressed in words, codes, schemes or in any other form, which is capable when incorporated in a medium that the computer can read, of causing the computer to perform or achieve a particular task or result;

171.5. "Public lending" is the transfer of possession of the original or a copy of a work or sound recording for a limited period, for non-profit purposes, by an institution the services of which are available to the public, such as public library or archive;

171.6. "Public performance", in the case of a work other than an audiovisual work, is the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process; in the case of an audiovisual work, the showing of its images in sequence and the making of the sounds accompanying it audible; and, in the case of a sound recording, making the recorded sounds audible at a place or at places where persons outside the normal circle of a family and that family's closest social acquaintances are or can be present, irrespective of whether they are or can be present at the same place and at the same time, or at different places and/or at different times, and where the performance can be perceived without the need for communication within the meaning of Subsection 171.3;

171.7. "Published works" means works, which, with the consent of the authors, are made available to the public by wire or wireless means in such a way that members of the public may access these works from a place and time individually chosen by them: *Provided*, That availability of such copies has been such, as to satisfy the reasonable requirements of the public, having regard to the nature of the work;

171.8. "Rental" is the transfer of the possession of the original or a copy of a work or a sound recording for a limited period of time, for profit-making purposes;

171.9. 'Reproduction' is the making of one (1) or more copies, temporary or permanent, in whole or in part, of a work or a sound recording in any manner or form without prejudice to the provisions of Section 185 of this Act (Sec. 41[E], P.D. No. 49a); (as amended by RA No 10372)

171.10. A "work of applied art" is an artistic creation with utilitarian functions or incorporated in a useful article, whether made by hand or produced on an industrial scale;

171.11. A "work of the Government of the Philippines" is a work created by an officer or employee of the Philippine Government or any of its subdivisions and instrumentalities, including government-owned or controlled corporations as a part of his regularly prescribed official duties.

171.12. 'Technological measure' means any technology, device or component that, in the normal course of its operation, restricts acts in respect of a work, performance or sound recording, which are not authorized by the

authors, performers or producers of sound recordings concerned or permitted by law;

171.13. 'Rights management information' means information which identifies the work, sound recording or performance; the author of the work, producer of the sound recording or performer of the performance; the owner of any right in the work, sound recording or performance; or information about the terms and conditions of the use of the work, sound recording or performance; and any number or code that represent such information, when any of these items is attached to a copy of the work, sound recording or fixation of performance or appears in conjunction with the communication to the public of a work, sound recording or performance.

(as amended by RA No 10372)

CHAPTER II *Original Works*

SECTION 172. *Literary and Artistic Works*. — 172.1. Literary and artistic works, hereinafter referred to as "works", are original intellectual creations in the literary and artistic domain protected from the moment of their creation and shall include in particular:

(a) Books, pamphlets, articles and other writings;

(b) Periodicals and newspapers;

(c) Lectures, sermons, addresses, dissertations prepared for oral delivery, whether or not reduced in writing or other material form;

(d) Letters;

(e) Dramatic or dramatico-musical compositions; choreographic works or entertainment in dumb shows;

(f) Musical compositions, with or without words;

(g) Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art; models or designs for works of art;

(h) Original ornamental designs or models for articles of manufacture, whether or not registrable as an industrial design, and other works of applied art;

(i) Illustrations, maps, plans, sketches, charts and three-dimensional works relative to geography, topography, architecture or science;

(j) Drawings or plastic works of a scientific or technical character;

(k) Photographic works including works produced by a process analogous to photography; lantern slides;

(l) Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;

(m) Pictorial illustrations and advertisements;

(n) Computer programs; and

(o) Other literary, scholarly, scientific and artistic works.

172.2. Works are protected by the sole fact of their creation, irrespective of their mode or form of expression, as well as of their content, quality and purpose. (Sec. 2, P.D. No. 49a)

CHAPTER III *Derivative Works*

SECTION 173. *Derivative Works*. — 173.1. The following derivative works shall also be protected by copyright:

(a) Dramatizations, translations, adaptations, abridgments, arrangements, and other alterations of literary or artistic works; and

(b) Collections of literary, scholarly or artistic works, and compilations of data and other materials which are original by reason of the selection or coordination or arrangement of their contents. (Sec. 2, (P) and (Q), P.D. No. 49)

173.2. The works referred to in paragraphs (a) and (b) of Subsection 173.1 shall be protected as new works: *Provided*, *however*, That such new work shall not affect the force of any subsisting copyright upon the original works employed or any part thereof, or be construed to imply any right to such use of the original works, or to secure or extend copyright in such original works. (Sec. 8, P.D. 49; Art. 10, TRIPS)

SECTION 174. *Published Edition of Work*. — In addition to the right to publish granted by the author, his heirs, or assigns, the publisher shall have a copyright consisting merely of the right of reproduction of the typographical arrangement of the published edition of the work. (n)

CHAPTER IV *Works Not Protected*

SECTION 175. *Unprotected Subject Matter*. — Notwithstanding the provisions of Sections 172 and 173, no protection shall extend, under this law, to any idea, procedure, system, method or operation, concept, principle, discovery or mere data as such, even if they are expressed, explained, illustrated or embodied in a work; news of the day and other miscellaneous facts having the character of mere items of press information; or any official text of a legislative, administrative or legal nature, as well as any official translation thereof. (n)

SECTION 176. *Works of the Government*. — 176.1. No copyright shall subsist in any work of the Government of the Philippines. However, prior approval of the government agency or office wherein the work is created shall be necessary for exploitation of such work for profit. Such agency or office may, among other things, impose as a condition the payment of royalties. No prior approval or conditions shall be required for the use for any purpose of statutes, rules and regulations, and speeches, lectures, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and in meetings of public character. (Sec. 9, first par., P.D. No. 49)

176.2. The author of speeches, lectures, sermons, addresses, and dissertations mentioned in the preceding paragraphs shall have the exclusive right of making a collection of his works. (n)

176.3. Notwithstanding the foregoing provisions, the Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest or otherwise; nor shall publication or republication by the Government in a public document of any work in which copyright is subsisting be taken to cause any abridgment or annulment of the copyright or to authorize any use or appropriation of such work without the consent of the copyright owner. (Sec. 9, third par.,P.D. No. 49)

CHAPTER V *Copyright or Economic Rights*

SECTION 177. *Copyright or Economic Rights*. — Subject to the provisions of Chapter VIII, copyright or economic rights shall consist of the exclusive right to carry out, authorize or prevent the following acts:

177.1. Reproduction of the work or substantial portion of the work;

177.2. Dramatization, translation, adaptation, abridgment, arrangement or other transformation of the work;

177.3. The first public distribution of the original and each copy of the work by sale or other forms of transfer of ownership;

177.4. Rental of the original or a copy of an audiovisual or cinematographic work, a work embodied in a sound recording, a computer program, a compilation of data and other materials or a musical work in graphic form, irrespective of the ownership of the original or the copy which is the subject of the rental; (n)

177.5. Public display of the original or a copy of the work;

177.6. Public performance of the work; and

177.7. Other communication to the public of the work. (Sec. 5, P.D. No. 49a)

CHAPTER VI *Ownership of Copyright*

SECTION 178. *Rules on Copyright Ownership*. — Copyright ownership shall be governed by the following rules:

178.1. Subject to the provisions of this section, in the case of original literary and artistic works, copyright shall belong to the author of the work;

178.2. In the case of works of joint authorship, the co-authors shall be the original owners of the copyright and in the absence of agreement, their rights shall be governed by the rules on co-ownership. If, however, a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author of each part shall be the original owner of the copyright in the part that he has created;

178.3. In the case of work created by an author during and in the course of his employment, the copyright shall belong to:

(a) The employee, if the creation of the object of copyright is not a part of his regular duties even if the employee uses the time, facilities and materials of the employer.

(b) The employer, if the work is the result of the performance of his regularly-assigned duties, unless there is an agreement, express or implied, to the contrary.

178.4. In the case of a work commissioned by a person other than an employer of the author and who pays for it and the work is made in pursuance of the commission, the person who so commissioned the work shall have ownership of the work, but the copyright thereto shall remain with the creator, unless there is a written stipulation to the contrary;

178.5. In the case of audiovisual work, the copyright shall belong to the producer, the author of the scenario, the composer of the music, the film director, and the author of the work so adapted. However, subject to contrary or other stipulations among the creators, the producer shall exercise the copyright to an extent required for the exhibition of the work in any manner, except for the right to collect performing license fees for the performance of musical compositions, with or without words, which are incorporated into the work; and

178.6. In respect of letters, the copyright shall belong to the writer subject to the provisions of Article 723 of the Civil Code. (Sec. 6, P.D. No. 49a)

SECTION 179. *Anonymous and Pseudonymous Works*. — For purposes of this Act, the publishers shall be deemed to represent the authors of articles and other writings published without the names of the authors or under pseudonyms, unless the contrary appears, or the pseudonyms or adopted name leaves no doubt as to the author's identity, or if the author of the anonymous works discloses his identity. (Sec. 7, P.D. 49)

CHAPTER VII *Transfer, Assignment And Licensing Of Copyright*

(as amended by RA No 10372)

SECTION 180. *Rights of Assignee*. — 180.1. The copyright may be assigned or licensed in whole or in part. Within the scope of the assignment or license, the assignee or licensee is entitled to all the rights and remedies which the assignor or licensor had with respect to the copyright.

180.2. The copyright is not deemed assigned or licensed inter vivos, in whole or in part, unless there is a written indication of such intention.

(as amended by RA No 10372)

180.3. The submission of a literary, photographic or artistic work to a newspaper, magazine or periodical for publication shall constitute only a license to make a single publication unless a greater right is expressly granted. If two (2) or more persons jointly own a copyright or any part thereof, neither of the owners shall be entitled to grant licenses without the prior written consent of the other owner or owners. (Sec. 15, P.D. No. 49a)

180.4. Any exclusivity in the economic rights in a work may be exclusively licensed. Within the scope of the exclusive license, the licensee is entitled to all the rights and remedies which the licensor had with respect to the copyright.

180.5. The copyright owner has the right to regular statements of accounts from the assignee or the licensee with regard to assigned or licensed work.

(as amended by RA No 10372)

SECTION 181. *Copyright and Material Object*. — The copyright is distinct from the property in the material object subject to it. Consequently, the transfer, assignment or licensing of the copyright shall not itself constitute a transfer of the material object. Nor shall a transfer or assignment of the sole copy or of one or several copies of the work imply transfer, assignment or licensing of the copyright. (Sec. 16, P.D. No. 49) (as amended by RA No 10372)

SECTION 182. *Filing of Assignment or License*. — An assignment or exclusive license may be filed in duplicate with the National Library upon payment of the prescribed fee for registration in books and records kept for the purpose. Upon recording, a copy of the instrument shall be returned to the sender with a notation of the fact of record. Notice of the record shall be published in the IPO Gazette. (Sec. 19, P.D. No. 49a)

SECTION 183. *Designation of Society*. — The owners of copyright and related rights or their heirs may designate a society of artists, writers, composers and other right-holders to collectively manage their economic or moral rights on their behalf. For the said societies to enforce the rights of their members, they shall first secure the necessary accreditation from the Intellectual Property Office. (Sec. 32, P.D. No. 49a) (as amended by RA No 10372)

CHAPTER VIII *Limitations on Copyright*

SECTION 184. *Limitations on Copyright*. — 184.1. The reproduction or distribution of published articles or materials in a specialized format exclusively for the use of the blind, visually- and reading-impaired persons: Provided, That such copies and distribution shall be made on a nonprofit basis and shall indicate the copyright owner and the date of the original publication. (as amended by RA No 10372)

184.2. The provisions of this section shall be interpreted in such a way as to allow the work to be used in a manner which does not conflict with the normal exploitation of the work and does not unreasonably prejudice the right holder's legitimate interests.

SECTION 185. *Fair Use of a Copyrighted Work*. — 185.1. The fair use of a copyrighted work for criticism, comment, news reporting, teaching including limited number of copies for classroom use, scholarship, research, and similar purposes is not an infringement of copyright. Decompilation, which is understood here to be the reproduction of the code and translation of the forms of a computer program to achieve the interoperability of an independently created computer program with other programs may also constitute fair use under the criteria established by this section, to the extent that such decompilation is done for the purpose of obtaining the information necessary to achieve such interoperability. (as amended by RA No 10372)

185.2. The fact that a work is unpublished shall not by itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

SECTION 186. *Work of Architecture*. — Copyright in a work of architecture shall include the right to control the erection of any building which reproduces the whole or a substantial part of the work either in its original form or in any form recognizably derived from the original:

Provided, That the copyright in any such work shall not include the right to control the reconstruction or rehabilitation in the same style as the original of a building to which that copyright relates. (n)

SECTION 187. *Reproduction of Published Work*. — 187.1. Notwithstanding the provision of Section 177, and subject to the provisions of Subsection 187.2, the private reproduction of a published work in a single copy, where the reproduction is made by a natural person exclusively for research and private study, shall be permitted, without the authorization of the owner of copyright in the work.

187.2. The permission granted under Subsection 187.1 shall not extend to the reproduction of:

(a) A work of architecture in the form of building or other construction;

(b) An entire book, or a substantial part thereof, or of a musical work in graphic form by reprographic means;

(c) A compilation of data and other materials;

(d) A computer program except as provided in Section 189; and

(e) Any work in cases where reproduction would unreasonably conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author. (n)

SECTION 188. *Reprographic Reproduction by Libraries*. — 188.1. Notwithstanding the provisions of Subsection 177.1., any library or archive whose activities are not for profit may, without the authorization of the author or copyright owner, make a limited number of copies of the work, as may be necessary for such institutions to fulfill their mandate, by reprographic reproduction:

(a) Where the work by reason of its fragile character or rarity cannot be lent to user in its original form;

(b) Where the works are isolated articles contained in composite works or brief portions of other published works and the reproduction is necessary to supply them, when this is considered expedient, to persons requesting their loan for purposes of research or study instead of lending the volumes or booklets which contain them; and

(c) Where the making of such limited copies is in order to preserve and, if necessary in the event that it is lost, destroyed or rendered unusable, replace a copy, or to replace, in the permanent collection of another similar library or archive, a copy which has been lost, destroyed or rendered unusable and copies are not available with the publisher. (as amended by RA No 10372)

188.2. Notwithstanding the above provisions, it shall not be permissible to produce a volume of a work published in several volumes or to produce missing tomes or pages of magazines or similar works, unless the volume, tome or part is out of stock: *Provided*, That every library which, by law, is entitled to receive copies of a printed work, shall be entitled, when special reasons so require, to reproduce a copy of a published work which is considered necessary for the collection of the library but which is out of stock. (Sec. 13, P.D. 49a)

SECTION 189. *Reproduction of Computer Program*. — 189.1. Notwithstanding the provisions of Section 177, the reproduction in one (1) back-up copy or adaptation of a computer program shall be permitted, without the authorization of the author of, or other owner of copyright in, a computer program, by the lawful owner of that computer program: *Provided*, That the copy or adaptation is necessary for:

(a) The use of the computer program in conjunction with a computer for the purpose, and to the extent, for which the computer program has been obtained; and

(b) Archival purposes, and, for the replacement of the lawfully owned copy of the computer program in the event that the lawfully obtained copy of the computer program is lost, destroyed or rendered unusable.

189.2. No copy or adaptation mentioned in this Section shall be used for any purpose other than the ones determined in this Section, and any such copy or adaptation shall be destroyed in the event that continued possession of the copy of the computer program ceases to be lawful.

189.3. This provision shall be without prejudice to the application of Section 185 whenever appropriate. (n)

SECTION 190. *Importation for Personal Purposes*. — Subject to the approval of the Secretary of Finance, the Commissioner of Customs is hereby empowered to make rules and regulations for preventing the importation or exportation of infringing articles prohibited under Part IV of this Act and under relevant treaties and conventions to which the Philippines may be a party and for seizing and condemning and disposing of the same in case they are discovered after they have been imported or before they are exported. (Sec. 30, P.D. No. 49) (as amended by RA No 10372)

CHAPTER IX *Deposit and Notice*

SECTION 191. *Deposit and Notice of Deposit with the National Library and the Supreme Court Library*. — At any time during the subsistence of the copyright, the owner of the copyright or of any exclusive right in the work may, for the purpose of completing the records of the National Library and the Supreme Court Library, register and deposit with them, by personal delivery or by registered mail, two (2) complete copies or reproductions of the work in such form as the Directors of the said libraries may prescribe in accordance with regulations: Provided, That only works in the field of law shall be deposited with the Supreme Court Library. Such registration and deposit is not a condition of copyright protection. (as amended by RA No 10372)

SECTION 192. *Notice of Copyright*. — Each copy of a work published or offered for sale may contain a notice bearing the name of the copyright owner, and the year of its first publication, and, in copies produced after the creator's death, the year of such death. (Sec. 27, P.D. No. 49a)

CHAPTER X *Moral Rights*

SECTION 193. *Scope of Moral Rights*. — The author of a work shall, independently of the economic rights in Section 177 or the grant of an assignment or license with respect to such right, have the right:

193.1. To require that the authorship of the works be attributed to him, in particular, the right that his name, as far as practicable, be indicated in a prominent way on the copies, and in connection with the public use of his work;

193.2. To make any alterations of his work prior to, or to withhold it from publication;

193.3. To object to any distortion, mutilation or other modification of, or other derogatory action in relation to, his work which would be prejudicial to his honor or reputation; and

193.4. To restrain the use of his name with respect to any work not of his own creation or in a distorted version of his work. (Sec. 34, P.D. No. 49)

SECTION 194. *Breach of Contract*. — An author cannot be compelled to perform his contract to create a work or for the publication of his work already in existence. However, he may be held liable for damages for breach of such contract. (Sec. 35, P.D. No. 49)

SECTION 195. *Waiver of Moral Rights*. — An author may waive his rights mentioned in Section 193 by a written instrument, but no such waiver shall be valid where its effects is to permit another:

195.1. To use the name of the author, or the title of his work, or otherwise to make use of his reputation with respect to any version or adaptation of his work which, because of alterations therein, would substantially tend to injure the literary or artistic reputation of another author; or

195.2. To use the name of the author with respect to a work he did not create. (Sec. 36, P.D. No. 49)

SECTION 196. *Contribution to Collective Work*. — When an author contributes to a collective work, his right to have his contribution attributed to him is deemed waived unless he expressly reserves it. (Sec. 37, P.D. No. 49)

SECTION 197. *Editing, Arranging and Adaptation of Work*. — In the absence of a contrary stipulation at the time an author licenses or permits another to use his work, the necessary editing, arranging or adaptation of such work, for publication, broadcast, use in a motion picture, dramatization, or mechanical or electrical reproduction in accordance with the reasonable and customary standards or requirements of the medium in which the work is to be used, shall not be deemed to contravene the author's rights secured by this chapter. Nor shall complete destruction of a work unconditionally transferred by the author be deemed to violate such rights. (Sec. 38, P.D. No. 49)

SECTION 198. *Term of Moral Rights*. — 198.1. The right of an author under Section 193.1. shall last during the lifetime of the author and in perpetuity after his death while the rights under Sections 193.2., 193.3. and 193.4. shall be coterminous with the economic rights, the moral rights shall not be assignable or subject to license. The person or persons to be charged with the posthumous enforcement of these rights shall be named in a written instrument which shall be filed with the National Library. In default of such person or persons, such enforcement shall devolve upon either the author's heirs, and in default of the heirs, the Director of the National Library. (as amended by RA No 10372)

198.2. For purposes of this Section, "Person" shall mean any individual, partnership, corporation, association, or society. The Director of the National Library may prescribe reasonable fees to be charged for his services in the application of provisions of this Section. (Sec. 39, P.D. No. 49)

SECTION 199. *Enforcement Remedies*. — Violation of any of the rights conferred by this Chapter shall entitle those charged with their enforcement to the same rights and remedies available to a copyright owner. In addition, damages which may be availed of under the Civil Code may also be recovered. Any damage recovered after the creator's death shall be held in trust for and remitted to his heirs, and in default of the heirs, shall belong to the government. (Sec. 40, P.D. No. 49)

CHAPTER XI *Rights to Proceeds in Subsequent Transfers*

SECTION 200. *Sale or Lease of Work*. — In every sale or lease of an original work of painting or sculpture or of the original manuscript of a writer or composer, subsequent to the first disposition thereof by the author, the author or his heirs shall have an inalienable right to participate in the gross proceeds of the sale or lease to the extent of five percent (5%). This right shall exist during the lifetime of the author and for fifty (50) years after his death. (Sec. 31, P.D. No. 49)

SECTION 201. *Works Not Covered*. — The provisions of this Chapter shall not apply to prints, etchings, engravings, works of applied art, or works of similar kind wherein the author primarily derives gain from the proceeds of reproductions. (Sec. 33, P.D. No. 49)

CHAPTER XII *Rights of Performers, Producers of Sounds Recordings and Broadcasting Organizations*

SECTION 202. *Definitions*. — For the purpose of this Act, the following terms shall have the following meanings:

202.1. "Performers" are actors, singers, musicians, dancers, and other persons who act, sing, declaim, play in, interpret, or otherwise perform literary and artistic work;

202.2. "Sound recording" means the fixation of the sounds of a performance or of other sounds, or representation of sound, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;

202.3. An "audiovisual work or fixation" is a work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible and, where accompanied by sounds, susceptible of being made audible;

202.4. "Fixation" means the embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device;

202.5. "Producer of a sound recording" means the person, or the legal entity, who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representation of sounds;

202.6. "Publication of a fixed performance or a sound recording" means the offering of copies of the fixed performance or the sound recording to the public, with the consent of the right holder: *Provided*, That copies are offered to the public in reasonable quality;

202.7. "Broadcasting" means the transmission by wireless means for the public reception of sounds or of images or of representations thereof; such transmission by satellite is also "broadcasting" where the means for decrypting are provided to the public by the broadcasting organization or with its consent;

202.8. "Broadcasting organization" shall include a natural person or a juridical entity duly authorized to engage in broadcasting; and

202.9. "Communication to the public of a performance or a sound recording" means the transmission to the public, by any medium, otherwise than by broadcasting, of sounds of a performance or the representations of sounds fixed in a sound recording. For purposes of Section 209, "communication to the public" includes making the sounds or representations of sounds fixed in a sound recording audible to the public.

SECTION 203. *Scope of Performers' Rights*. — Subject to the provisions of Section 212, performers shall enjoy the following exclusive rights:

203.1. As regards their performances, the right of authorizing:

(a) The broadcasting and other communication to the public of their performance; and

(b) The fixation of their unfixed performance.

203.2. The right of authorizing the direct or indirect reproduction of their performances fixed in sound recordings or audiovisual works or fixations in any manner or form;

203.3. Subject to the provisions of Section 206, the right of authorizing the first public distribution of the original and copies of their performance fixed in sound recordings or audiovisual works or fixations through sale or rental of other forms of transfer of ownership;

203.4. The right of authorizing the commercial rental to the public of the original and copies of their performances fixed in sound recordings or audiovisual works or fixations, even after distribution of them by, or pursuant to the authorization by the performer; and

203.5. The right of authorizing the making available to the public of their performances fixed in sound recordings or audiovisual works or fixations, by wire or wireless means, in such a way that members of the public may access them from a place and time individually chosen by them. (Sec. 42, P.D. No. 49A).

(as amended by RA No 10372)

SECTION 204. *Moral Rights of Performers*. — 204.1. Independently of a performer's economic rights, the performer shall, as regards his live aural performances or performances fixed in sound recordings or in audiovisual

works or fixations, have the right to claim to be identified as the performer of his performances, except where the omission is dictated by the manner of the use of the performance, and to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation. (as amended by RA No 10372)

204.2. The rights granted to a performer in accordance with Subsection 203.1 shall be maintained and exercised fifty (50) years after his death, by his heirs, and in default of heirs, the government, where protection is claimed. (Sec. 43, P.D. No. 49)

SECTION 205. *Limitation on Right*. — 205.1. Subject to the provisions of Section 206, once the performer has authorized the broadcasting or fixation of his performance, the provisions of Sections 203 shall have no further application.

205.2.The provisions of Section 184 and Section 185 shall apply *mutatis mutandis* to performers. (n)

SECTION 206. *Additional Remuneration for Subsequent Communications or Broadcasts*. — Unless otherwise provided in the contract, in every communication to the public or broadcast of a performance subsequent to the first communication or broadcast thereof by the broadcasting organization, the performer shall be entitled to an additional remuneration equivalent to at least five percent (5%) of the original compensation he or she received for the first communication or broadcast. (n)

SECTION 207. *Contract Terms*. — Nothing in this Chapter shall be construed to deprive performers of the right to agree by contracts on terms and conditions more favorable for them in respect of any use of their performance. (n)

CHAPTER XIII *Producers of Sound Recordings*

SECTION 208. *Scope of Right*. — Subject to the provisions of Section 212, producers of sound recordings shall enjoy the following exclusive rights:

208.1. The right to authorize the direct or indirect reproduction of their sound recordings, in any manner or form; the placing of these reproductions in the market and the right of rental or lending;

208.2. The right to authorize the first public distribution of the original and copies of their sound recordings through sale or rental or other forms of transferring ownership; and

208.3. The right to authorize the commercial rental to the public of the original and copies of their sound recordings, even after distribution by them by or pursuant to authorization by the producer. (Sec. 46, P.D. No. 49a)

208.4. The right to authorize the making available to the public of their sound recordings in such a way that members of the public may access the sound recording from a place and at a time individually chosen or selected by them, as well as other transmissions of a sound recording with like effect. (as amended by RA No 10372)

SECTION 209. *Communication to the Public*. — If a sound recording published for commercial purposes, or a reproduction of such sound recording, is used directly for broadcasting or for other communication to the public, or is publicly performed with the intention of making and enhancing profit, a single equitable remuneration for the performer or performers, and the producer of the sound recording shall be paid by the user to both the performers and the producer, who, in the absence of any agreement shall share equally. (Sec. 47, P.D. No. 49a)

SECTION 210. *Limitation of Right*. — Sections 184 and 185 shall apply *mutatis mutandis* to the producer of sound recordings. (Sec. 48, P.D. No. 49a)

CHAPTER XIV *Broadcasting Organizations*

SECTION 211. *Scope of Right*. — Subject to the provisions of Section 212, broadcasting organizations shall enjoy the exclusive right to carry out, authorize or prevent any of the following acts:

211.1. The rebroadcasting of their broadcasts;

211.2. The recording in any manner, including the making of films or the use of video tape, of their broadcasts for the purpose of communication to the public of television broadcasts of the same; and

211.3. The use of such records for fresh transmissions or for fresh recording. (Sec. 52, P.D. No. 49)

CHAPTER XV *Limitations on Protection*

SECTION 212. *Limitations on Rights*. — The provisions of Chapter VIII shall apply mutatis mutandis to the rights of performers, producers of sound recordings and broadcasting organizations. (as amended by RA No 10372)

CHAPTER XVI *Term of Protection*

SECTION 213. *Term of Protection*. — 213.1. Subject to the provisions of Subsections 213.2 to 213.5, the copyright in works under Sections 172 and 173 shall be protected during the life of the author and for fifty (50) years after his death. This rule also applies to posthumous works. (Sec. 21, first sentence, P.D. No. 49a)

213.2. In case of works of joint authorship, the economic rights shall be protected during the life of the last surviving author and for fifty (50) years after his death. (Sec. 21, second sentence, P.D. No. 49)

213.3. In case of anonymous or pseudonymous works, the copyright shall be protected for fifty (50) years from the date on which the work was first lawfully published: *Provided*, That where, before the expiration of the said period, the author's identity is revealed or is no longer in doubt, the provisions of Subsections 213.1. and 213.2 shall apply, as the case may be: *Provided*, *further*, That such works if not published before shall be protected for fifty (50) years counted from the making of the work. (Sec. 23, P.D. No. 49)

213.4. In case of works of applied art the protection shall be for a period of twenty-five (25) years from the date of making. (Sec. 24(B), P.D. No. 49a)

213.5. In case of photographic works, the protection shall be for fifty (50) years from publication of the work and, if unpublished, fifty (50) years from the making. (Sec. 24(C), P.D. 49a)

213.6. In case of audio-visual works including those produced by process analogous to photography or any process for making audio-visual recordings, the term shall be fifty (50) years from date of publication and, if unpublished, from the date of making. (Sec. 24(C), P.D. No. 49a)

SECTION 214. *Calculation of Term*. — The term of protection subsequent to the death of the author provided in the preceding Section shall run from the date of his death or of publication, but such terms shall always be deemed to begin on the first day of January of the year following the event which gave rise to them. (Sec. 25, P.D. No. 49)

SECTION 215. *Term of Protection for Performers, Producers and Broadcasting Organizations*. — 215.1. The rights granted to performers and producers of sound recordings under this law shall expire:

(a) For performances not incorporated in recordings, fifty (50) years from the end of the year in which the performance took place; and

(b) For sound or image and sound recordings and for performances incorporated therein, fifty (50) years from the end of the year in which the recording took place.

215.2. In case of broadcasts, the term shall be twenty (20) years from the date the broadcast took place. The extended term shall be applied only to old works with subsisting protection under the prior law. (Sec. 55, P.D. No. 49a)

CHAPTER XVII *Infringement*

SECTION 216. *Infringement*. — A person infringes a right protected under this Act when one:

(a) Directly commits an infringement;

(b) Benefits from the infringing activity of another person who commits an infringement if the person benefiting has been given notice of the infringing activity and has the right and ability to control the activities of the other person;

(c) With knowledge of infringing activity, induces, causes or materially contributes to the infringing conduct of another.

(as amended by RA No 10372)

216.1 Remedies for Infringement. — Any person infringing a right protected under this law shall be liable:

(a) To an injunction restraining such infringement. The court may also order the defendant to desist from an infringement, among others, to prevent the entry into the channels of commerce of imported goods that involve an infringement, immediately after customs clearance of such goods.

(b) To pay to the copyright proprietor or his assigns or heirs such actual damages, including legal costs and other expenses, as he may have incurred due to the infringement as well as the profits the infringer may have made due to such infringement, and in proving profits the plaintiff shall be required to prove sales only and the defendant shall be required to prove every element of cost which he claims, or, in lieu of actual damages and profits, such damages which to the court shall appear to be just and shall not be regarded as penalty: Provided, That the amount of damages to be awarded shall be doubled against any person who:

(i) Circumvents effective technological measures; or

(ii) Having reasonable grounds to know that it will induce, enable, facilitate or conceal the infringement, remove or alter any electronic rights management information from a copy of a work, sound recording, or fixation of a performance, or distribute, import for distribution, broadcast, or communicate to the public works or copies of works without authority, knowing that electronic rights management information has been removed or altered without authority.

(as amended by RA No 10372)

(c) Deliver under oath, for impounding during the pendency of the action, upon such terms and conditions as the court may prescribe, sales invoices and other documents evidencing sales, all articles and their packaging alleged to infringe a copyright and implements for making them.

(d) Deliver under oath for destruction without any compensation all infringing copies or devices, as well as all plates, molds, or other means for making such infringing copies as the court may order.

(e) Such other terms and conditions, including the payment of moral and exemplary damages, which the court may deem proper, wise and equitable and the destruction of infringing copies of the work even in the event of acquittal in a criminal case.

The copyright owner may elect, at any time before final judgment is rendered, to recover instead of actual damages and profits, an award of statutory damages for all infringements involved in an action in a sum equivalent to the filing fee of the infringement action but not less than Fifty thousand pesos (Php50.000.00). In awarding statutory damages, the court may consider the following factors:

(1) The nature and purpose of the infringing act;

(2) The flagrancy of the infringement;

(3) Whether the defendant acted in bad faith;

(4) The need for deterrence;

(5) Any loss that the plaintiff has suffered or is likely to suffer by reason of the infringement; and

(6) Any benefit shown to have accrued to the defendant by reason of the infringement.

In case the infringer was not aware and had no reason to believe that his acts constitute an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not more than Ten thousand pesos (Php10,000.00): Provided, That the amount of damages to be awarded shall be doubled against any person who:

(i) Circumvents effective technological measures; or

(ii) Having reasonable grounds to know that it will induce, enable, facilitate or conceal the infringement, remove or alter any electronic rights management information from a copy of a work, sound recording, or fixation of a performance, or distribute, import for distribution, broadcast, or communicate to the public works or copies of works without authority, knowing that electronic rights management information has been removed or altered without authority.

(as amended by RA No 10372)

216.2. In an infringement action, the court shall also have the power to order the seizure and impounding of any article which may serve as evidence in the court proceedings, in accordance with the rules on search and seizure involving violations of intellectual property rights issued by the Supreme Court. (Sec. 28, P.D. No. 49a)

The foregoing shall not preclude an independent suit for relief by the injured party by way of damages, injunction, accounts or otherwise.

(as amended by RA No 10372)

SECTION 217. *Criminal Penalties*. — 217.1. Any person infringing any right secured by provisions of Part IV of this Act or aiding or abetting such infringement shall be guilty of a crime punishable by:

(a) Imprisonment of one (1) year to three (3) years plus a fine ranging from Fifty thousand pesos (P50,000) to One hundred fifty thousand pesos (P150,000) for the first offense.

(b) Imprisonment of three (3) years and one (1) day to six (6) years plus a fine ranging from One hundred fifty thousand pesos (P150,000) to Five hundred thousand pesos (P500,000) for the second offense.

(c) Imprisonment of six (6) years and one (1) day to nine (9) years plus a fine ranging from Five hundred thousand pesos (P500,000) to One million five hundred thousand pesos (P1,500,000) for the third and subsequent offenses.

(d) In all cases, subsidiary imprisonment in cases of insolvency.

217.2. In determining the number of years of imprisonment and the amount of fine, the court shall consider the value of the infringing materials that the defendant has produced or manufactured and the damage that the copyright owner has suffered by reason of the infringement: Provided, That the respective maximum penalty stated in Section 217.1. (a), (b) and (c) herein for the first, second, third and subsequent offense, shall be imposed when the infringement is committed by:

(a) The circumvention of effective technological measures;

(b) The removal or alteration of any electronic rights management information from a copy of a work, sound recording, or fixation of a performance, by a person, knowingly and without authority; or

(c) The distribution, importation for distribution, broadcast, or communication to the public of works or copies of works, by a person without authority, knowing

that electronic rights management information has been removed or altered without authority.

(as amended by RA No 10372)

217.3. Any person who at the time when copyright subsists in a work has in his possession an article which he knows, or ought to know, to be an infringing copy of the work for the purpose of:

(a) Selling, letting for hire, or by way of trade offering or exposing for sale, or hire, the article;

(b) Distributing the article for purpose of trade, or for any other purpose to an extent that will prejudice the rights of the copyright owner in the work; or

(c) Trade exhibit of the article in public, shall be guilty of an offense and shall be liable on conviction to imprisonment and fine as above mentioned. (Sec. 29, P.D. No. 49a)

SECTION 218. *Affidavit Evidence*. — 218.1. In an action under this Chapter, an affidavit made before a notary public by or on behalf of the owner of the copyright in any work or other subject matter and stating that:

(a) At the time specified therein, copyright subsisted in the work or other subject matter;

(b) He or the person named therein is the owner of the copyright; and

(c) The copy of the work or other subject matter annexed thereto is a true copy thereof.

The affidavit shall be admitted in evidence in any proceedings under this Chapter and shall be prima facie proof of the matters therein stated until the contrary is proved, and the court before which such affidavit is produced shall assume that the affidavit was made by or on behalf of the owner of the copyright.

(as amended by RA No 10372)

218.2. In an action under this Chapter:

(a) Copyright shall be presumed to subsist in the work or other subject matter to which the action relates if the defendant does not put in issue the question whether copyright subsists in the work or other subject matter; and

(b) Where the subsistence of the copyright is established, the plaintiff shall be presumed to be the owner of the copyright if he claims to be the owner of the copyright and the defendant does not put in issue the question of his ownership.

(c) Where the defendant, without good faith, puts in issue the questions of whether copyright subsists in a work or other subject matter to which the action relates, or the ownership of copyright in such work or subject matter, thereby occasioning unnecessary costs or delay in the proceedings, the court may direct that any costs to the defendant in respect of the action shall not be allowed by him and that any costs occasioned by the defendant to other parties shall be paid by him to such other parties. (n)

SECTION 219. *Presumption of Authorship*. — 219.1. The natural person whose name is indicated on a work in the usual manner as the author shall, in the absence of proof to the contrary, be presumed to be the author of the work. This provision shall be applicable even if the name is a pseudonym, where the pseudonym leaves no doubt as to the identity of the author.

219.2. The person or body corporate whose name appears on an audio-visual work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the maker of said work. (n)

SECTION 220. *International Registration of Works*. — A statement concerning a work, recorded in an international register in accordance with an international treaty to which the Philippines is or may become a party, shall be construed as true until the contrary is proved except:

220.1. Where the statement cannot be valid under this Act or any other law concerning intellectual property.

220.2. Where the statement is contradicted by another statement recorded in the international register. (n)

SECTION 220A. *Disclosure of Information*. — Where any article or its packaging or an implement for making it is seized or detained under a valid search and seizure under this Act is, or is reasonably suspected to be, by an authorized enforcement officer, in violation of this Act, the said officer shall, wherever reasonably practicable, notify the owner of the copyright in question or his authorized agent of the seizure or detention, as the case may be. (as amended by RA No 10372)

CHAPTER XVIII *Scope of Application*

SECTION 221. *Points of Attachment for Works under Sections 172 and 173*. — 221.1. The protection afforded by this Act to copyrightable works under Sections 172 and 173 shall apply to:

(a) Works of authors who are nationals of, or have their habitual residence in, the Philippines;

(b) Audio-visual works the producer of which has his headquarters or habitual residence in the Philippines;

(c) Works of architecture erected in the Philippines or other artistic works incorporated in a building or other structure located in the Philippines;

(d) Works first published in the Philippines; and

(e) Works first published in another country but also published in the Philippines within thirty days, irrespective of the nationality or residence of the authors.

221.2. The provisions of this Act shall also apply to works that are to be protected by virtue of and in accordance with any international convention or other international agreement to which the Philippines is a party. (n)

SECTION 222. *Points of Attachment for Performers*. — The provisions of this Act on the protection of performers shall apply to:

222.1. Performers who are nationals of the Philippines;

222.2. Performers who are not nationals of the Philippines but whose performances:

(a) Take place in the Philippines; or

(b) Are incorporated in sound recordings that are protected under this Act; or

(c) Which has not been fixed in sound recording but are carried by broadcast qualifying for protection under this Act. (n)

SECTION 223. *Points of Attachment for Sound Recordings*. — The provisions of this Act on the protection of sound recordings shall apply to:

223.1. sound recordings the producers of which are nationals of the Philippines; and

223.2. sound recordings that were first published in the Philippines. (n)

SECTION 224. *Points of Attachment for Broadcasts*. — 224.1. The provisions of this Act on the protection of broadcasts shall apply to:

(a) Broadcasts of broadcasting organizations the headquarters of which are situated in the Philippines; and

(b) Broadcasts transmitted from transmitters situated in the Philippines.

224.2. The provisions of this Act shall also apply to performers who, and to producers of sound recordings and broadcasting organizations which, are to be protected by virtue of and in accordance with any international convention or other international agreement to which the Philippines is a party. (n)

CHAPTER XIX *Institution of Actions*

SECTION 225. *Jurisdiction*. — Without prejudice to the provisions of Subsection 7.1(c), actions under this Act shall be cognizable by the courts with appropriate jurisdiction under existing law. (Sec. 57, P.D. No. 49a)

SECTION 226. *Damages*. — No damages may be recovered under this Act after the lapse of four (4) years from the time the cause of action arose. (Sec. 58, P.D. No. 49). (as amended by RA No 10372)

CHAPTER XX *Miscellaneous Provisions*

SECTION 227. *Ownership of Deposit and Instruments*. — All copies deposited and instruments in writing filed with the National Library and the Supreme Court Library in accordance with the provisions of this Act shall become the property of the Government. (Sec. 60, P.D. No. 49)

SECTION 228. *Public Records*. — The section or division of the National Library and the Supreme Court Library charged with receiving copies and instruments deposited and with keeping records required under this Act and everything in it shall be opened to public inspection. The Director of the National Library is empowered to issue such safeguards and regulations as may be necessary to implement this Section and other provisions of this Act. (Sec. 61, P.D. No. 49)

SECTION 229. *Copyright Division*; *Fees*. — The Copyright Section of the National Library shall be classified as a Division upon the effectivity of this Act. The National Library shall have the power to collect, for the discharge of its services under this Act, such fees as may be promulgated by it from time to time subject to the approval of the Department Head. (Sec. 62, P.D. 49a)

SECTION 230. *Adoption of Intellectual Property (IP) Policies*. — Schools and universities shall adopt intellectual property policies that would govern the use and creation of intellectual property with the purpose of safeguarding the intellectual creations of the learning institution and its employees, and adopting locally-established industry practice fair use guidelines. These policies may be developed in relation to licensing agreements entered into by the learning institution with a collective licensing organization (as amended by RA No 10372)

RA No 9239 | **Optical Media Act of 2003**

IV. PENAL PROVISIONS

Section 19. *Offenses and Penalties*. -

(a) Imprisonment of at least three (3) years but not more than six (6) years, and a fine of not less than Five Hundred thousand pesos (Php 500,000.00) but not exceeding One Million five hundred thousand pesos (Php 1,500,000.00), at the discretion of the Court, shall be imposed on any person, natural or juridical, who shall:

(1) Engage in the importation, exportation, acquisition, sale or distribution of, or possess or operate manufacturing equipment, parts and accessories without the necessary licenses from the OMB;

(2) Engage in the mastering, manufacture, replication, importation or exportation of optical media without the necessary license from the OMB;

(3) By himself, or through another, cause the mastering, manufacture or replication of any intellectual property in optical media intended for commercial profit or pecuniary gain without authority or consent of the owner thereof;

(4) Engage in the Mastering, manufacture, or replication of optical media without affixing or installing in the resulting products the SID Code, and/or such other codes prescribed, assigned and authorized by the OMB. The absence of the codes prescribed, assigned and authorized by the OMB in any optical media shall be prima facie evidence that said optical media are in violation of this Act;

(5) Engage in the mastering, manufacture, or replication of optical media using, affixing or installing in the resulting products false SID or other codes. The presence of false or unauthorized codes shall be prima facie evidence that said optical media are in violation of this act;

(6) Engage in the mastering, manufacture, or replication of optical media using, affixing or installing in the resulting products false SID or other codes that have been assigned by the OMB to another person, or, having been assigned and authorized said codes by the OMB, allow or authorize another person, establishment or entity to use, affix or install such codes in the latter's products;

(b) Imprisonment of at least one year but not more than three years and a fine not less than one hundred thousand pesos, but not exceeding five hundred thousand pesos, at the discretion of the court, for the following offenses:

(1) Engaging in the importation, exportation, sale or distribution of, or possess or acquire in commercial quantities manufacturing materials used or intended for use in the mastering, manufacture or replication of optical media without the necessary licenses from the OMB;

(2) Knowingly performing or rendering the service of mastering, manufacture or replication of optical media, after having been licensed by the OMB, to any person, in respect of any intellectual property, who does not have the consent by the owner of the intellectual property or his representatives or assigns;

For this purpose, any person, establishment or entity that is licensed by the OMB to engage in the above mentioned activities shall be considered to have acted in good faith in respect of any transaction entered into by him in respect to the preceding paragraph, if he notifies the OMB of such transaction within five working days from receipt of the order, furnishing to the OMB all material information thereof;

(3) Refusing to submit to inspection by the OMB, or surrender for preventive custody any optical media, equipment, manufacturing materials, including parts, accessories and paraphernalia found during inspection operations to be in violation of the provisions of this Act;

For purposes of this subsection, violators who will employ armed resistance against agents of the OMB shall be penalized under other applicable laws in addition to those provide in this Act; and

(a) Imprisonment of at least 30 days but not more than 90 days or a fine of not less than 25,000.00 pesos but not exceeding fifty thousand pesos at the discretion of the court:

(1) Knowingly possess items of the same content or title, produced in violation of this Act, and used for the purpose with the intent to profit;

(2) Engaging in the sale, rental, distribution, importation, exportation of, or any other commercial activity involving optical media that are in violation of this Act.

(b) For subsequent offenses in Section 19(a), uniform imprisonment of six (6) years but not more than nine (9) years and a fine of not less than One Million five hundred thousand pesos (Php 1,500,000.00) but not exceeding Three million pesos (Php 3,000,000.00) at the discretion of the Court, shall be imposed.

(c) For subsequent offenses in Section 19(b), uniform imprisonment of three (3) years but not more than six (6) years and a fine of not less than Five hundred thousand pesos (Php 500,000.00) but not exceeding One million five hundred pesos (PHp 1,500,000.00) at the discretion of the Court, shall be imposed.

The offenses listed under this section shall be punished without prejudice to the application of appropriate penalties or sanctions provided under Section 216 and such other appropriate sections of the IP Code or Republic Act No. 8792 also known as the Electronic Commerce Act, the Revised Penal Code or other applicable laws.

Section 20. *Determination of Penalties* - In determining the number of years of imprisonment, or amount of fine to be imposed, the court shall consider the size of the operations of the offender, the value of the articles involved in the violation, and the period of violation. In imposing administrative penalties, the OMB shall likewise consider the said circumstances.

Section 21. *Persons Liable*. - If the offender is an alien, the person shall immediately be deported after serving his sentence, and shall, thereafter, be refused entry into the country.

If the offender is a government official or employee, he shall suffer perpetual disqualification from public office and forfeiture of his right to vote and participate in any public election for ten (10) years.

Should the offense be committed by the juridical person, the stockholder, chairperson, president, officer, director, trustee, partner or manager responsible for such violation shall be liable.

Section 22. *Enforcement* - The OMB may solicit the direct assistance of other agencies, the managing authorities in the economic zones and instrumentalities of the national and local governments, and may deputize for a limited period the heads or personnel of agencies to perform enforcement functions for the OMB, insofar as such functions are concerned shall be subject to the direction and supervision of the OMB.

Section 23. *Disposal of Seized Materials*. - Any optical media, equipment or materials found to be in violation of the provisions of this Act, any books, records, or paraphernalia providing evidence of any violation committed by any person, establishment or entity, shall be confiscated and forfeited in the favor of the government and shall be disposed in accordance with pertinent laws and regulations: Provided, That confiscated optical media may, pending consideration of the case, be immediately destroyed upon final determination by the OMB in an administrative case, or by a court in a civil or criminal case, that are the same are in violations of this Act: Provided, further, That a sufficient representative sample shall be retained for evidentiary purposes.

The retained representative sample shall remain in custodia legis until the final resolution of proceedings thereon.

Equipment and materials imported of this Act shall be subject to seizure and immediate disposal by the Bureau of Customs.

RA No 10667 | **Philippine Competition Act**

CHAPTER III PROHIBITED ACTS

Section 14. *Anti-Competitive Agreements*. –

(a) The following agreements, between or among competitors, are *per se* prohibited:

(1) Restricting competition as to price, or components thereof, or other terms of trade;

(2) Fixing price at an auction or in any form of bidding including cover bidding, bid suppression, bid rotation and market allocation and other analogous practices of bid manipulation;

(b) The following agreements, between or among competitors which have the object or effect of substantially preventing, restricting or lessening competition shall be prohibited:

(1) Setting, Limiting, or controlling production, markets, technical development, or investment;

(2) Dividing or sharing the market, whether by volume of sales or purchases, territory, type of goods or services, buyers or sellers or any other means;

(c) Agreements other than those specified in (a) and (b) of this section which have the object or effect of substantially preventing, restricting or lessening competition shall also be prohibited: *Provided,* Those which contribute to improving the production or distribution of goods and services or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefits, may not necessarily be deemed a violation of this Act.

An entity that controls, is controlled by, or is under common control with another entity or entities, have common economic interests, and are not otherwise able to decide or act independently of each other, shall not be considered competitors for purposes of this section.

Section 15. *Abuse of Dominant Position*. – It shall be prohibited for one or more entities to abuse their dominant position by engaging in conduct that would substantially prevent, restrict or lessen competition:

(a) Selling goods or services below cost with the object of driving competition out of the relevant market: *Provided*, That in the Commission's evaluation of this fact, it shall consider whether the entity or entities have no such object and the price established was in good faith to meet or compete with the lower price of a competitor in the same market selling the same or comparable product or service of like quality;

(b) Imposing barriers to entry or committing acts that prevent competitors from growing within the market in an anti-competitive manner except those that develop in the market as a result of or arising from a superior product or process, business acumen, or legal rights or laws;

(c) Making a transaction subject to acceptance by the other parties of other obligations which, by their nature or according to commercial usage, have no connection with the transaction;

(d) Setting prices or other terms or conditions that discriminate unreasonably between customers or sellers of the same goods or services, where such customers or sellers are contemporaneously trading on similar terms and conditions, where the effect may be to lessen competition substantially: *Provided,* That the following shall be considered permissible price differentials:

(1) Socialized pricing for the less fortunate sector of the economy;

(2) Price differential which reasonably or approximately reflect differences in the cost of manufacture, sale, or delivery resulting from differing methods, technical conditions, or quantities in which the goods or services are sold or delivered to the buyers or sellers;

(3) Price differential or terms of sale offered in response to the competitive price of payments, services or changes in the facilities furnished by a competitor; and

(4) Price changes in response to changing market conditions, marketability of goods or services, or volume;

(e) Imposing restrictions on the lease or contract for sale or trade of goods or services concerning where, to whom, or in what forms goods or services may be sold or traded, such as fixing prices, giving preferential discounts or rebate upon such price, or imposing conditions not to deal with competing entities, where the object or effect of the restrictions is to prevent, restrict or lessen competition substantially: *Provided,* That nothing contained in this Act shall prohibit or render unlawful:

(1) Permissible franchising, licensing, exclusive merchandising or exclusive distributorship agreements such as those which give each party the right to unilaterally terminate the agreement; or

(2) Agreements protecting intellectual property rights, confidential information, or trade secrets;

(f) Making supply of particular goods or services dependent upon the purchase of other goods or services from the supplier which have no direct connection with the main goods or services to be supplied;

(g) Directly or indirectly imposing unfairly low purchase prices for the goods or services of, among others, marginalized agricultural producers, fisherfolk, micro-, small-, medium-scale enterprises, and other marginalized service providers and producers;

(h) Directly or indirectly imposing unfair purchase or selling price on their competitors, customers, suppliers or consumers, provided that prices that develop in the market as a result of or due to a superior product or process, business acumen or legal rights or laws shall not be considered unfair prices; and

(i) Limiting production, markets or technical development to the prejudice of consumers, provided that limitations that develop in the market as a result of or due to a superior product or process, business acumen or legal rights or laws shall not be a violation of this Act:

Provided, That nothing in this Act shall be construed or interpreted as a prohibition on having a dominant position in a relevant market or on acquiring, maintaining and increasing market share through legitimate means that do not substantially prevent, restrict or lessen competition:

Provided, further, That any conduct which contributes to improving production or distribution of goods or services within the relevant market, or promoting technical and economic progress while allowing consumers a fair share of the resulting benefit may not necessarily be considered an abuse of dominant position:

Provided, finally, That the foregoing shall not constrain the Commission or the relevant regulator from pursuing measures that would promote fair competition or more competition as provided in this Act.

CHAPTER IV MERGERS AND ACQUISITIONS

Section 16. *Review of Mergers and Acquisitions.* — The Commission shall have the power to review mergers and acquisitions based on factors deemed relevant by the Commission.

Section 17. *Compulsory Notification.* – Parties to the merger or acquisition agreement referred to in the preceding section wherein the value of the transaction exceeds one billion pesos (P1,000,000,000.00) are prohibited from consummating their agreement until thirty (30) days after providing notification to the Commission in the form and containing the information specified in the regulations issued by the Commission: *Provided,* That the Commission shall promulgate other criteria, such as increased market share in the relevant market in excess of minimum thresholds, that may be applied specifically to a sector, or across some or all sectors, in determining whether parties to a merger or acquisition shall notify the Commission under this Chapter.

An agreement consummated in violation of this requirement to notify the Commission shall be considered void and subject the parties to an administrative fine of one percent (1%) to five percent (5%) of the value of the transaction.

Should the Commission deem it necessary, it may request further information that are reasonably necessary and directly relevant to the prohibition under Section 20 hereof from the parties to the agreement before the expiration of the thirty (30)-day period referred. The issuance of such a request has the effect of extending the period within which the agreement may not be consummated for an additional sixty (60) days, beginning on the day after the request for information is received by the parties: *Provided,* That, in no case shall the total period for review by the Commission of the subject agreement exceed ninety (90) days from initial notification by the parties.

When the above periods have expired and no decision has been promulgated for whatever reason, the merger or acquisition shall be deemed approved and the parties may proceed to implement or consummate it. All notices, documents and information provided to or emanating from the Commission under this section shall be subject to confidentiality rule under Section 34 of this Act except when the release of information contained therein is with the consent of the notifying entity or is mandatorily required to be disclosed by law or by a valid order of a court of competent jurisdiction, or of a government or regulatory agency, including an exchange.

In the case of the merger or acquisition of banks, banking institutions, building and loan associations, trust companies, insurance companies, public utilities, educational institutions and other special corporations governed by special laws, a favorable or no-objection ruling by the Commission shall not be construed as dispensing of the requirement for a favorable recommendation by the appropriate government agency under Section 79 of the Corporation Code of the Philippines.

A favorable recommendation by a governmental agency with a competition mandate shall give rise to a disputable presumption that the proposed merger or acquisition is not violative of this Act.

Section 18. *Effect of Notification.* — If within the relevant periods stipulated in the preceding section, the Commission determines that such agreement is prohibited under Section 20 and does not qualify for exemption under Section 21 of this Chapter, the Commission may:

(a) Prohibit the implementation of the agreement;

(b) Prohibit the implementation of the agreement unless and until it is modified by changes specified by the Commission.

(c) Prohibit the implementation of the agreement unless and until the pertinent party or parties enter into legally enforceable agreements specified by the Commission.

Section 19. *Notification Threshold.* – The Commission shall, from time to time, adopt and publish regulations stipulating:

(a) The transaction value threshold and such other criteria subject to the notification requirement of Section 17 of this Act;

(b) The information that must be supplied for notified merger or acquisition;

(c) Exceptions or exemptions from the notification requirement; and

(d) Other rules relating to the notification procedures.

Section 20. *Prohibited. Mergers and Acquisitions.* – Merger or acquisition agreements that substantially prevent, restrict or lessen competition in the relevant market or in the market for goods or services as may be determined by the Commission shall be prohibited.

Section 21. *Exemptions from Prohibited. Mergers and Acquisitions.* – Merger or acquisition agreement prohibited under Section 20 of this Chapter may, nonetheless, be exempt from prohibition by the Commission when the parties establish either of the following:

(a) The concentration has brought about or is likely to bring about gains in efficiencies that are greater than the

effects of any limitation on competition that result or likely to result from the merger or acquisition agreement; or

(b) A party to the merger or acquisition agreement is faced with actual or imminent financial failure, and the agreement represents the least anti-competitive arrangement among the known alternative uses for the failing entity's assets:

Provided, That an entity shall not be prohibited from continuing to own and hold the stock or other share capital or assets of another corporation which it acquired prior to the approval of this Act or acquiring or maintaining its market share in a relevant market through such means without violating the provisions of this Act:

Provided, further, That the acquisition of the stock or other share capital of one or more corporations solely for investment and not used for voting or exercising control and not to otherwise bring about, or attempt to bring about the prevention, restriction, or lessening of competition in the relevant market shall not be prohibited.

Section 22. *Burden of Proof.* – The burden of proof under Section 21 lies with the parties seeking the exemption. A party seeking to rely on the exemption specified in Section 21(a) must demonstrate that if the agreement were not implemented, significant efficiency gains would not be realized.

Section 23. *Finality of Ridings on Mergers and Acquisitions.* – Merger or acquisition agreements that have received a favorable ruling from the Commission, except when such ruling was obtained on the basis of fraud or false material information, may not be challenged under this Act.

CHAPTER VI FINES AND PENALTIES

Section 29. *Administrative Penalties.* –

(a) Administrative Fines. – In any investigation under Chapter III, Sections 14 and 15, and Chapter IV, Sections 17 and 20 of this Act, after due notice and hearing, the Commission may impose the following schedule of administrative fines on any entity found to have violated the said sections:

First offense: Fine of up to one hundred million pesos (P100,000,000.00);

Second offense: Fine of not less than one hundred million pesos (P100,000,000.00) but not more than two hundred fifty million pesos (P250,000,000.00).

In fixing the amount of the fine, the Commission shall have regard to both the gravity and the duration of the violation.

(b) Failure to Comply With an Order of the Commission. – An entity which fails or refuses to comply with a ruling, order or decision issued by the Commission shall pay a penalty of not less than fifty thousand pesos (P50,000.00) up to two million pesos (P2,000,000.00) for each violation and a similar amount of penalty for each day thereafter until the said entity fully complies. Provided that these fines shall only accrue daily beginning forty-five (45) days from the time that the said decision, order or ruling was received.

(c) Supply of Incorrect or Misleading Information. – The Commission may likewise impose upon any entity fines of up to one million pesos (PI,000,000.00) where, intentionally or negligently, they supply incorrect or misleading information in any document, application or other paper filed with or submitted to the Commission or supply incorrect or misleading information in an application for a binding ruling, a proposal for a consent judgment, proceedings relating to a show cause order, or application for modification of the Commission's ruling, order or approval, as the case may be.

(d) Any other violations not specifically penalized under the relevant provisions of this Act shall be penalized by a fine of not less than fifty thousand pesos (P50,000.00) up to two million pesos (P2,000,000.00).

Provided that the schedule of fines indicated in this section shall be increased by the Commission every five (5) years to maintain their real value from the time it was set.

Section 30. *Criminal Penalties.* – An entity that enters into any anti-competitive agreement as covered by Chapter III, Section 14(a) and 14(b) under this Act shall, for each and every violation, be penalized by imprisonment from two (2) to seven (7) years, and a fine of not less than fifty million pesos (P50,000,000.00) but not more than two hundred fifty million pesos (P250,000,000.00). The penalty of imprisonment shall be imposed upon the responsible officers, and directors of the entity.

When the entities involved are juridical persons, the penalty of. imprisonment shall be imposed on its officers, directors, or employees holding managerial positions, who are knowingly and willfully responsible for such violation.

RA No 7653 | The New Central Bank Act

Section 34. *Refusal to Make Reports or Permit Examination.* - Any officer, owner, agent, manager, director or officer-in-charge of any institution subject to the supervision or examination by the Bangko Sentral within the purview of this Act who, being required in writing by the Monetary Board or by the head of the supervising and examining department willfully refuses to file the required report or permit any lawful examination into the affairs of such institution shall be punished by a fine of not less than Fifty thousand pesos (P50,000) nor more than One hundred thousand pesos (P100,000) or by imprisonment of not less than one (1) year nor more than five (5) years, or both, in the discretion of the court.

Section 35. *False Statement.* - The willful making of a false or misleading statement on a material fact to the Monetary Board or to the examiners of the Bangko Sentral shall be punished by a fine of not less than One hundred thousand pesos (P100,000) nor more than Two hundred thousand pesos (P200,000), or by imprisonment of not more than (5) years, or both, at the discretion of the court.

Section 36. *Proceedings Upon Violation of This Act and Other Banking Laws, Rules, Regulations, Orders or Instructions.* - Whenever a bank or quasi-bank, or whenever any person or entity willfully violates this Act or other pertinent banking laws being enforced or implemented by the Bangko Sentral or any order, instruction, rule or regulation issued by the Monetary Board, the person or persons responsible for such violation shall unless otherwise provided in this Act be punished by a fine of not less than Fifty thousand pesos (P50,000) nor more than Two hundred thousand pesos (P200,000) or by imprisonment of not less than two (2) years nor more than ten (10) years, or both, at the discretion of the court.

Whenever a bank or quasi-bank persists in carrying on its business in an unlawful or unsafe manner, the Board may, without prejudice to the penalties provided in the preceding paragraph of this section and the administrative sanctions provided in Section 37 of this Act, take action under Section 30 of this Act.

Section 37. *Administrative Sanctions on Banks and Quasi-banks.* - Without prejudice to the criminal sanctions against the culpable persons provided in Sections 34, 35, and 36 of this Act, the Monetary Board may, at its discretion, impose upon any bank or quasi-bank, their directors and/or officers, for any willful violation of its charter or by-laws, willful delay in the submission of reports or publications thereof as required by law, rules and regulations; any refusal to permit

examination into the affairs of the institution; any willful making of a false or misleading statement to the Board or the appropriate supervising and examining department or its examiners; any willful failure or refusal to comply with, or violation of, any banking law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Monetary Board, the following administrative sanctions, whenever applicable:

(a) fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed Thirty thousand pesos (P30,000) a day for each violation, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the bank or quasi-bank;

(b) suspension of rediscounting privileges or access to Bangko Sentral credit facilities;

(c) suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;

(d) suspension of interbank clearing privileges; and/or

(e) revocation of quasi-banking license.

Resignation or termination from office shall not exempt such director or officer from administrative or criminal sanctions.

The Monetary Board may, whenever warranted by circumstances, preventively suspend any director or officer of a bank or quasi-bank pending an investigation: Provided, That should the case be not finally decided by the Bangko Sentral within a period of one hundred twenty (120) days after the date of suspension, said director or officer shall be reinstated in his position: Provided, further, That when the delay in the disposition of the case is due to the fault, negligence or petition of the director or officer, the period of delay shall not be counted in computing the period of suspension herein provided.

The above administrative sanctions need not be applied in the order of their severity.

Whether or not there is an administrative proceeding, if the institution and/or the directors and/or officers concerned continue with or otherwise persist in the commission of the indicated practice or violation, the Monetary Board may issue an order requiring the institution and/or the directors and/or officers concerned to cease and desist from the indicated practice or violation, and may further order that immediate action be taken to correct the conditions resulting from such practice or violation. The cease and desist order shall be immediately effective upon service on the respondents.

The respondents shall be afforded an opportunity to defend their action in a hearing before the Monetary Board or any committee chaired by any Monetary Board member created for the purpose, upon request made by the respondents within five (5) days from their receipt of the order. If no such hearing is requested within said period, the order shall be final. If a hearing is conducted, all issues shall be determined on the basis of records, after which the Monetary Board may either reconsider or make final its order.

The Governor is hereby authorized, at his discretion, to impose upon banking institutions, for any failure to comply with the requirements of law, Monetary Board regulations and policies, and/or instructions issued by the Monetary Board or by the Governor, fines not in excess of Ten thousand pesos (P10,000) a day for each violation, the imposition of which shall be final and executory until reversed, modified or lifted by the Monetary Board on appeal.

RA No 1405 | Secrecy of Bank Deposits Act

September 9, 1955

REPUBLIC ACT NO. 1405

As amended by PD No 1792

AN ACT PROHIBITING DISCLOSURE OF OR INQUIRY INTO, DEPOSITS WITH ANY BANKING INSTITUTION AND PROVIDING PENALTY THEREFOR

SECTION 1. It is hereby declared to be the policy of the Government to give encouragement to the people to deposit their money in banking institutions and to discourage private hoarding so that the same may be properly utilized by banks in authorized loans to assist in the economic development of the country.

SECTION 2. All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, except when the examination is made in the course of a special or general examination of a bank and is specifically authorized by the Monetary Board after being satisfied that there is reasonable ground to believe that a bank fraud or serious irregularity has been or is being committed and that it is necessary to look into the deposit to establish such fraud or irregularity, or when the examination is made by an independent auditor hired by the bank to conduct its regular audit provided that the examination is for audit purposes only and the results thereof shall be for the exclusive use of the bank, or upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation. ***(as amended by PD No 1792)***

SECTION 3. It shall be unlawful for any official or employee of a bank to disclose to any person other than those mentioned in Section Two hereof, or for an independent auditor hired by a bank to conduct its regular audit to disclose to any person other than a bank director, official or employee authorized by the bank, any information concerning said deposits. ***(as amended by PD No 1792)***

SECTION 4. All Acts or parts of Acts, Special Charters, Executive Orders, Rules and Regulations which are inconsistent with the provisions of this Act are hereby repealed.

SECTION 5. Any violation of this law will subject offender upon conviction, to an imprisonment of not more than five years or a fine of not more than twenty thousand pesos or both, in the discretion of the court.

SECTION 6. This Act shall take effect upon its approval.

Approved, September 9, 1955.

Published in the Official Gazette, Vol. 51, No. 10, p. 4976 in October 1955

(Secrecy of Bank Deposits Act, Republic Act No. 1405, [September 9, 1955])

RA No 9165 | *Comprehensive Dangerous Drugs Act of 2002*

Book TWO Title FIVE

REPUBLIC ACT NO. 9165 June 7, 2002

AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE

DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress

Section 1. *Short Title.* – This Act shall be known and cited as the "Comprehensive Dangerous Drugs Act of 2002".

Section 2. *Declaration of Policy.* – It is the policy of the State to safeguard the integrity of its territory and the well-being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation. In view of the foregoing, the State needs to enhance further the efficacy of the law against dangerous drugs, it being one of today's more serious social ills.

Toward this end, the government shall pursue an intensive and unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs, and projects. The government shall however aim to achieve a balance in the national drug control program so that people with legitimate medical needs are not prevented from being treated with adequate amounts of appropriate medications, which include the use of dangerous drugs.

It is further declared the policy of the State to provide effective mechanisms or measures to re-integrate into society individuals who have fallen victims to drug abuse or dangerous drug dependence through sustainable programs of treatment and rehabilitation.

ARTICLE I Definition of terms

Section 3. *Definitions*. As used in this Act, the following terms shall mean:

(a) Administer. – Any act of introducing any dangerous drug into the body of any person, with or without his/her knowledge, by injection, inhalation, ingestion or other means, or of committing any act of indispensable assistance to a person in administering a dangerous drug to himself/herself unless administered by a duly licensed practitioner for purposes of medication.

(b) Board. - Refers to the Dangerous Drugs Board under Section 77, Article IX of this Act.

(c) Centers. - Any of the treatment and rehabilitation centers for drug dependents referred to in Section 34, Article VIII of this Act.

(d) Chemical Diversion. – The sale, distribution, supply or transport of legitimately imported, in-transit, manufactured or procured controlled precursors and essential chemicals, in diluted, mixtures or in concentrated form, to any person or entity engaged in the manufacture of any dangerous drug, and shall include packaging, repackaging, labeling, relabeling or concealment of such transaction through fraud, destruction of documents, fraudulent use of permits, misdeclaration, use of front companies or mail fraud.

(e) Clandestine Laboratory. – Any facility used for the illegal manufacture of any dangerous drug and/or controlled precursor and essential chemical.

(f) Confirmatory Test. – An analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test.

(g) Controlled Delivery. – The investigative technique of allowing an unlawful or suspect consignment of any dangerous drug and/or controlled precursor and essential chemical, equipment or paraphernalia, or property believed to be derived directly or indirectly from any offense, to pass into, through or out of the country under the supervision of an authorized officer, with a view to gathering evidence to identify any person involved in any dangerous drugs related offense, or to facilitate prosecution of that offense.

(h) Controlled Precursors and Essential Chemicals. – Include those listed in Tables I and II of the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances as enumerated in the attached annex, which is an integral part of this Act.

(i) Cultivate or Culture. – Any act of knowingly planting, growing, raising, or permitting the planting, growing or raising of any plant which is the source of a dangerous drug.

(j) Dangerous Drugs. – Include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated in the attached annex which is an integral part of this Act.

(k) Deliver. – Any act of knowingly passing a dangerous drug to another, personally or otherwise, and by any means, with or without consideration.

(l) Den, Dive or Resort. – A place where any dangerous drug and/or controlled precursor and essential chemical is administered, delivered, stored for illegal purposes, distributed, sold or used in any form.

(m) Dispense. – Any act of giving away, selling or distributing medicine or any dangerous drug with or without the use of prescription.

(n) Drug Dependence. – As based on the World Health Organization definition, it is a cluster of physiological, behavioral and cognitive phenomena of variable intensity, in which the use of psychoactive drug takes on a high priority thereby involving, among others, a strong desire or a sense of compulsion to take the substance and the difficulties in controlling substance-taking behavior in terms of its onset, termination, or levels of use.

(o) Drug Syndicate. – Any organized group of two (2) or more persons forming or joining together with the intention of committing any offense prescribed under this Act.

(p) Employee of Den, Dive or Resort. – The caretaker, helper, watchman, lookout, and other persons working in the den, dive or resort, employed by the maintainer, owner and/or operator where any dangerous drug and/or controlled precursor and essential chemical is administered, delivered, distributed, sold or used, with or without compensation, in connection with the operation thereof.

(q) Financier. – Any person who pays for, raises or supplies money for, or underwrites any of the illegal activities prescribed under this Act.

(r) Illegal Trafficking. – The illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical.

(s) Instrument. – Any thing that is used in or intended to be used in any manner in the commission of illegal drug trafficking or related offenses.

(t) Laboratory Equipment. – The paraphernalia, apparatus, materials or appliances when used, intended for use or designed for use in the manufacture of any dangerous drug and/or controlled precursor and essential chemical, such as reaction vessel, preparative/purifying equipment, fermentors, separatory funnel, flask, heating mantle, gas generator, or their substitute.

(u) Manufacture. – The production, preparation, compounding or processing of any dangerous drug and/or controlled precursor and essential chemical, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical

synthesis or by a combination of extraction and chemical synthesis, and shall include any packaging or repackaging of such substances, design or configuration of its form, or labeling or relabeling of its container; except that such terms do not include the preparation, compounding, packaging or labeling of a drug or other substances by a duly authorized practitioner as an incident to his/her administration or dispensation of such drug or substance in the course of his/her professional practice including research, teaching and chemical analysis of dangerous drugs or such substances that are not intended for sale or for any other purpose.

(v) Cannabis or commonly known as "Marijuana" or "Indian Hemp" or by its any other name. – Embraces every kind, class, genus, or specie of the plant *Cannabis sativa L.* including, but not limited to, *Cannabis americana*, *hashish, bhang, guaza, churrus* and *ganjab*, and embraces every kind, class and character of marijuana, whether dried or fresh and flowering, flowering or fruiting tops, or any part or portion of the plant and seeds thereof, and all its geographic varieties, whether as a reefer, resin, extract, tincture or in any form whatsoever.

(w) Methylenedioxymethamphetamine (MDMA) or commonly known as "Ecstasy", or by its any other name. – Refers to the drug having such chemical composition, including any of its isomers or derivatives in any form.

(x) Methamphetamine Hydrochloride or commonly known as "Shabu", "Ice", "Meth", or by its any other name. – Refers to the drug having such chemical composition, including any of its isomers or derivatives in any form.

(y) Opium. – Refers to the coagulated juice of the opium poppy (*Papaver somniferum L.*) and embraces every kind, class and character of opium, whether crude or prepared; the ashes or refuse of the same; narcotic preparations thereof or therefrom; morphine or any alkaloid of opium; preparations in which opium, morphine or any alkaloid of opium enters as an ingredient; opium poppy; opium poppy straw; and leaves or wrappings of opium leaves, whether prepared for use or not.

(z) Opium Poppy. – Refers to any part of the plant of the species *Papaver somniferum L., Papaver setigerum DC, Papaver orientale, Papaver bracteatum* and *Papaver rhoeas*, which includes the seeds, straws, branches, leaves or any part thereof, or substances derived therefrom, even for floral, decorative and culinary purposes.

(aa) PDEA. – Refers to the Philippine Drug Enforcement Agency under Section 82, Article IX of this Act.

(bb) Person. – Any entity, natural or juridical, including among others, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture or other unincorporated organization or group capable of acquiring rights or entering into obligations.

(cc) Planting of Evidence. – The willful act by any person of maliciously and surreptitiously inserting, placing, adding or attaching directly or indirectly, through any overt or covert act, whatever quantity of any dangerous drug and/or controlled precursor and essential chemical in the person, house, effects or in the immediate vicinity of an innocent individual for the purpose of implicating, incriminating or imputing the commission of any violation of this Act.

(dd) Practitioner. – Any person who is a licensed physician, dentist, chemist, medical technologist, nurse, midwife, veterinarian or pharmacist in the Philippines.

(ee) Protector/Coddler. – Any person who knowingly and willfully consents to the unlawful acts provided for in this Act and uses his/her influence, power or position in shielding, harboring, screening or facilitating the escape of any person he/she knows, or has reasonable grounds to believe on or suspects, has violated the provisions of this Act in order to prevent the arrest, prosecution and conviction of the violator.

(ff) Pusher. – Any person who sells, trades, administers, dispenses, delivers or gives away to another, on any terms whatsoever, or distributes, dispatches in transit or transports dangerous drugs or who acts as a broker in any of such transactions, in violation of this Act.

(gg) School. – Any educational institution, private or public, undertaking educational operation for pupils/students pursuing certain studies at defined levels, receiving instructions from teachers, usually located in a building or a group of buildings in a particular physical or cyber site.

(hh) Screening Test. – A rapid test performed to establish potential/presumptive positive result.

(ii) Sell. – Any act of giving away any dangerous drug and/or controlled precursor and essential chemical whether for money or any other consideration.

(jj) Trading. – Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, email, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.

(kk) Use. – Any act of injecting, intravenously or intramuscularly, of consuming, either by chewing, smoking, sniffing, eating, swallowing, drinking or otherwise introducing into the physiological system of the body, and of the dangerous drugs.

ARTICLE II **Unlawful Acts and Penalties**

Section 4. *Importation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.*- .The penalty of life imprisonment to death and a ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall import or bring into the Philippines any dangerous drug, regardless of the quantity and purity involved, including any and all species of opium poppy or any part thereof or substances derived therefrom even for floral, decorative and culinary purposes.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall import any controlled precursor and essential chemical.

The maximum penalty provided for under this Section shall be imposed upon any person, who, unless authorized under this Act, shall import or bring into the Philippines any dangerous drug and/or controlled precursor and essential chemical through the use of a diplomatic passport, diplomatic facilities or any other means involving his/her official status intended to facilitate the unlawful entry of the same. In addition, the diplomatic passport shall be confiscated and canceled.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos

(P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemical trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

Section 6. *Maintenance of a Den, Dive or Resort*. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive or resort where any dangerous drug is used or sold in any form.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive, or resort where any controlled precursor and essential chemical is used or sold in any form.

The maximum penalty provided for under this Section shall be imposed in every case where any dangerous drug is administered, delivered or sold to a minor who is allowed to use the same in such a place.

Should any dangerous drug be the proximate cause of the death of a person using the same in such den, dive or resort, the penalty of death and a fine ranging from One million (P1,000,000.00) to Fifteen million pesos (P500,000.00) shall be imposed on the maintainer, owner and/or operator.

If such den, dive or resort is owned by a third person, the same shall be confiscated and escheated in favor of the government: *Provided*, That the criminal complaint shall specifically allege that such place is intentionally used in the furtherance of the crime: *Provided, further*, That the prosecution shall prove such intent on the part of the owner to use the property for such purpose: *Provided, finally*, That the owner shall be included as an accused in the criminal complaint.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

Section 7. *Employees and Visitors of a Den, Dive or Resort*. - The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon:

(a) Any employee of a den, dive or resort, who is aware of the nature of the place as such; and

(b) Any person who, not being included in the provisions of the next preceding, paragraph, is aware of the nature of the place as such and shall knowingly visit the same

Section 8. *Manufacture of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals*. - The penalty of life imprisonment to death and a fine ranging Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall engage in the manufacture of any dangerous drug.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall manufacture any controlled precursor and essential chemical.

The presence of any controlled precursor and essential chemical or laboratory equipment in the clandestine laboratory is a *prima facie* proof of manufacture of any dangerous drug. It shall be considered an aggravating circumstance if the clandestine laboratory is undertaken or established under the following circumstances:

(a) Any phase of the manufacturing process was conducted in the presence or with the help of minor/s:

(b) Any phase or manufacturing process was established or undertaken within one hundred (100) meters of a residential, business, church or school premises;

(c) Any clandestine laboratory was secured or protected with booby traps;

(d) Any clandestine laboratory was concealed with legitimate business operations; or

(e) Any employment of a practitioner, chemical engineer, public official or foreigner.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

Section 9. *Illegal Chemical Diversion of Controlled Precursors and Essential Chemicals*. - The penalty of

imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall illegally divert any controlled precursor and essential chemical.

Section 10. *Manufacture or Delivery of Equipment, Instrument, Apparatus, and Other Paraphernalia for Dangerous Drugs and/or Controlled Precursors and Essential Chemicals*. - The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person who shall deliver, possess with intent to deliver, or manufacture with intent to deliver equipment, instrument, apparatus and other paraphernalia for dangerous drugs, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal any dangerous drug and/or controlled precursor and essential chemical in violation of this Act.

The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed if it will be used to inject, ingest, inhale or otherwise introduce into the human body a dangerous drug in violation of this Act.

The maximum penalty provided for under this Section shall be imposed upon any person, who uses a minor or a mentally incapacitated individual to deliver such equipment, instrument, apparatus and other paraphernalia for dangerous drugs.

Section 11. *Possession of Dangerous Drugs*. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

(1) 10 grams or more of opium;

(2) 10 grams or more of morphine;

(3) 10 grams or more of heroin;

(4) 10 grams or more of cocaine or cocaine hydrochloride;

(5) 50 grams or more of methamphetamine hydrochloride or "shabu";

(6) 10 grams or more of marijuana resin or marijuana resin oil;

(7) 500 grams or more of marijuana; and

(8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxyamphetamine (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

(1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;

(2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five (hundred) 500) grams of marijuana; and

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

Section 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs*. - The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: *Provided*, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be *prima facie* evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

Section 13. *Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings*. – Any person found possessing any dangerous drug during a party, or at a social gathering or meeting, or in the proximate company of at least two (2) persons, shall suffer the maximum penalties provided for in Section 11 of this Act, regardless of the quantity and purity of such dangerous drugs.

Section 14. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings*. - The maximum penalty provided for in Section 12 of this Act shall be imposed upon any person, who shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body, during parties, social gatherings or meetings, or in the proximate company of at least two (2) persons.

Section 15. *Use of Dangerous Drugs*. – A person apprehended or arrested, who is found to be positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months

rehabilitation in a government center for the first offense, subject to the provisions of Article VIII of this Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): *Provided,* That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 11 of this Act, in which case the provisions stated therein shall apply.

Section 16. *Cultivation or Culture of Plants Classified as Dangerous Drugs or are Sources Thereof.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who shall plant, cultivate or culture marijuana, opium poppy or any other plant regardless of quantity, which is or may hereafter be classified as a dangerous drug or as a source from which any dangerous drug may be manufactured or derived: *Provided*, That in the case of medical laboratories and medical research centers which cultivate or culture marijuana, opium poppy and other plants, or materials of such dangerous drugs for medical experiments and research purposes, or for the creation of new types of medicine, the Board shall prescribe the necessary implementing guidelines for the proper cultivation, culture, handling, experimentation and disposal of such plants and materials.

The land or portions thereof and/or greenhouses on which any of said plants is cultivated or cultured shall be confiscated and escheated in favor of the State, unless the owner thereof can prove lack of knowledge of such cultivation or culture despite the exercise of due diligence on his/her part. If the land involved is part of the public domain, the maximum penalty provided for under this Section shall be imposed upon the offender.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

Section 17. *Maintenance and Keeping of Original Records of Transactions on Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of imprisonment ranging from one (1) year and one (1) day to six (6) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any practitioner, manufacturer, wholesaler, importer, distributor, dealer or retailer who violates or fails to comply with the maintenance and keeping of the original records of transactions on any dangerous drug and/or controlled precursor and essential chemical in accordance with Section 40 of this Act.

An additional penalty shall be imposed through the revocation of the license to practice his/her profession, in case of a practitioner, or of the business, in case of a manufacturer, seller, importer, distributor, dealer or retailer.

Section 18. *Unnecessary Prescription of Dangerous Drugs.* – The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) and the additional penalty of the revocation of his/her license to practice shall be imposed upon the practitioner, who shall prescribe any dangerous drug to any person whose physical or physiological condition does not require the use or in the dosage prescribed therein, as determined by the Board in consultation with recognized competent experts who are authorized representatives of professional organizations of practitioners, particularly those who are involved in the care of persons with severe pain.

Section 19. *Unlawful Prescription of Dangerous Drugs.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall make or issue a prescription or any other writing purporting to be a prescription for any dangerous drug.

Section 20. *Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals.* – Every penalty imposed for the unlawful importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of any dangerous drug and/or controlled precursor and essential chemical, the cultivation or culture of plants which are sources of dangerous drugs, and the possession of any equipment, instrument, apparatus and other paraphernalia for dangerous drugs including other laboratory equipment, shall carry with it the confiscation and forfeiture, in favor of the government, of all the proceeds and properties derived from the unlawful act, including, but not limited to, money and other assets obtained thereby, and the instruments or tools with which the particular unlawful act was committed, unless they are the property of a third person not liable for the unlawful act, but those which are not of lawful commerce shall be ordered destroyed without delay pursuant to the provisions of Section 21 of this Act.

After conviction in the Regional Trial Court in the appropriate criminal case filed, the Court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income: *Provided, however*, That if the forfeited property is a vehicle, the same shall be auctioned off not later than five (5) days upon order of confiscation or forfeiture.

During the pendency of the case in the Regional Trial Court, no property, or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in *custodia legis* and no bond shall be admitted for the release of the same.

The proceeds of any sale or disposition of any property confiscated or forfeited under this Section shall be used to pay all proper expenses incurred in the proceedings for the confiscation, forfeiture, custody and maintenance of the property pending disposition, as well as expenses for publication and court costs. The proceeds in excess of the above expenses shall accrue to the Board to be used in its campaign against illegal drugs.

Section 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized

items and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items. ***(as amended by RA No 10640)***

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: Provided, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued immediately upon completion of the said examination and certification; ***(as amended by RA No 10640)***

(4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of the same, in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided*, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further*, That a representative sample, duly weighed and recorded is retained;

(5) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;

(6) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;

(7) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and

(8) Transitory Provision: a) Within twenty-four (24) hours from the effectivity of this Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the Court, DOJ, Department of Health (DOH) and the accused/and or his/her counsel, and, b) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.

Section 22. *Grant of Compensation, Reward and Award*. – The Board shall recommend to the concerned government agency the grant of compensation, reward and award to any person providing information and to law enforcers participating in the operation, which results in the successful confiscation, seizure or surrender of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals.

Section 23. *Plea-Bargaining Provision*. – Any person charged under any provision of this Act regardless of the imposable penalty shall not be allowed to avail of the provision on plea-bargaining.

Section 24. *Non-Applicability of the Probation Law for Drug Traffickers and Pushers*. – Any person convicted for drug trafficking or pushing under this Act, regardless of the penalty imposed by the Court, cannot avail of the privilege granted by the Probation Law or Presidential Decree No. 968, as amended.

Section 25. *Qualifying Aggravating Circumstances in the Commission of a Crime by an Offender Under the Influence of Dangerous Drugs*. – Notwithstanding the provisions of any law to the contrary, a positive finding for the use of dangerous drugs shall be a qualifying aggravating circumstance in the commission of a crime by an offender, and the application of the penalty provided for in the Revised Penal Code shall be applicable.

Section 26. *Attempt or Conspiracy.* – Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

(a) Importation of any dangerous drug and/or controlled precursor and essential chemical;

(b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;

(c) Maintenance of a den, dive or resort where any dangerous drug is used in any form;

(d) Manufacture of any dangerous drug and/or controlled precursor and essential chemical; and

(e) Cultivation or culture of plants which are sources of dangerous drugs.

Section 27. *Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any

public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.

Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or –controlled corporations.

Section 28. *Criminal Liability of Government Officials and Employees*. – The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.

Section 29. *Criminal Liability for Planting of Evidence*. – Any person who is found guilty of "planting" any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of death.

Section 30. *Criminal Liability of Officers of Partnerships, Corporations, Associations or Other Juridical Entities*. – In case any violation of this Act is committed by a partnership, corporation, association or any juridical entity, the partner, president, director, manager, trustee, estate administrator, or officer who consents to or knowingly tolerates such violation shall be held criminally liable as a co-principal.

The penalty provided for the offense under this Act shall be imposed upon the partner, president, director, manager, trustee, estate administrator, or officer who knowingly authorizes, tolerates or consents to the use of a vehicle, vessel, aircraft, equipment or other facility, as an instrument in the importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of dangerous drugs, or chemical diversion, if such vehicle, vessel, aircraft, equipment or other instrument is owned by or under the control or supervision of the partnership, corporation, association or juridical entity to which they are affiliated.

Section 31. *Additional Penalty if Offender is an Alien*. – In addition to the penalties prescribed in the unlawful act committed, any alien who violates such provisions of this Act shall, after service of sentence, be deported immediately without further proceedings, unless the penalty is death.

Section 32. *Liability to a Person Violating Any Regulation Issued by the Board*. – The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person found violating any regulation duly issued by the Board pursuant to this Act, in addition to the administrative sanctions imposed by the Board.

Section 33. *Immunity from Prosecution and Punishment*. – Notwithstanding the provisions of Section 17, Rule 119 of the Revised Rules of Criminal Procedure and the provisions of Republic Act No. 6981 or the Witness Protection, Security and Benefit Act of 1991, any person who has violated Sections 7, 11, 12, 14, 15, and 19, Article II of this Act, who voluntarily gives information about any violation of Sections 4, 5, 6, 8, 10, 13, and 16, Article II of this Act as well as any violation of the offenses mentioned if committed by a drug syndicate, or any information leading to the whereabouts, identities and arrest of all or any of the members thereof; and who willingly testifies against such persons as described above, shall be exempted from prosecution or punishment for the offense with reference to which his/her information of testimony were given, and may plead or prove the giving of such information and testimony in bar of such prosecution: *Provided,* That the following conditions concur:

(1) The information and testimony are necessary for the conviction of the persons described above;

(2) Such information and testimony are not yet in the possession of the State;

(3) Such information and testimony can be corroborated on its material points;

(4) the informant or witness has not been previously convicted of a crime involving moral turpitude, except when there is no other direct evidence available for the State other than the information and testimony of said informant or witness; and

(5) The informant or witness shall strictly and faithfully comply without delay, any condition or undertaking, reduced into writing, lawfully imposed by the State as further consideration for the grant of immunity from prosecution and punishment.

Provided, further, That this immunity may be enjoyed by such informant or witness who does not appear to be most guilty for the offense with reference to which his/her information or testimony were given: *Provided, finally*, That there is no direct evidence available for the State except for the information and testimony of the said informant or witness.

Section 34. *Termination of the Grant of Immunity*. – The immunity granted to the informant or witness, as prescribed in Section 33 of this Act, shall not attach should it turn out subsequently that the information and/or testimony is false, malicious or made only for the purpose of harassing, molesting or in any way prejudicing the persons described in the preceding Section against whom such information or testimony is directed against. In such case, the informant or witness shall be subject to prosecution and the enjoyment of all rights and benefits previously accorded him under this Act or any other law, decree or order shall be deemed terminated.

In case an informant or witness under this Act fails or refuses to testify without just cause, and when lawfully obliged to do so, or should he/she violate any condition accompanying such immunity as provided above, his/her immunity shall be removed and he/she shall likewise be subject to contempt and/or criminal prosecution, as the case may be, and the enjoyment of all rights and benefits previously accorded him under this Act or in any other law, decree or order shall be deemed terminated.

In case the informant or witness referred to under this Act falls under the applicability of this Section hereof, such individual cannot avail of the provisions under Article VIII of this Act.

Section 35. *Accessory Penalties*. – A person convicted under this Act shall be disqualified to exercise his/her civil rights such as but not limited to, the rights of parental authority or guardianship, either as to the person or property of any ward, the rights to dispose of such property by any act or any conveyance *inter vivos*, and political rights such as but not limited to, the right to vote and be voted for. Such rights shall also be suspended during the pendency of an appeal from such conviction.

ARTICLE III **Dangerous Drugs Test and Record Requirements**

Section 36. *Authorized Drug Testing*. – Authorized drug testing shall be done by any government forensic laboratories or by any of the drug testing laboratories accredited and monitored by the DOH to safeguard the quality of test results. The DOH shall take steps in setting

the price of the drug test with DOH accredited drug testing centers to further reduce the cost of such drug test. The drug testing shall employ, among others, two (2) testing methods, the screening test which will determine the positive result as well as the type of the drug used and the confirmatory test which will confirm a positive screening test. Drug test certificates issued by accredited drug testing centers shall be valid for a one-year period from the date of issue which may be used for other purposes. The following shall be subjected to undergo drug testing:

(a) Applicants for driver's license. – No driver's license shall be issued or renewed to any person unless he/she presents a certification that he/she has undergone a mandatory drug test and indicating thereon that he/she is free from the use of dangerous drugs;

(b) Applicants for firearms license and for permit to carry firearms outside of residence. – All applicants for firearms license and permit to carry firearms outside of residence shall undergo a mandatory drug test to ensure that they are free from the use of dangerous drugs: *Provided*, That all persons who by the nature of their profession carry firearms shall undergo drug testing;

(c) Students of secondary and tertiary schools. – Students of secondary and tertiary schools shall, pursuant to the related rules and regulations as contained in the school's student handbook and with notice to the parents, undergo a random drug testing: *Provided*, That all drug testing expenses whether in public or private schools under this Section will be borne by the government;

(d) Officers and employees of public and private offices. – Officers and employees of public and private offices, whether domestic or overseas, shall be subjected to undergo a random drug test as contained in the company's work rules and regulations, which shall be borne by the employer, for purposes of reducing the risk in the workplace. Any officer or employee found positive for use of dangerous drugs shall be dealt with administratively which shall be a ground for suspension or termination, subject to the provisions of Article 282 of the Labor Code and pertinent provisions of the Civil Service Law;

(e) Officers and members of the military, police and other law enforcement agencies. – Officers and members of the military, police and other law enforcement agencies shall undergo an annual mandatory drug test;

(f) All persons charged before the prosecutor's office with a criminal offense having an imposable penalty of imprisonment of not less than six (6) years and one (1) day shall have to undergo a mandatory drug test; and

(g) All candidates for public office whether appointed or elected both in the national or local government shall undergo a mandatory drug test.

In addition to the above stated penalties in this Section, those found to be positive for dangerous drugs use shall be subject to the provisions of Section 15 of this Act.

Section 37. *Issuance of False or Fraudulent Drug Test Results*. – Any person authorized, licensed or accredited under this Act and its implementing rules to conduct drug examination or test, who issues false or fraudulent drug test results knowingly, willfully or through gross negligence, shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00).

An additional penalty shall be imposed through the revocation of the license to practice his/her profession in case of a practitioner, and the closure of the drug testing center.

Section 38. *Laboratory Examination or Test on Apprehended/Arrested Offenders*. – Subject to Section 15 of this Act, any person apprehended or arrested for violating the provisions of this Act shall be subjected to screening laboratory examination or test within twenty-four (24) hours, if the apprehending or arresting officer has reasonable ground to believe that the person apprehended or arrested, on account of physical signs or symptoms or other visible or outward manifestation, is under the influence of dangerous drugs. If found to be positive, the results of the screening laboratory examination or test shall be challenged within fifteen (15) days after receipt of the result through a confirmatory test conducted in any accredited analytical laboratory equipment with a gas chromatograph/mass spectrometry equipment or some such modern and accepted method, if confirmed the same shall be *prima facie* evidence that such person has used dangerous drugs, which is without prejudice for the prosecution for other violations of the provisions of this Act: *Provided*, That a positive screening laboratory test must be confirmed for it to be valid in a court of law.

Section 39. *Accreditation of Drug Testing Centers and Physicians*. – The DOH shall be tasked to license and accredit drug testing centers in each province and city in order to assure their capacity, competence, integrity and stability to conduct the laboratory examinations and tests provided in this Article, and appoint such technical and other personnel as may be necessary for the effective implementation of this provision. The DOH shall also accredit physicians who shall conduct the drug dependency examination of a drug dependent as well as the after-care and follow-up program for the said drug dependent. There shall be a control regulations, licensing and accreditation division under the supervision of the DOH for this purpose.

For this purpose, the DOH shall establish, operate and maintain drug testing centers in government hospitals, which must be provided at least with basic technologically advanced equipment and materials, in order to conduct the laboratory examination and tests herein provided, and appoint such qualified and duly trained technical and other personnel as may be necessary for the effective implementation of this provision.

Section 40. *Records Required for Transactions on Dangerous Drug and Precursors and Essential Chemicals*. –

a) Every pharmacist dealing in dangerous drugs and/or controlled precursors and essential chemicals shall maintain and keep an original record of sales, purchases, acquisitions and deliveries of dangerous drugs, indicating therein the following information:

(1) License number and address of the pharmacist;

(2) Name, address and license of the manufacturer, importer or wholesaler from whom the dangerous drugs have been purchased;

(3) Quantity and name of the dangerous drugs purchased or acquired;

(4) Date of acquisition or purchase;

(5) Name, address and community tax certificate number of the buyer;

(6) Serial number of the prescription and the name of the physician, dentist, veterinarian or practitioner issuing the same;

(7) Quantity and name of the dangerous drugs sold or delivered; and

(8) Date of sale or delivery.

A certified true copy of such record covering a period of six (6) months, duly signed by the pharmacist or the owner of the drugstore, pharmacy or chemical establishment, shall be forwarded to the Board within fifteen (15) days following the last day of June and December of each year, with a copy thereof furnished the city or municipal health officer concerned.

(b) A physician, dentist, veterinarian or practitioner authorized to prescribe any dangerous drug shall issue the prescription therefor in one (1) original and two (2) duplicate copies. The original, after the prescription has been filled, shall be retained by the pharmacist for a period of one (1) year from the date of sale or delivery of such drug. One (1) copy shall be retained by the buyer or by the person to whom the drug is delivered until such drug is consumed, while the second copy shall be retained by the person issuing the prescription.

For purposes of this Act, all prescriptions issued by physicians, dentists, veterinarians or practitioners shall be written on forms exclusively issued by and obtainable from the DOH. Such forms shall be made of a special kind of paper and shall be distributed in such quantities and contain such information and other data as the DOH may, by rules and regulations, require. Such forms shall only be issued by the DOH through its authorized employees to licensed physicians, dentists, veterinarians and practitioners in such quantities as the Board may authorize. In emergency cases, however, as the Board may specify in the public interest, a prescription need not be accomplished on such forms. The prescribing physician, dentist, veterinarian or practitioner shall, within three (3) days after issuing such prescription, inform the DOH of the same in writing. No prescription once served by the drugstore or pharmacy be reused nor any prescription once issued be refilled.

(c) All manufacturers, wholesalers, distributors, importers, dealers and retailers of dangerous drugs and/or controlled precursors and essential chemicals shall keep a record of all inventories, sales, purchases, acquisitions and deliveries of the same as well as the names, addresses and licenses of the persons from whom such items were purchased or acquired or to whom such items were sold or delivered, the name and quantity of the same and the date of the transactions. Such records may be subjected anytime for review by the Board.

ARTICLE IV **Participation of the Family, Students, Teachers and School Authorities in the Enforcement of this Act**

Section 41. *Involvement of the Family.* – The family being the basic unit of the Filipino society shall be primarily responsible for the education and awareness of the members of the family on the ill effects of dangerous drugs and close monitoring of family members who may be susceptible to drug abuse.

Section 42. *Student Councils and Campus Organizations.* – All elementary, secondary and tertiary schools' student councils and campus organizations shall include in their activities a program for the prevention of and deterrence in the use of dangerous drugs, and referral for treatment and rehabilitation of students for drug dependence.

Section 43. *School Curricula.* – Instruction on drug abuse prevention and control shall be integrated in the elementary, secondary and tertiary curricula of all public and private schools, whether general, technical, vocational or agro-industrial as well as in non-formal, informal and indigenous learning systems. Such instructions shall include:

(1) Adverse effects of the abuse and misuse of dangerous drugs on the person, the family, the school and the community;

(2) Preventive measures against drug abuse;

(3) Health, socio-cultural, psychological, legal and economic dimensions and implications of the drug problem;

(4) Steps to take when intervention on behalf of a drug dependent is needed, as well as the services available for the treatment and rehabilitation of drug dependents; and

(5) Misconceptions about the use of dangerous drugs such as, but not limited to, the importance and safety of dangerous drugs for medical and therapeutic use as well as the differentiation between medical patients and drug dependents in order to avoid confusion and accidental stigmatization in the consciousness of the students.

Section 44. *Heads, Supervisors, and Teachers of Schools.* – For the purpose of enforcing the provisions of Article II of this Act, all school heads, supervisors and teachers shall be deemed persons in authority and, as such, are hereby empowered to apprehend, arrest or cause the apprehension or arrest of any person who shall violate any of the said provisions, pursuant to Section 5, Rule 113 of the Rules of Court. They shall be deemed persons in authority if they are in the school or within its immediate vicinity, or even beyond such immediate vicinity if they are in attendance at any school or class function in their official capacity as school heads, supervisors, and teachers.

Any teacher or school employee, who discovers or finds that any person in the school or within its immediate vicinity is liable for violating any of said provisions, shall have the duty to report the same to the school head or immediate superior who shall, in turn, report the matter to the proper authorities.

Failure to do so in either case, within a reasonable period from the time of discovery of the violation shall, after due hearing, constitute sufficient cause for disciplinary action by the school authorities.

Section 45. *Publication and Distribution of Materials on Dangerous Drugs.* – With the assistance of the Board, the Secretary of the Department of Education (DepEd), the Chairman of the Commission on Higher Education (CHED) and the Director-General of the Technical Education and Skills Development Authority (TESDA) shall cause the development, publication and distribution of information and support educational materials on dangerous drugs to the students, the faculty, the parents, and the community.

Section 46. *Special Drug Education Center.* – With the assistance of the Board, the Department of the Interior and Local Government (DILG), the National Youth Commission (NYC), and the Department of Social Welfare and Development (DSWD) shall establish in each of its provincial office a special education drug center for out-of-school youth and street children. Such Center which shall be headed by the Provincial Social. Welfare Development Officer shall sponsor drug prevention programs and activities and information campaigns with the end in view of educating the out-of-school youth and street children regarding the pernicious effects of drug abuse. The programs initiated by the Center shall likewise be adopted in all public and private orphanage and existing special centers for street children.

ARTICLE V **Promotion of a National Drug-Free Workplace Program With the Participation of Private and Labor Sectors and the Department of Labor and Employment**

Section 47. *Drug-Free Workplace.* – It is deemed a policy of the State to promote drug-free workplaces using a tripartite approach. With the assistance of the Board, the Department of Labor and Employment (DOLE) shall develop, promote and implement a national drug abuse prevention program in the workplace to be adopted by private companies with ten (10) or more employees. Such program shall include the mandatory drafting and adoption of company policies against drug use in the workplace in close consultation and coordination with the DOLE, labor and employer organizations, human resource development managers and other such private sector organizations.

Section 48. *Guidelines for the National Drug-Free Workplace Program.* – The Board and the DOLE shall formulate the necessary guidelines for the

implementation of the national drug-free workplace program. The amount necessary for the implementation of which shall be included in the annual General Appropriations Act.

ARTICLE VI Participation of the Private and Labor Sectors in the Enforcement of this Act

Section 49. *Labor Organizations and the Private Sector.* – All labor unions, federations, associations, or organizations in cooperation with the respective private sector partners shall include in their collective bargaining or any similar agreements, joint continuing programs and information campaigns for the laborers similar to the programs provided under Section 47 of this Act with the end in view of achieving a drug free workplace.

Section 50. *Government Assistance.* – The labor sector and the respective partners may, in pursuit of the programs mentioned in the preceding Section, secure the technical assistance, such as but not limited to, seminars and information dissemination campaigns of the appropriate government and law enforcement agencies.

ARTICLE VII Participation of Local Government Units

Section 51. *Local Government Units' Assistance.* – Local government units shall appropriate a substantial portion of their respective annual budgets to assist in or enhance the enforcement of this Act giving priority to preventive or educational programs and the rehabilitation or treatment of drug dependents.

Section 52. *Abatement of Drug Related Public Nuisances.* – Any place or premises which have been used on two or more occasions as the site of the unlawful sale or delivery of dangerous drugs may be declared to be a public nuisance, and such nuisance may be abated, pursuant to the following procedures:

(1) Any city or municipality may, by ordinance, create an administrative board to hear complaints regarding the nuisances;

(2) any employee, officer, or resident of the city or municipality may bring a complaint before the Board after giving not less than three (3) days written notice of such complaint to the owner of the place or premises at his/her last known address; and

(3) After hearing in which the Board may consider any evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises shall have an opportunity to present evidence in his/her defense, the Board may declare the place or premises to be a public nuisance.

Section 53. *Effect of Board Declaration.* – If the Board declares a place or premises to be a public nuisance, it may declare an order immediately prohibiting the conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.

An order entered under this Section shall expire after one (1) year or at such earlier time as stated in the order. The Board may bring a complaint seeking a permanent injunction against any nuisance described under this Section.

This Article does not restrict the right of any person to proceed under the Civil Code against any public nuisance.

ARTICLE VIII Program for Treatment and Rehabilitation of Drug Dependents

Section 54. *Voluntary Submission of a Drug Dependent to Confinement, Treatment and Rehabilitation.* – A drug dependent or any person who violates Section 15 of this Act may, by himself/herself or through his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity, apply to the Board or its duly recognized representative, for treatment and rehabilitation of the drug dependency. Upon such application, the Board shall bring forth the matter to the Court which shall order that the applicant be examined for drug dependency. If the examination by a DOH-accredited physician results in the issuance of a certification that the applicant is a drug dependent, he/she shall be ordered by the Court to undergo treatment and rehabilitation in a Center designated by the Board for a period of not less than six (6) months: *Provided*, That a drug dependent may be placed under the care of a DOH-accredited physician where there is no Center near or accessible to the residence of the drug dependent or where said drug dependent is below eighteen (18) years of age and is a first-time offender and non-confinement in a Center will not pose a serious danger to his/her family or the community.

Confinement in a Center for treatment and rehabilitation shall not exceed one (1) year, after which time the Court, as well as the Board, shall be apprised by the head of the treatment and rehabilitation center of the status of said drug dependent and determine whether further confinement will be for the welfare of the drug dependent and his/her family or the community.

Section 55. *Exemption from the Criminal Liability Under the Voluntary Submission Program.* A drug dependent under the voluntary submission program, who is finally discharged from confinement, shall be exempt from the criminal liability under Section 15 of this act subject to the following conditions:

(1) He/she has complied with the rules and regulations of the center, the applicable rules and regulations of the Board, including the after-care and follow-up program for at least eighteen (18) months following temporary discharge from confinement in the Center or, in the case of a dependent placed under the care of the DOH-accredited physician, the after-care program and follow-up schedule formulated by the DSWD and approved by the Board: *Provided*, That capability-building of local government social workers shall be undertaken by the DSWD;

(2) He/she has never been charged or convicted of any offense punishable under this Act, the Dangerous Drugs Act of 1972 or Republic Act No. 6425, as amended; the Revised Penal Code, as amended; or any special penal laws;

(3) He/she has no record of escape from a Center: *Provided*, That had he/she escaped, he/she surrendered by himself/herself or through his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity, within one (1) week from the date of the said escape; and

(4) He/she poses no serious danger to himself/herself, his/her family or the community by his/her exemption from criminal liability.

Section 56. *Temporary Release From the Center; After-Care and Follow-Up Treatment Under the Voluntary Submission Program.* – Upon certification of the Center that the drug dependent within the voluntary submission program may be temporarily released, the Court shall order his/her release on condition that said drug dependent shall report to the DOH for after-care and follow-up treatment, including urine testing, for a period not exceeding eighteen (18) months under such terms and conditions that the Court may impose.

If during the period of after-care and follow-up, the drug dependent is certified to be rehabilitated, he/she may be discharged by the Court, subject to the provisions of Section 55 of this Act, without prejudice to the outcome of any pending case filed in court.

However, should the DOH find that during the initial after-care and follow-up program of eighteen (18)

months, the drug dependent requires further treatment and rehabilitation in the Center, he/she shall be recommitted to the Center for confinement. Thereafter, he/she may again be certified for temporary release and ordered released for another after-care and follow-up program pursuant to this Section.

Section 57. *Probation and Community Service Under the Voluntary Submission Program.* – A drug dependent who is discharged as rehabilitated by the DOH-accredited Center through the voluntary submission program, but does not qualify for exemption from criminal liability under Section 55 of this Act, may be charged under the provisions of this Act, but shall be placed on probation and undergo a community service in lieu of imprisonment and/or fine in the discretion of the court, without prejudice to the outcome of any pending case filed in court.

Such drug dependent shall undergo community service as part of his/her after-care and follow-up program, which may be done in coordination with nongovernmental civil organizations accredited by the DSWD, with the recommendation of the Board.

Section 58. *Filing of Charges Against a Drug Dependent Who is Not Rehabilitated Under the Voluntary Submission Program.* – A drug dependent, who is not rehabilitated after the second commitment to the Center under the voluntary submission program, shall, upon recommendation of the Board, be charged for violation of Section 15 of this Act and prosecuted like any other offender. If convicted, he/she shall be credited for the period of confinement and rehabilitation in the Center in the service of his/her sentence.

Section 59. *Escape and Recommitment for Confinement and Rehabilitation Under the Voluntary Submission Program.* – Should a drug dependent under the voluntary submission program escape from the Center, he/she may submit himself/herself for recommitment within one (1) week therefrom, or his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity may, within said period, surrender him for recommitment, in which case the corresponding order shall be issued by the Board.

Should the escapee fail to submit himself/herself or be surrendered after one (1) week, the Board shall apply to the court for a recommitment order upon proof of previous commitment or his/her voluntary submission by the Board, the court may issue an order for recommitment within one (1) week.

If, subsequent to a recommitment, the dependent once again escapes from confinement, he/she shall be charged for violation of Section 15 of this Act and he subjected under section 61 of this Act, either upon order of the Board or upon order of the court, as the case may be.

Section 60. *Confidentiality of Records Under the Voluntary Submission Program.* – Judicial and medical records of drug dependents under the voluntary submission program shall be confidential and shall not be used against him for any purpose, except to determine how many times, by himself/herself or through his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity, he/she voluntarily submitted himself/herself for confinement, treatment and rehabilitation or has been committed to a Center under this program.

Section 61. *Compulsory Confinement of a Drug Dependent Who Refuses to Apply Under the Voluntary Submission Program.* – Notwithstanding any law, rule and regulation to the contrary, any person determined and found to be dependent on dangerous drugs shall, upon petition by the Board or any of its authorized representative, be confined for treatment and rehabilitation in any Center duly designated or accredited for the purpose.

A petition for the confinement of a person alleged to be dependent on dangerous drugs to a Center may be filed by any person authorized by the Board with the Regional Trial Court of the province or city where such person is found.

After the petition is filed, the court, by an order, shall immediately fix a date for the hearing, and a copy of such order shall be served on the person alleged to be dependent on dangerous drugs, and to the one having charge of him.

If after such hearing and the facts so warrant, the court shall order the drug dependent to be examined by two (2) physicians accredited by the Board. If both physicians conclude that the respondent is not a drug dependent, the court shall order his/her discharge. If either physician finds him to be a dependent, the court shall conduct a hearing and consider all relevant evidence which may be offered. If the court finds him a drug dependent, it shall issue an order for his/her commitment to a treatment and rehabilitation center under the supervision of the DOH. In any event, the order of discharge or order of confinement or commitment shall be issued not later than fifteen (15) days from the filing of the appropriate petition.

Section 62. *Compulsory Submission of a Drug Dependent Charged with an Offense to Treatment and Rehabilitation.* – If a person charged with an offense where the imposable penalty is imprisonment of less than six (6) years and one (1) day, and is found by the prosecutor or by the court, at any stage of the proceedings, to be a drug dependent, the prosecutor or the court as the case may be, shall suspend all further proceedings and transmit copies of the record of the case to the Board.

In the event he Board determines, after medical examination, that public interest requires that such drug dependent be committed to a center for treatment and rehabilitation, it shall file a petition for his/her commitment with the regional trial court of the province or city where he/she is being investigated or tried: *Provided*, That where a criminal case is pending in court, such petition shall be filed in the said court. The court shall take judicial notice of the prior proceedings in the case and shall proceed to hear the petition. If the court finds him to be a drug dependent, it shall order his/her commitment to a Center for treatment and rehabilitation. The head of said Center shall submit to the court every four (4) months, or as often as the court may require, a written report on the progress of the treatment. If the dependent is rehabilitated, as certified by the center and the Board, he/she shall be returned to the court, which committed him, for his/her discharge therefrom.

Thereafter, his/her prosecution for any offense punishable by law shall be instituted or shall continue, as the case may be. In case of conviction, the judgment shall, if the accused is certified by the treatment and rehabilitation center to have maintained good behavior, indicate that he/she shall be given full credit for the period he/she was confined in the Center: *Provided, however*, That when the offense is for violation of Section 15 of this Act and the accused is not a recidivist, the penalty thereof shall be deemed to have been served in the Center upon his/her release therefrom after certification by the Center and the Board that he/she is rehabilitated.

Section 63. *Prescription of the Offense Charged Against a Drug Dependent Under the Compulsory Submission Program.* – The period of prescription of the offense charged against a drug dependent under the compulsory submission program shall not run during the time that the drug dependent is under confinement in a Center or otherwise under the treatment and rehabilitation program approved by the Board.

Upon certification of the Center that he/she may temporarily be discharged from the said Center, the court shall order his/her release on condition that he/she shall report to the Board through the DOH for after-care and

follow-up treatment for a period not exceeding eighteen (18) months under such terms and conditions as may be imposed by the Board.

If at anytime during the after-care and follow-up period, the Board certifies to his/her complete rehabilitation, the court shall order his/her final discharge from confinement and order for the immediate resumption of the trial of the case for which he/she is originally charged. Should the Board through the DOH find at anytime during the after-care and follow-up period that he/she requires further treatment and rehabilitation, it shall report to the court, which shall order his/her recommitment to the Center.

Should the drug dependent, having been committed to a Center upon petition by the Board escape therefrom, he/she may resubmit himself/herself for confinement within one (1) week from the date of his/her escape; or his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity may, within the same period, surrender him for recommitment. If, however, the drug dependent does not resubmit himself/herself for confinement or he/she is not surrendered for recommitment, the Board may apply with the court for the issuance of the recommitment order. Upon proof of previous commitment, the court shall issue an order for recommitment. If, subsequent to such recommitment, he/she should escape again, he/she shall no longer be exempt from criminal liability for use of any dangerous drug.

A drug dependent committed under this particular Section who is finally discharged from confinement shall be exempt from criminal liability under Section 15 of this Act, without prejudice to the outcome of any pending case filed in court. On the other hand, a drug dependent who is not rehabilitated after a second commitment to the Center shall, upon conviction by the appropriate court, suffer the same penalties provided for under Section 15 of this Act again without prejudice to the outcome of any pending case filed in court.

Section 64. *Confidentiality of Records Under the Compulsory Submission Program*. – The records of a drug dependent who was rehabilitated and discharged from the Center under the compulsory submission program, or who was charged for violation of Section 15 of this Act, shall be covered by Section 60 of this Act. However, the records of a drug dependent who was not rehabilitated, or who escaped but did not surrender himself/herself within the prescribed period, shall be forwarded to the court and their use shall be determined by the court, taking into consideration public interest and the welfare of the drug dependent.

Section 65. *Duty of the Prosecutor in the Proceedings*. – It shall be the duty of the provincial or the city prosecutor or their assistants or state prosecutors to prepare the appropriate petition in all proceedings arising from this Act.

Section 66. *Suspension of Sentence of a First-Time Minor Offender*. – An accused who is over fifteen (15) years of age at the time of the commission of the offense mentioned in Section 11 of this Act, but not more than eighteen (18) years of age at the time when judgment should have been promulgated after having been found guilty of said offense, may be given the benefits of a suspended sentence, subject to the following conditions:

(a) He/she has not been previously convicted of violating any provision of this Act, or of the Dangerous Drugs Act of 1972, as amended; or of the Revised Penal Code; or of any special penal laws;

(b) He/she has not been previously committed to a Center or to the care of a DOH-accredited physician; and

(c) The Board favorably recommends that his/her sentence be suspended.

While under suspended sentence, he/she shall be under the supervision and rehabilitative surveillance of the Board, under such conditions that the court may impose for a period ranging from six (6) months to eighteen (18) months.

Upon recommendation of the Board, the court may commit the accused under suspended sentence to a Center, or to the care of a DOH-accredited physician for at least six (6) months, with after-care and follow-up program for not more than eighteen (18) months.

In the case of minors under fifteen (15) years of age at the time of the commission of any offense penalized under this Act, Article 192 of Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, as amended by Presidential Decree No. 1179 shall apply, without prejudice to the application of the provisions of this Section.

Section 67. *Discharge After Compliance with Conditions of Suspended Sentence of a First-Time Minor Offender*. – If the accused first time minor offender under suspended sentence complies with the applicable rules and regulations of the Board, including confinement in a Center, the court, upon a favorable recommendation of the Board for the final discharge of the accused, shall discharge the accused and dismiss all proceedings.

Upon the dismissal of the proceedings against the accused, the court shall enter an order to expunge all official records, other than the confidential record to be retained by the DOJ relating to the case. Such an order, which shall be kept confidential, shall restore the accused to his/her status prior to the case. He/she shall not be held thereafter to be guilty of perjury or of concealment or misrepresentation by reason of his/her failure to acknowledge the case or recite any fact related thereto in response to any inquiry made of him for any purpose.

Section 68. *Privilege of Suspended Sentence to be Availed of Only Once by a First-Time Minor Offender*. – The privilege of suspended sentence shall be availed of only once by an accused drug dependent who is a first-time offender over fifteen (15) years of age at the time of the commission of the violation of Section 15 of this Act but not more than eighteen (18) years of age at the time when judgment should have been promulgated.

Section 69. *Promulgation of Sentence for First-Time Minor Offender*. – If the accused first-time minor offender violates any of the conditions of his/her suspended sentence, the applicable rules and regulations of the Board exercising supervision and rehabilitative surveillance over him, including the rules and regulations of the Center should confinement be required, the court shall pronounce judgment of conviction and he/she shall serve sentence as any other convicted person.

Section 70. *Probation or Community Service for a First-Time Minor Offender in Lieu of Imprisonment*. – Upon promulgation of the sentence, the court may, in its discretion, place the accused under probation, even if the sentence provided under this Act is higher than that provided under existing law on probation, or impose community service in lieu of imprisonment. In case of probation, the supervision and rehabilitative surveillance shall be undertaken by the Board through the DOH in coordination with the Board of Pardons and Parole and the Probation Administration. Upon compliance with the conditions of the probation, the Board shall submit a written report to the court recommending termination of probation and a final discharge of the probationer, whereupon the court shall issue such an order.

The community service shall be complied with under conditions, time and place as may be determined by the court in its discretion and upon the recommendation of the Board and shall apply only to violators of Section 15 of this Act. The completion of the community service shall be under the supervision and rehabilitative surveillance of the Board during the period required by the court. Thereafter, the Board shall render a report on the manner of compliance of said community service. The court in its

discretion may require extension of the community service or order a final discharge.

In both cases, the judicial records shall be covered by the provisions of Sections 60 and 64 of this Act.

If the sentence promulgated by the court requires imprisonment, the period spent in the Center by the accused during the suspended sentence period shall be deducted from the sentence to be served.

Section 71. *Records to be kept by the Department of Justice.* – The DOJ shall keep a confidential record of the proceedings on suspension of sentence and shall not be used for any purpose other than to determine whether or not a person accused under this Act is a first-time minor offender.

Section 72. *Liability of a Person Who Violates the Confidentiality of Records.* – The penalty of imprisonment ranging from six (6) months and one (1) day to six (6) years and a fine ranging from One thousand pesos (P1,000.00) to Six thousand pesos (P6,000.00), shall be imposed upon any person who, having official custody of or access to the confidential records of any drug dependent under voluntary submission programs, or anyone who, having gained possession of said records, whether lawfully or not, reveals their content to any person other than those charged with the prosecution of the offenses under this Act and its implementation. The maximum penalty shall be imposed, in addition to absolute perpetual disqualification from any public office, when the offender is a government official or employee. Should the records be used for unlawful purposes, such as blackmail of the drug dependent or the members of his/her family, the penalty imposed for the crime of violation of confidentiality shall be in addition to whatever crime he/she may be convicted of.

Section 73. *Liability of a Parent, Spouse or Guardian Who Refuses to Cooperate with the Board or any Concerned Agency.* – Any parent, spouse or guardian who, without valid reason, refuses to cooperate with the Board or any concerned agency in the treatment and rehabilitation of a drug dependent who is a minor, or in any manner, prevents or delays the after-care, follow-up or other programs for the welfare of the accused drug dependent, whether under voluntary submission program or compulsory submission program, may be cited for contempt by the court.

Section 74. *Cost-Sharing in the Treatment and Rehabilitation of a Drug Dependent.* – The parent, spouse, guardian or any relative within the fourth degree of consanguinity of any person who is confined under the voluntary submission program or compulsory submission program shall be charged a certain percentage of the cost of his/her treatment and rehabilitation, the guidelines of which shall be formulated by the DSWD taking into consideration the economic status of the family of the person confined. The guidelines therein formulated shall be implemented by a social worker of the local government unit.

Section 75. *Treatment and Rehabilitation Centers.* – The existing treatment and rehabilitation centers for drug dependents operated and maintained by the NBI and the PNP shall be operated, maintained and managed by the DOH in coordination with other concerned agencies. For the purpose of enlarging the network of centers, the Board through the DOH shall encourage, promote or whenever feasible, assist or support in the establishment, operations and maintenance of private centers which shall be eligible to receive grants, donations or subsidy from either government or private sources. It shall also support the establishment of government-operated regional treatment and rehabilitation centers depending upon the availability of funds. The national government, through its appropriate agencies shall give priority funding for the increase of subsidy to existing government drug rehabilitation centers, and shall establish at least one (1) drug rehabilitation center in each province, depending on the availability of funds.

Section 76. *The Duties and Responsibilities of the Department of health (DOH) Under this Act.* – The DOH shall:

(1) Oversee the monitor the integration, coordination and supervision of all drug rehabilitation, intervention, after-care and follow-up programs, projects and activities as well as the establishment, operations, maintenance and management of privately-owned drug treatment rehabilitation centers and drug testing networks and laboratories throughout the country in coordination with the DSWD and other agencies;

(2) License, accredit, establish and maintain drug test network and laboratory, initiate, conduct and support scientific research on drugs and drug control;

(3) Encourage, assist and accredit private centers, promulgate rules and regulations setting minimum standards for their accreditation to assure their competence, integrity and stability;

(4) Prescribe and promulgate rules and regulations governing the establishment of such Centers as it may deem necessary after conducting a feasibility study thereof;

(5) The DOH shall, without prejudice to the criminal prosecution of those found guilty of violating this Act, order the closure of a Center for treatment and rehabilitation of drug dependency when, after investigation it is found guilty of violating the provisions of this Act or regulations issued by the Board; and

(6) Charge reasonable fees for drug dependency examinations, other medical and legal services provided to the public, which shall accrue to the Board. All income derived from these sources shall be part of the funds constituted as special funds for the implementation of this Act under Section 87.

ARTICLE IX **Dangerous Drugs Board and Philippine Drug Enforcement Agency**

Section 77. *The Dangerous Drugs Board.* – The Board shall be the policy-making and strategy-formulating body in the planning and formulation of policies and programs on drug prevention and control. It shall develop and adopt a comprehensive, integrated, unified and balanced national drug abuse prevention and control strategy. It shall be under the Office of the President.

Section 78. *Composition of the Board.* – The Board shall be composed of seventeen (17) members wherein three (3) of which are permanent members, the other twelve (12) members shall be in an *ex officio* capacity and the two (2) shall be regular members.

The three (3) permanent members, who shall possess at least seven-year training and experience in the field of dangerous drugs and in any of the following fields: in law, medicine, criminology, psychology or social work, shall be appointed by the President of the Philippines. The President shall designate a Chairman, who shall have the rank of a secretary from among the three (3) permanent members who shall serve for six (6) years. Of the two (2) other members, who shall both have the rank of undersecretary, one (1) shall serve for four (4) years and the other for two (2) years. Thereafter, the persons appointed to succeed such members shall hold office for a term of six (6) years and until their successors shall have been duly appointed and qualified.

The other twelve (12) members who shall be *ex officio* members of the Board are the following:

(1) Secretary of the Department of Justice or his/her representative;

(2) Secretary of the Department of Health or his/her representative;

(3) Secretary of the Department of National Defense or his/her representative;

(4) Secretary of the Department of Finance or his/her representative;

(5) Secretary of the Department of Labor and Employment or his/her representative;

(6) Secretary of the Department of the Interior and Local Government or his/her representative;

(7) Secretary of the Department of Social Welfare and Development or his/her representative;

(8) Secretary of the Department of Foreign Affairs or his/her representative;

(9) Secretary of the Department of Education or his/her representative;

(10) Chairman of the Commission on Higher Education or his/her representative;

(11) Chairman of the National Youth Commission;

(12) Director General of the Philippine Drug Enforcement Agency.

Cabinet secretaries who are members of the Board may designate their duly authorized and permanent representatives whose ranks shall in no case be lower than undersecretary.

The two (2) regular members shall be as follows:

(a) The president of the Integrated Bar of the Philippines; and

(b) The chairman or president of a non-government organization involved in dangerous drug campaign to be appointed by the President of the Philippines.

The Director of the NBI and the Chief of the PNP shall be the permanent consultants of the Board, and shall attend all the meetings of the Board.

All members of the Board as well as its permanent consultants shall receive a per diem for every meeting actually attended subject to the pertinent budgetary laws, rules and regulations on compensation, honoraria and allowances: *Provided,* That where the representative of an *ex officio* member or of the permanent consultant of the Board attends a meeting in behalf of the latter, such representative shall be entitled to receive the per diem.

Section 79. *Meetings of the Board*. – The Board shall meet once a week or as often as necessary at the discretion of the Chairman or at the call of any four (4) other members. The presence of nine (9) members shall constitute a quorum.

Section 80. *Secretariat of the Board.* – The Board shall recommend to the President of the Philippines the appointment of an Executive Director, with the rank of an undersecretary, who shall be the Secretary of the Board and administrative officer of its secretariat, and shall perform such other duties that may be assigned to him/her. He/she must possess adequate knowledge, training and experience in the field of dangerous drugs, and in any of the following fields: law enforcement, law, medicine, criminology, psychology or social work.

Two deputies executive director, for administration and operations, with the ranks of assistant secretary, shall be appointed by the President upon recommendation of the Board. They shall possess the same qualifications as those of the executive director. They shall receive a salary corresponding to their position as prescribed by the Salary Standardization Law as a Career Service Officer.

The existing secretariat of the Board shall be under the administrative control and supervision of the Executive Director. It shall be composed of the following divisions, namely: Policy Studies, Research and Statistics; Preventive Education, Training and Information; Legal Affairs; and the Administrative and Financial Management.

Section 81. *Powers and Duties of the Board*. – The Board shall:

(a) Formulate, develop and establish a comprehensive, integrated, unified and balanced national drug use prevention and control strategy;

(b) Promulgate such rules and regulations as may be necessary to carry out the purposes of this Act, including the manner of safekeeping, disposition, burning or condemnation of any dangerous drug and/or controlled precursor and essential chemical under its charge and custody, and prescribe administrative remedies or sanctions for the violations of such rules and regulations;

(c) Conduct policy studies, program monitoring and evaluations and other researches on drug prevention, control and enforcement;

(d) Initiate, conduct and support scientific, clinical, social, psychological, physical and biological researches on dangerous drugs and dangerous drugs prevention and control measures;

(e) Develop an educational program and information drive on the hazards and prevention of illegal use of any dangerous drug and/or controlled precursor and essential chemical based on factual data, and disseminate the same to the general public, for which purpose the Board shall endeavor to make the general public aware of the hazards of any dangerous drugs and/or controlled precursor and essential chemical by providing among others, literature, films, displays or advertisements and by coordinating with all institutions of learning as well as with all national and local enforcement agencies in planning and conducting its educational campaign programs to be implemented by the appropriate government agencies;

(f) Conduct continuing seminars for, and consultations with, and provide information materials to judges and prosecutors in coordination with the Office of the Court Administrator, in the case of judges, and the DOJ, in the case of prosecutors, which aim to provide them with the current developments and programs of the Board pertinent to its campaign against dangerous drugs and its scientific researches on dangerous drugs, its prevention and control measures;

(g) Design special trainings in order to provide law enforcement officers, members of the judiciary, and prosecutors, school authorities and personnel of centers with knowledge and know-how in dangerous drugs and/or controlled precursors and essential chemicals control in coordination with the Supreme Court to meet the objectives of the national drug control programs;

(h) Design and develop, in consultation and coordination with the DOH, DSWD and other agencies involved in drugs control, treatment and rehabilitation, both public and private, a national treatment and rehabilitation program for drug dependents including a standard aftercare and community service program for recovering drug dependents;

(i) Design and develop, jointly with the DOLE and in consultation with labor and employer groups as well as nongovernment organizations a drug abuse prevention program in the workplace that would include a provision for employee assistance programs for emotionally-stressed employees;

(j) Initiate and authorize closure proceedings against non-accredited and/or substandard rehabilitation centers based on verified reports of human rights violations, subhuman conditions, inadequate medical training and assistance and excessive fees for implementation by the PDEA;

(k) Prescribe and promulgate rules and regulations governing the establishment of such centers, networks and laboratories as deemed necessary after conducting a

feasibility study in coordination with the DOH and other government agencies;

(l) Receive, gather, collect and evaluate all information on the importation, exportation, production, manufacture, sale, stocks, seizures of and the estimated need for any dangerous drug and/or controlled precursor and essential chemical, for which purpose the Board may require from any official, instrumentality or agency of the government or any private person or enterprise dealing in, or engaged in activities having to do with any dangerous drug and/or controlled precursors and essential chemicals such data or information as it may need to implement this Act;

(m) Gather and prepare detailed statistics on the importation, exportation, manufacture, stocks, seizures of and estimates need for any dangerous drug and/or controlled precursors and essential chemicals and such other statistical data on said drugs as may be periodically required by the United Nations Narcotics Drug Commission, the World Health Organization and other international organizations in consonance with the country's international commitments;

(n) Develop and maintain international networking coordination with international drug control agencies and organizations, and implement the provisions of international conventions and agreements thereon which have been adopted and approved by the Congress of the Philippines;

(o) Require all government and private hospitals, clinics, doctors, dentists and other practitioners to submit a report to it, in coordination with the PDEA, about all dangerous drugs and/or controlled precursors and essential chemicals-related cases to which they have attended for statistics and research purposes;

(p) Receive in trust legacies, gifts and donations of real and personal properties of all kinds, to administer and dispose the same when necessary for the benefit of government and private rehabilitation centers subject to limitations, directions and instructions from the donors, if any;

(q) Issue guidelines as to the approval or disapproval of applications for voluntary treatment, rehabilitation or confinement, wherein it shall issue the necessary guidelines, rules and regulations pertaining to the application and its enforcement;

(r) Formulate guidelines, in coordination with other government agencies, the importation, distribution, production, manufacture, compounding, prescription, dispensing and sale of, and other lawful acts in connection with any dangerous drug, controlled precursors and essential chemicals and other similar or analogous substances of such kind and in such quantity as it may deem necessary according to the medical and research needs or requirements of the country including diet pills containing ephedrine and other addictive chemicals and determine the quantity and/or quality of dangerous drugs and controlled precursors and essential chemicals to be imported, manufactured and held in stock at any given time by authorized importer, manufacturer or distributor of such drugs;

(s) Develop the utilization of a controlled delivery scheme in addressing the transshipment of dangerous drugs into and out of the country to neutralize transnational crime syndicates involved in illegal trafficking of any dangerous drugs and/or controlled precursors and essential chemicals;

(t) Recommend the revocation of the professional license of any practitioner who is an owner, co-owner, lessee, or in the employ of the drug establishment, or manager of a partnership, corporation, association, or any juridical entity owning and/or controlling such drug establishment, and who knowingly participates in, or consents to, tolerates, or abets the commission of the act of violations as indicated in the preceding paragraph, all without prejudice to the criminal prosecution of the person responsible for the said violation;

(u) Appoint such technical, administrative and other personnel as may be necessary for the effective implementation of this Act, subject to the Civil Service Law and its rules and regulations;

(v) Establish a regular and continuing consultation with concerned government agencies and medical professional organizations to determine if balance exists in policies, procedures, rules and regulations on dangerous drugs and to provide recommendations on how the lawful use of dangerous drugs can be improved and facilitated; and

(w) Submit an annual and periodic reports to the President, the Congress of the Philippines and the Senate and House of Representatives committees concerned as may be required from time to time, and perform such other functions as may be authorized or required under existing laws and as directed by the President himself/herself or as recommended by the congressional committees concerned.

Section 82. *Creation of the Philippine Drug Enforcement Agency (PDEA).* – To carry out the provisions of this Act, the PDEA, which serves as the implementing arm of the Board, and shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in this Act.

The PDEA shall be headed by a Director General with the rank of Undersecretary, who shall be responsible for the general administration and management of the Agency. The Director General of the PDEA shall be appointed by the President of the Philippines and shall perform such other duties that may be assigned to him/her. He/she must possess adequate knowledge, training and experience in the field of dangerous drugs, and in any of the following fields: law enforcement, law, medicine, criminology, psychology or social work.

The Director General of the PDEA shall be assisted in the performance of his/her duties and responsibilities by two (2) deputies director general with the rank of Assistant Secretary; one for Operations and the other one for Administration. The two (2) deputies director general shall likewise be appointed by the President of the Philippines upon recommendation of the Board. The two (2) deputies director general shall possess the same qualifications as those of the Director General of the PDEA. The Director General and the two (2) deputies director general shall receive the compensation and salaries as prescribed by law.

Section 83. *Organization of the PDEA.* – The present Secretariat of the National Drug Law Enforcement and Prevention Coordinating Center as created by Executive Order No. 61 shall be accordingly modified and absorbed by the PDEA.

The Director General of the PDEA shall be responsible for the necessary changes in the organizational set-up which shall be submitted to the Board for approval.

For purposes of carrying out its duties and powers as provided for in the succeeding Section of this Act, the PDEA shall have the following Services, namely: Intelligence and Investigation; International Cooperation and Foreign Affairs; Preventive Education and Community Involvement; Plans and Operations; Compliance; Legal and Prosecution; Administrative and Human Resource; Financial Management; Logistics Management; and Internal Affairs.

The PDEA shall establish and maintain regional offices in the different regions of the country which shall be responsible for the implementation of this Act and the policies, programs, and projects of said agency in their respective regions.

Section 84. *Powers and Duties of the PDEA*. – The PDEA shall:

(a) Implement or cause the efficient and effective implementation of the national drug control strategy formulated by the Board thereby carrying out a national drug campaign program which shall include drug law enforcement, control and prevention campaign with the assistance of concerned government agencies;

(b) Undertake the enforcement of the provisions of Article II of this Act relative to the unlawful acts and penalties involving any dangerous drug and/or controlled precursor and essential chemical and investigate all violators and other matters involved in the commission of any crime relative to the use, abuse or trafficking of any dangerous drug and/or controlled precursor and essential chemical as provided for in this Act and the provisions of Presidential Decree No. 1619;

(c) Administer oath, issue *subpoena* and *subpoena duces tecum* relative to the conduct of investigation involving the violations of this Act;

(d) Arrest and apprehend as well as search all violators and seize or confiscate, the effects or proceeds of the crimes as provided by law and take custody thereof, for this purpose the prosecutors and enforcement agents are authorized to possess firearms, in accordance with existing laws;

(e) Take charge and have custody of all dangerous drugs and/or controlled precursors and essential chemicals seized, confiscated or surrendered to any national, provincial or local law enforcement agency, if no longer needed for purposes of evidence in court;

(f) Establish forensic laboratories in each PNP office in every province and city in order to facilitate action on seize or confiscated drugs, thereby hastening its destruction without delay;

(g) Recommend to the DOJ the forfeiture of properties and other assets of persons and/or corporations found to be violating the provisions of this Act and in accordance with the pertinent provisions of the Anti-Money-Laundering Act of 2001;

(h) Prepare for prosecution or cause the filing of appropriate criminal and civil cases for violation of all laws on dangerous drugs, controlled precursors and essential chemicals, and other similar controlled substances, and assist, support and coordinate with other government agencies for the proper and effective prosecution of the same;

(i) Monitor and if warranted by circumstances, in coordination with the Philippine Postal Office and the Bureau of Customs, inspect all air cargo packages, parcels and mails in the central post office, which appear from the package and address itself to be a possible importation of dangerous drugs and/or controlled precursors and essential chemicals, through on-line or cyber shops via the internet or cyberspace;

(j) Conduct eradication programs to destroy wild or illegal growth of plants from which dangerous drugs may be extracted;

(k) Initiate and undertake the formation of a nationwide organization which shall coordinate and supervise all activities against drug abuse in every province, city, municipality and barangay with the active and direct participation of all such local government units and nongovernmental organizations, including the citizenry, subject to the provisions of previously formulated programs of action against dangerous drugs;

(l) Establish and maintain a national drug intelligence system in cooperation with law enforcement agencies, other government agencies/offices and local government units that will assist in its apprehension of big-time drug lords;

(m) Establish and maintain close coordination, cooperation and linkages with international drug control and administration agencies and organizations, and implement the applicable provisions of international conventions and agreements related to dangerous drugs to which the Philippines is a signatory;

(n) Create and maintain an efficient special enforcement unit to conduct an investigation, file charges and transmit evidence to the proper court, wherein members of the said unit shall possess suitable and adequate firearms for their protection in connection with the performance of their duties: *Provided*, That no previous special permit for such possession shall be required;

(o) Require all government and private hospitals, clinics, doctors, dentists and other practitioners to submit a report to it, in coordination with the Board, about all dangerous drugs and/or controlled precursors and essential chemicals which they have attended to for data and information purposes;

(p) Coordinate with the Board for the facilitation of the issuance of necessary guidelines, rules and regulations for the proper implementation of this Act;

(q) Initiate and undertake a national campaign for drug prevention and drug control programs, where it may enlist the assistance of any department, bureau, office, agency or instrumentality of the government, including government-owned and or –controlled corporations, in the anti-illegal drugs drive, which may include the use of their respective personnel, facilities, and resources for a more resolute detection and investigation of drug-related crimes and prosecution of the drug traffickers; and

(r) Submit an annual and periodic reports to the Board as may be required from time to time, and perform such other functions as may be authorized or required under existing laws and as directed by the President himself/herself or as recommended by the congressional committees concerned.

Section 85. *The PDEA Academy*. – Upon the approval of the Board, the PDEA Academy shall be established either in Baguio or Tagaytay City, and in such other places as may be necessary. The PDEA Academy shall be responsible in the recruitment and training of all PDEA agents and personnel. The Board shall provide for the qualifications and requirements of its recruits who must be at least twenty-one (21) years old, of proven integrity and honesty and a Baccalaureate degree holder.

The graduates of the Academy shall later comprise the operating units of the PDEA after the termination of the transition period of five (5) years during which all the intelligence network and standard operating procedures of the PDEA has been set up and operationalized.

The Academy shall be headed by a Superintendent, with the rank of Director. He/she shall be appointed by the PDEA Director General.

Section 86. *Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions*. – The Narcotics Group of the PNP, the Narcotics Division of the NBI and the Customs Narcotics Interdiction Unit are hereby abolished; however they shall continue with the performance of their task as detail service with the PDEA, subject to screening, until such time that the organizational structure of the Agency is fully operational and the number of graduates of the PDEA Academy is sufficient to do the task themselves: *Provided*, That such personnel who are affected shall have the option of either being integrated into the PDEA or remain with their original mother agencies and shall, thereafter, be immediately reassigned to other units therein by the head of such agencies. Such personnel who are transferred, absorbed and integrated in the PDEA shall be extended appointments to positions similar in rank, salary, and other emoluments and privileges granted to their respective positions in their original mother agencies.

The transfer, absorption and integration of the different offices and units provided for in this Section shall take effect within eighteen (18) months from the effectivity of this Act: *Provided*, That personnel absorbed and on detail service shall be given until five (5) years to finally decide to join the PDEA.

Nothing in this Act shall mean a diminution of the investigative powers of the NBI and the PNP on all other crimes as provided for in their respective organic laws: *Provided, however*, That when the investigation being conducted by the NBI, PNP or any *ad hoc* anti-drug task force is found to be a violation of any of the provisions of this Act, the PDEA shall be the lead agency. The NBI, PNP or any of the task force shall immediately transfer the same to the PDEA: *Provided, further*, That the NBI, PNP and the Bureau of Customs shall maintain close coordination with the PDEA on all drug related matters.

ARTICLE X **Appropriations, Management of Funds and Annual Report**

Section 87. *Appropriations*. – The amount necessary for the operation of the Board and the PDEA shall be charged against the current year's appropriations of the Board, the National Drug Law Enforcement and Prevention Coordinating Center, the Narcotics Group of the PNP, the Narcotics Division of the NBI and other drug abuse units of the different law enforcement agencies integrated into the PDEA in order to carry out the provisions of this Act. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

All receipts derived from fines, fees and other income authorized and imposed in this Act, including ten percent (10%) of all unclaimed and forfeited sweepstakes and lotto prizes but not less than twelve million pesos (P12,000,000.00) per year from the Philippine Charity Sweepstakes Office (PCSO), are hereby constituted as a special account in the general fund for the implementation of this Act: *Provided*, That no amount shall be disbursed to cover the operating expenses of the Board and other concerned agencies: *Provided, further*, That at least fifty percent (50%) of all the funds shall be reserved for assistance to government-owned and/or operated rehabilitation centers.

The fines shall be remitted to the Board by the court imposing such fines within thirty (30) days from the finality of its decisions or orders. The unclaimed and forfeited prizes shall be turned over to the Board by the PCSO within thirty (30) days after these are collected and declared forfeited.

A portion of the funds generated by the Philippine Amusement and Gaming Corporation (PAGCOR) in the amount of Five million pesos (P5,000,000.00) a month shall be set aside for the purpose of establishing adequate drug rehabilitation centers in the country and also for the maintenance and operations of such centers: *Provided*, That the said amount shall be taken from the fifty percent (50%) share of the National Government in the income of PAGCOR: *Provided*, *further*, That the said amount shall automatically be remitted by PAGCOR to the Board. The amount shall, in turn, be disbursed by the Dangerous Drugs Board, subject to the rules and regulations of the Commission on Audit (COA).

The fund may be augmented by grants, donations, and endowment from various sources, domestic or foreign, for purposes related to their functions, subject to the existing guidelines set by the government.

Section 88. *Management of Funds Under this Act; Annual Report by the Board and the PDEA*. – The Board shall manage the funds as it may deem proper for the attainment of the objectives of this Act. In addition to the periodic reports as may be required under this Act, the Chairman of the Board shall submit to the President of the Philippines and to the presiding officers of both houses of Congress, within fifteen (15) days from the opening of the regular session, an annual report on the dangerous drugs situation in the country which shall include detailed account of the programs and projects undertaken, statistics on crimes related to dangerous drugs, expenses incurred pursuant to the provisions of this Act, recommended remedial legislation, if needed, and such other relevant facts as it may deem proper to cite.

Section 89. *Auditing the Accounts and Expenses of the Board and the PDEA*. – All accounts and expenses of the Board and the PDEA shall be audited by the COA or its duly authorized representative.

ARTICLE XI **Jurisdiction Over Dangerous Drugs Cases**

Section 90. *Jurisdiction*. – The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.

The DOJ shall designate special prosecutors to exclusively handle cases involving violations of this Act.

The preliminary investigation of cases filed under this Act shall be terminated within a period of thirty (30) days from the date of their filing.

When the preliminary investigation is conducted by a public prosecutor and a probable cause is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. If the preliminary investigation is conducted by a judge and a probable cause is found to exist, the corresponding information shall be filed by the proper prosecutor within forty-eight (48) hours from the date of receipt of the records of the case.

Trial of the case under this Section shall be finished by the court not later than sixty (60) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case for resolution.

Section 91. *Responsibility and Liability of Law Enforcement Agencies and other Government Officials and Employees in Testifying as Prosecution Witnesses in Dangerous Drugs Cases*. – Any member of law enforcement agencies or any other government official and employee who, after due notice, fails or refuses intentionally or negligently, to appear as a witness for the prosecution in any proceedings, involving violations of this Act, without any valid reason, shall be punished with imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years and a fine of not less than Five hundred thousand pesos (P500,000.00), in addition to the administrative liability he/she may be meted out by his/her immediate superior and/or appropriate body.

The immediate superior of the member of the law enforcement agency or any other government employee mentioned in the preceding paragraph shall be penalized with imprisonment of not less than two (2) months and one (1) day but not more than six (6) years and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office if despite due notice to them and to the witness concerned, the former does not exert reasonable effort to present the latter to the court.

The member of the law enforcement agency or any other government employee mentioned in the preceding paragraphs shall not be transferred or re-assigned to any other government office located in another territorial jurisdiction during the pendency of the case in court. However, the concerned member of the law enforcement agency or government employee may be transferred or

re-assigned for compelling reasons: *Provided*, That his/her immediate superior shall notify the court where the case is pending of the order to transfer or re-assign, within twenty-four (24) hours from its approval; *Provided, further,* That his/her immediate superior shall be penalized with imprisonment of not less than two (2) months and one (1) day but not more than six (6) years and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office, should he/she fail to notify the court of such order to transfer or re-assign.

Prosecution and punishment under this Section shall be without prejudice to any liability for violation of any existing law.

Section 92. *Delay and Bungling in the Prosecution of Drug Cases*. – Any government officer or employee tasked with the prosecution of drug-related cases under this act, who, through patent laxity, inexcusable neglect, unreasonable delay or deliberately causes the unsuccessful prosecution and/or dismissal of the said drug cases, shall suffer the penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years without prejudice to his/her prosecution under the pertinent provisions of the Revised Penal Code.

Section 93. *Reclassification, Addition or Removal of Any Drug from the List of Dangerous Drugs*. – The Board shall have the power to reclassify, add to or remove from the list of dangerous drugs. Proceedings to reclassify, add, or remove a drug or other substance may be initiated by the PDEA, the DOH, or by petition from any interested party, including the manufacturer of a drug, a medical society or association, a pharmacy association, a public interest group concerned with drug abuse, a national or local government agency, or an individual citizen. When a petition is received by the Board, it shall immediately begin its own investigation of the drug. The PDEA also may begin an investigation of a drug at any time based upon the information received from law enforcement laboratories, national and local law enforcement and regulatory agencies, or other sources of information.

The Board after notice and hearing shall consider the following factors with respect to each substance proposed to be reclassified, added or removed from control:

(a) Its actual or relative potential for abuse;

(b) Scientific evidence of its pharmacological effect if known;

(c) The state of current scientific knowledge regarding the drug or other substance;

(d) Its history and current pattern of abuse;

(e) The scope, duration, and significance of abuse;

(f) Risk to public health; and

(g) Whether the substance is an immediate precursor of a substance already controlled under this Act.

The Board shall also take into accord the obligations and commitments to international treaties, conventions and agreements to which the Philippines is a signatory.

The Dangerous Drugs Board shall give notice to the general public of the public hearing of the reclassification, addition to or removal from the list of any drug by publishing such notice in any newspaper of general circulation once a week for two (2) weeks.

The effect of such reclassification, addition or removal shall be as follows:

(a) In case a dangerous drug is reclassified as precursors and essential chemicals, the penalties for the violations of this Act involving the two latter categories of drugs shall, in case of conviction, be imposed in all pending criminal prosecutions;

(b) In case a precursors and essential chemicals is reclassified as dangerous drug, the penalties for violations of the Act involving precursors and essential chemicals shall, in case of conviction, be imposed in all pending criminal prosecutions;

(c) In case of the addition of a new drug to the list of dangerous drugs and precursors and essential chemicals, no criminal liability involving the same under this Act shall arise until after the lapse of fifteen (15) days from the last publication of such notice;

(d) In case of removal of a drug from the list of dangerous drugs and precursors and essential chemicals, all persons convicted and/or detained for the use and/or possession of such a drug shall be automatically released and all pending criminal prosecution involving such a drug under this Act shall forthwith be dismissed; and

(e) The Board shall, within five (5) days from the date of its promulgation submit to Congress a detailed reclassification, addition, or removal of any drug from the list of dangerous drugs.

ARTICLE XII **Implementing Rules and Regulations**

Section 94. *Implementing Rules and Regulations*. – The present Board in consultation with the DOH, DILG, DOJ, DepEd, DSWD, DOLE, PNP, NBI, PAGCOR and the PCSO and all other concerned government agencies shall promulgate within sixty (60) days the Implementing Rules and Regulations that shall be necessary to implement the provisions of this Act.

ARTICLE XIII **Final Provisions**

Section 95. *Congressional Oversight Committee*. – There is hereby created a Congressional Oversight Committee composed of seven (7) Members from the Senate and seven (7) Members from the House of Representatives. The Members from the Senate shall be appointed by the Senate President based on the proportional representation of the parties or coalitions therein with at least two (2) Senators representing the Minority. The Members from the House of Representatives shall be appointed by the Speaker, also based on proportional representation of the parties or coalitions therein with at least two (2) Members representing the Minority.

The Committee shall be headed by the respective Chairpersons of the Senate Committee on Public Order and Illegal Drugs and the House of Representatives Committee on Dangerous Drugs.

Section 96. *Powers and Functions of the Oversight Committee*. – The Oversight Committee on Dangerous Drugs shall, in aid of legislation, perform the following functions, among others:

(a) To set the guidelines and overall framework to monitor and ensure the proper implementation of this Act;

(b) To ensure transparency and require the submission of reports from government agencies concerned on the conduct of programs, projects and policies relating to the implementation of this act;

(c) To approve the budget for the programs of the Oversight Committee on Dangerous Drugs and all disbursements therefrom, including compensation of all personnel;

(d) To submit periodic reports to the President of the Philippines and Congress on the implementation of the provisions of this Act;

(e) To determine inherent weaknesses in the law and recommend the necessary remedial legislation or executive measures; and

(f) To perform such other duties, functions and responsibilities as may be necessary to effectively attain the objectives of this Act.

Section 97. *Adoption of Committee Rules and Regulations, and Funding*. – The Oversight Committee on Dangerous Drugs shall adopt its internal rules of procedure, conduct hearings and receive testimonies, reports, and technical advice, invite or summon by *subpoena ad testificandum* any public official, private citizen, or any other person to testify before it, or require any person by *subpoena duces tecum* documents or other materials as it may require consistent with the provisions of this Act.

The Oversight Committee on Dangerous Drugs shall be assisted by a secretariat to be composed by personnel who may be seconded from the Senate and the House of Representatives and may retain consultants.

To carry out the powers and functions of the Oversight Committee on Dangerous Drugs, the initial sum of Twenty-five million pesos (P25,000,000.00) shall be charged against the current appropriations of the Senate. Thereafter, such amount necessary for its continued operations shall be included in the annual General Appropriations Act.

The Oversight Committee on Dangerous Drugs shall exist for a period of ten (10) years from the effectivity of this Act and may be extended by a joint concurrent resolution.

Section 98. *Limited Applicability of the Revised Penal Code*. – Notwithstanding any law, rule or regulation to the contrary, the provisions of the Revised Penal Code (Act No. 3814), as amended, shall not apply to the provisions of this Act, except in the case of minor offenders. Where the offender is a minor, the penalty for acts punishable by life imprisonment to death provided herein shall be *reclusion perpetua* to death.

Section 99. *Separability Clause*. – If for any reason any section or provision of this Act, or any portion thereof, or the application of such section, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Act shall not be affected by such declaration and shall remain in force and effect.

Section 100. *Repealing Clause*. – Republic Act No. 6425, as amended, is hereby repealed and all other laws, administrative orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act, are hereby repealed or modified accordingly.

Section 101. *Amending Clause*. – Republic Act No. 7659 is hereby amended accordingly.

Section 102. *Effectivity*. – This Act shall take effect fifteen (15) days upon its publication in at least two (2) national newspapers of general circulation.

This Act which is a consolidation of Senate Bill No. 1858 and House Bill No. 4433 was finally passed by the Senate and the House of Representatives on May 30, 2002 and May 29, 2002, respectively.

ANNEX

1988 UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

LIST OF SUBSTANCES IN TABLE I

1. ACETIC ANHYDRIDE
2. N-ACETYLANTHRANILIC ACID
3. EPHEDRINE
4. ERGOMETRINE
5. ERGOTAMINE
6. ISOSAFROLE
7. LYSERGIC ACID
8. 3, 4-METHYLENEDIOXYPHENYL-2 PROPANONE
9. NOREPHEDRINE
10. 1-PHENYL-2-PROPANONE
11. PIPERONAL
12. POTASSIUM PERMANGANATE
13. PSEUDOEPHEDRINE
14. SAFROLE

THE SALTS OF THE SUBSTANCES LISTED IN THIS TABLE WHENEVER THE EXISTENCE OF SUCH SALTS IS POSSIBLE.

LIST OF SUBSTANCES IN TABLE II

1. ACETONE
2. ANTHRANILIC ACID
3. ETHYL ETHER
4. HYDROCHLORIC ACID
5. METHYL ETHYL KETONE
6. PHENYLACETIC ACID
7. PIPERIDINE
8. SULPHURIC ACID
9. TOLUENE

THE SALTS OF THE SUBSTANCES LISTED IN THIS TABLE WHENEVER THE EXISTENCE OF SUCH SALTS IS POSSIBLE (THE SALTS OF HYDROCHLORIC ACID AND SULPHURIC ACID ARE SPECIFICALLY EXCLUDED)

1961 UNITED NATIONS SINGLE CONVENTION ON NARCOTIC DRUGS AS AMENDED BY THE 1972 PROTOCOL

LIST OF DRUGS INCLUDED IN SCHEDULE I

1. Acetorphine
2. Acetyl-*alpha*-methylfentanyl
3. Acetylmethadol
4. Alfentanil
5. Allylprodine
6. Alphacetylmethadol
7. Alphameprodine
8. Alphamethadol
9. *Alpha*-methylfentanyl
10. *Alpha*-methylthiofentanyl
11. Alphaprodine
12. Anileridine
13. Benzethidine
14. Benzylmorphine
15. Betacetylmethadol
16. *Beta*-hydroxyfentanyl
17. *Beta*-hydroxy-3-methylfentanyl
18. Betameprodine
19. Betamethadol
20. Betaprodine
21. Bezitramide
22. Cannabis and Cannabis resin and extracts and tinctures of cannabis
23. Clonitazene
24. Coca leaf
25. Cocaine
26. Codoxime
27. Concentrate of poppy straw
28. Desomorphine
29. Dextromoramide
30. Diampromide
31. Diethylthiambutene
32. Difenoxin
33. Dihydroetorphine
34. Dihydromorphine
35. Dihydromorphine*
36. Dimenoxadol
37. Dimepheptanol
38. Dimethylthiambutene
39. Dioxaphetyl butyrate

40. Diphenoxylate
41. Dipipanone
42. Drotebanol
43. Ecgonine
44. Ethylmethylthiambutene
45. Etonitazene
46. Etorphine
47. Etoxeridine
48. Fentanyl
49. Furethidine
50. Heroin
51. Hydrocodone
52. Hydromorphinol
53. Hydromorphone
54. Hydroxypethidine
55. Isomethadone
56. Ketobemidone
57. Levomethorphan
58. Levomoramide
59. Levophenacylmorphan
60. Levorphanol
61. Metazocine
62. Methadone
63. Methadone Intermediate
64. Methyldesorphine
65. Methyldihydromorphine
66. 3-methylfentanyl
67. 3-methylthiofentanyl
68. Metopon
69. Moramide intermediate
70. Morpheridine
71. Morphine
72. Morphine methobromide
73. Morphine-*N*-oxide
74. MPPP
75. Myrophine
76. Nicomorphine
77. Noracymethadol
78. Norlevorphanol
79. Normethadone
80. Normorphine
81. Norpipanone
82. Opium
83. Oxycodone
84. Oxymorphone
85. *Para*-fluorofentanyl
86. PEPAP
87. Pethidine
88. Pethidine intermediate A
89. Pethidine intermediate B
90. Pethidine intermediate C
91. Phenadoxone
92. Phenampromide
93. Phenazocine
94. Phenomorphan
95. Phenoperidine
96. Piminodine
97. Piritramide
98. Proheptazine
99. Properidine
100. Racemethorphan
101. Racemoramide
102. Racemorphan
103. Remifentanil
104. Sufentanil
105. Thebacon
106. Thebaine
107. Thiofentanyl
108. Tilidine
109. Trimeperidine

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* Dextromethorphan (+)-3-methoxy-N-methylmorphinan and dextrorphan (+)-3-hydroxy-N-methylmorphinan are isomers specifically excluded from this Schedule.

AND the isomers, unless specifically excepted, of the drugs in this Schedule whenever the existence of such isomers is possible within the specific chemical designation;

The esters and ethers, unless appearing in another Schedule, of the drugs in this Schedule whenever the existence of such esters or ethers is possible;

The salts of the drugs listed in this Schedule, including the salts of esters, ethers and isomers as provided above whenever the existence of such salts is possible.

LIST OF DRUGS INCLUDED IN SCHEDULE II

1. Acetyldihydrocodeine
2. Codeine
3. Dextropropoxyphene
4. Dihydrocodeine
5. Ethylmorphine
6. Nicocodine
7. Nicodicodine
8. Norcodeine
9. Pholcodine
10. Propiram

And the isomers, unless specifically excepted, of the drugs in this Schedule whenever the existence of such isomers is possible within the specific chemical designation.

The salts of the drugs listed in this Schedule, including the salts of the isomers as provided above whenever the existence of such salts is possible.

LIST OF DRUGS INCLUDED IN SCHEDULE III

1. Preparations of :	Acetyldihydrocodeine, Codeine, Dihydrocodeine, Ethylmorphine, Nicocodine, Nicodicodine, Norcodeine and Pholcodine When compounded with one or more other ingredients and containing not more than milligrams of the drug per dosage unit and with a concentration of not more than 2.5 per cent in undivided preparations.
2. Preparations of :	Propiram containing not more than 100 milligrams of propiram per dosage unit and compounded with at least the same amount of Methylcellulose.
3. Preparations of :	Dextropropoxyphene for oral use containing not more than 135 milligrams of dextropropoxyphene base per dosage unit or with a concentration of not more than 2.5 per cent in undivided preparations, provided that such preparations do not contain any substance controlled under the Convention on Psychotropic Substances of 1971.

4. Preparations of : Preparations of:	Cocaine containing not more than 0.1 per cent of cocaine calculated as cocaine base; and Opium or morphine containing not more than 0.2 per cent of morphine calculated as anhydrous morphine base and compounded with one or more other ingredients and in such a way that the drug cannot be recovered by readily applicable means or in a yield that would constitute a risk to public health.
5. Preparations of :	Difenoxin containing, per dosage unit, not more than 0.5 milligrams of difenoxin and a quantity of atropine sulfate equivalent to at least 5 per cent of the dose of difenoxin.
6. Preparations of :	Diphenoxylate containing per dosage unit, not more than 2.5 milligrams diphenoxylate calculated as base and a quantity of atropine sulfate equivalent to at least 1 per cent of the dose of diphenoxylate.
7. Preparations of :	*Pulvis ipecacuanhae et opii compositus* 10 per cent opium in powder 10 per cent ipecacuanha root, in powder well mixed with 80 per cent of any other powdered ingredient containing no drug.
8. Preparations conforming to any of the formulas listed in this Schedule and mixtures such preparations with any material which contains no drug.	

LIST OF DRUGS INCLUDED IN SCHEDULE IV

1. Acetorphine
2. Acetyl-*alpha*-methylfentanyl
3. *Alpha*-methylfentanyl
4. *Alpha*-methylthiofentanyl
5. *Beta*-hydroxy-3-methylfentanyl
6. *Beta*-hydroxyfentanyl
7. Cannabis and Cannabis resin
8. Desomorphine
9. Etorphine
10. Heroin
11. Ketobemidone
12. 3-methylfentanyl
13. 3-methylthiofentanyl
14. MPPP
15. *Para*-fluorofentanyl
16. PEPAP
17. Thiofentanyl

AND the salts of the drugs listed in this Schedule whenever the formation of such salts is possible

1971 UNITED NATIONS SINGLE CONVENTION ON PSYCHOTROPIC SUBSTANCES

LIST OF SUBSTANCES IN SCHEDULE I

BROLAMFETAMINE (DOB)	(±)-4-Bromo-2,5-dimethoxy-*a*-methylphenethylamine *Dimethoxybromoamphetamine*
CATHINONE	(-)-(S)-2-Aminopropiophenone
DET	3-[2-(Diethylamino)ethyl)indole)
DMA	(±)-2,5-DIMETHOXY-*a*-methylphenethylamine 2,5 Dimethoxyamphetamine
DMPH	3-(1,2-Dimethylhepty)-7,8,9,-10-tetrahydro-6,6,9-trimethyl-6*H*-dibenzo[*b,d*]pyran-1-ol
DMT	3-[2-(Dimethylamino)ethyl]indole
DOET	(±)-4-Ethyl-2,5-dimethoxy-*a*-phorethylamine 2,5-Dimethoxy-4-ethylamphetamine
ETICYCLIDINE (PCE)	*N*-Ethyl-1-phenylcyclohexylamine
ETRYPAMINE	3-(2-Aminobutyl)indole
(+)-LYSERGIDE (LSD, LSD-25)	9,10-Didehydro-*N,N*-diethyl-6-methylergoline-8b- carboxamide
MDA	(+)-*N*, a-Dimethyl-3,4-(methylene-dioxy) phenethylamine 3,4-Methylenedioxymethamphetamine
MESCALINE	3,4,5-Trimethoxyphenethylamine
METHCATHINONE	2-(Methylamino)-1-phenylpropan-1-one
4-METHYLAMINOREX	(+)-*cis*-2-Amino-4-methyl-5-phenyl-2-oxazoline
MMDA	2-Methoxy-*a*-methyl-4,5-(methylenedioxy)phenethylamine 5-Methoxy-3,4-methylenedioxyamphetamine
N-ETHYL MDA	(+)-N-Ethyl-*a*-methyl-3,4(methylenedioxy)phenethylamine 3-4-Methylenedioxy-N-ethylamphetamine
N-HYDROXY MDA	(+)-N-[*a*-Methyl-3,4-(methylenedioxy)phenethyl]-hydroxylamine
PARAHEXYL	3-Hexyl-7,8,9,10-tetrahydro-6,6,-9-trimethyl-6*H*-dibenzo[*b,d*]pyran-1-ol
PMA	*p*-Methoxy-a-methylphenethylamine Paramethoxyamphetamine
PSILOCINE, PSILOTSIN	3-[2-(Dimethylamino)ethyl]indol-4-ol
PSILOCYBINE	3-[2-(Dimethylamino)ethyl]indol-4-yl dihydrogen phosphate
ROLICYCLIDINE (PHP, PCPY)	1-(1-Phenylcyclohexyl)pyrrolidine
STP, DOM	2,5-Dimethoxy-*a*,4-dimethylphene

	thylamine
TENAMFETAMINE (MDA)	*α*-Methyl-3,4-(methylenedioxy)phenethylamine Methylenedioxyamphetamine
TENOCYCLIDINE (TCP)	1-[1-(2-Thienyl)cyclohexyl]piperridine
TETRAHYDROCANNABINOL	- the following isomers and their stereochemical variants: 7,8,9,10-Tetrahydro-6,6,9-trimethyl-3-pentyl-6*H*-dibenzo[*b,d*]pyran-1-ol (9*R*,10aR)-8,9,10,10a-Tetrahydro-6,6,9-trimethyl-3-pentyl-*6H*-dibenzo[*b,d*]pyran-1-ol (6a*R*,9*R*,10a*R*)-6a,9,10,10a-Tetrahydro-6,6,9-trimethyl-3-pentyl-*6H*-dibenzo[*b,d*]pyran-1-ol
	(6a*R*,10a*R*)-6a,7,10,10a-Tetrahydro-6,6,9-trimethyl-3-pentyl-*6H*-dibenzo[*b,d*]pyran-1-ol (6a,7,8,9-Tetrahydro-6,6,9-trimethyl-3-pentyl-*6H*-dibenzo[*b,d*]pyran-1-ol (6a*R*,10a*R*)-6a,7,8,9,10,10a-Hexahydro-6,6,dimethyl-9-methylene-3-pentyl-*6H*-Dibenzo[*b,d*]pyran-1-ol
TMA	(±)-3,4,5-Trimethoxy-*α* –methylphenethylamine 3,4,5-Trimethoxyamphetamine 4-MIA-(*α*-methyl-4-methylthiophenethylamine)

The stereoisomers, unless specifically excepted, of substances in this Schedule, whenever the existence of such stereou\isomers is possible within the specific chemical designation.

LIST OF SUBSTANCES IN SCHEDULE II

1. AMFETAMINE (AMPHETAMINE)
2. DEXAMFETAMINE (DEXAMPHETAMINE)
3. FENETYLLINE
4. LEVAMFETAMINE (LEVAMPHETAMINE)
5. LEVOMETHAMPHETAMINE
6. MECLOQUALONE
7. METAMFETAMINE (METHAMPHETAMINE)
8. METHAMPHETAMINE RACEMATE
9. METHAQUALONE
10. METHYLPHENIDATE
11. PHENCYCLIDINE (PCP)
12. PHENMETRAZINE
13. SECOBARBITAL
14. DRONABINOL (*delta*-9-tetrahydro-cannabinol and its stereochemical variants)
15. ZIPEPROL
16. 2C-B(4-bromo-2,5-dimethoxyphenethylamine)

LIST OF SUBSTANCES IN SCHEDULE III

1. AMOBARBITAL
2. BUPRENORPHINE
3. BUTALBITAL
4. CATHINE (+)-norpseudo-ephedrine
5. CYCLOBARBITAL
6. FLUNITRAZEPAM
7. GLUTETHIMIDE
8. PENTAZOCINE
9. PENTOBARBITAL

Substances in Schedule IV

1. **ALLOBARBITAL**
2. **ALPRAZOLAM**
3. **AMFEPRAMONE 4. AMINOREX**
5. **BARBITAL**
6. **BENZFETAMINE(benzphetamine)**
7. **BROMAZEPAM**
8. **Butobarbital**
9. **BROTIZOLAM**
10. **CAMAZEPAM**
11. **CHLORDIAZEPOXIDE**
12. **CLOBAZAM**
13. **CLONAZEPAM**
14. **CLORAZEPATE**
15. **CLOTIAZEPAM**
16. **CLOXAZOLAM**
17. **DELORAZEPAM**
18. **DIAZEPAM**
19. **ESTAZOLAM**
20. **ETHCHLORVYNOL**
21. **ETHINAMATE**
22. **ETHYL LOFLAZEPATE**
23. **ETILAMFETAMINE (N-ethylampetamine)**
24. **FENCAMFAMIN**
25. **FENPROPOREX**
26. **FLUDIAZEPAM**
27. **FLURAZEPAM**
28. **HALAZEPAM**
29. **HALOXAZOLAM**
30. **KETAZOLAM**
31. **LEFETAMINE(SPA)**
32. **LOPRAZOLAM**
33. **LORAZEPAM**
34. **LORMETAZEPAM**
35. **MAZINDOL**
36. **MEDAZEPAM**
37. **MEFENOREX**
38. **MEPROBAMATE**
39. **MESOCARB**
40. **METHYLPHENOBARBITAL**
41. **METHYPRYLON**
42. **MIDAZOLAM**
43. **NIMETAZEPAM**
44. **NITRAZEPAM**
45. **NORDAZEPAM**
46. **OXAZEPAM**
47. **OXAZOLAM**
48. **PEMOLINE**
49. **PHENDIMETRAZINE**
50. **PHENOBARBITAL**
51. **PHENTERMINE**
52. **PINAZEPAM**
53. **PIPRADROL**
54. **PRAZEPAM**
55. **PYROVALERONE**
56. **SECBUTABARBITAL**
57. **TEMAZEPAM**
58. **TETRAZEPAM**
59. **TRIAZOLAM**
60. **VINYLBITAL GHB (Gamma-Hydroxyburic acid)**
61. **Zolpidem**

SPL | *Related to Crimes Against Public Morals*

Book TWO Title SIX

PD No 449 | Cockfighting Law of 1974

PRESIDENTIAL DECREE No. 449 May 9, 1974

COCKFIGHTING LAW OF 1974

WHEREAS, cockfighting has been and still is a popular, traditional and customary form of recreation and

entertainment among Filipinos during legal holidays, local fiestas, agricultural, commercial and industrial fairs, carnivals or expositions;

WHEREAS, by reason of the aforestated meaning and connotation of cockfighting in relation to filipino customs and traditions, it should neither be exploited as an object of commercialism or business enterprise, nor made a tool of uncontrolled gambling, but more as a vehicle for the preservation and perpetuation of native Filipino heritage and thereby enhance our national identity.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order to be part of the laws of the land, the following:

Sec 1. Title. This Decree shall be known as the "Cockfighting Law of 1974".

Section 2. Scope. This law shall govern the establishment, operation, maintenance and ownership of cockpits.

Section 3. Declaration of Policy. It is hereby declared a policy of the government to insure within the framework of the New Society maximum development and promotion of wholesome recreation and amusement to bring about the following goals:

(a) To effectively control and regulate cockfighting towards its establishment as a national recreation, relaxation and source of entertainment;

(b) To provide additional revenue for our tourism program; and

(c) To remove and prevent excessive and unreasonable business operation and profit considerations in the management of cockpits and, instead preserve Philippine customs and traditions and thereby enhance our national identity.

Section 4. Definition of Terms. As used in this law, the following terms shall be understood, applied and construed as follows:

(a) Cockfighting shall embrace and mean the commonly known game or term "cockfighting derby, pintakasi or tupada", or its equivalent terms in different Philippine localities.

(b) Zoning Law or Ordinance Either both national or local city or municipal legislation which logically arranges, prescribes, defines and apportions a given political subdivision into specific land uses as present and future projection of needs warrant.

(c) Bet Taker of Promoter A person who calls and takes care of bets from owners of both gamecocks and those of other bettors before he orders commencement of the cockfight and thereafter distributes won bets to the winners after deducting a certain commission.

(d) Gaffer (Taga Tari) A person knowledgeable in the art of arming fighting cocks with gaff or gaffs on either or both legs.

(e) Referee (Sentenciador) A person who watches and oversees the proper gaffing of fighting cocks, determines the physical condition of fighting cocks while cockfighting is in progress, the injuries sustained by the cocks and their capability to continue fighting and decides and make known his decision by work or gestures and result of the cockfight by announcing the winner or declaring a tie or no contest game.

(f) Bettor A person who participates in cockfights and with the use of money or other things of value, bets with other bettors or through the bet taker or promoter and wins or loses his bet depending upon the result of the cockfight as announced by the Referee or Sentenciador. He may be the owner of fighting cock.

Section 5. Cockpits and Cockfighting: In General:

(a) Ownership, Operation and Management of Cockpits. Only Filipino citizens not otherwise inhibited by existing laws shall be allowed to own, manage and operate cockpits. Cooperative capitalization is encouraged.

(b) Establishment of Cockpits. Only one cockpit shall be allowed in each city or municipality, except that in cities or municipalities with a population of over one hundred thousand, two cockpits may be established, maintained and operated.

(c) Cockpits Site and Construction. Cockpits shall be constructed and operated within the appropriate areas as prescribed in Zoning Law or Ordinance. In the absence of such law or ordinance, the local executives shall see to it that no cockpits are constructed within or near existing residential or commercial areas, hospitals, school buildings, churches or other public buildings. Owners, lessees, or operators of cockpits which are now in existence and do not conform to this requirement are given three years from the date of effectivity of this Decree to comply herewith. Approval or issuance of building permits for the construction of cockpits shall be made by the city or provincial engineer in accordance with their respective building codes, ordinances or engineering laws and practices.

(d) Holding of Cockfights. Except as provided in this Decree, cockfighting shall be allowed only in licensed cockpits during Sundays and legal holidays and during local fiestas for not more than three days. It may also be held during provincial, city or municipal, agricultural, commercial or industrial fair, carnival or exposition for a similar period of three days upon resolution of the province, city or municipality where such fair, carnival or exposition is to be held, subject to the approval of the Chief of Constabulary or his authorized representative: Provided, that, no cockfighting on the occasion of such fair, carnival or exposition shall be allowed within the month of a local fiesta or for more than two occasions a year in the same city or municipality: Provided, further, that no cockfighting shall be held on December 30 (Rizal Day), June 12 (Philippine Independence Day) November 30 (National Heroes Day), Holy Thursday, Good Friday, Election or Referendum Day and during Registration Days for such election or referendum.

(e) Cockfighting for Entertainment of Tourists or for Charitable Purposes. Subject to the preceding subsection hereof, the Chief Constabulary or his authorized representative may also allow the holding of cockfighting for the entertainment of foreign dignitaries or for tourists, or for returning Filipinos, commonly known as "Balikbayan", or for the support of national fund-raising campaigns for charitable purposes as may be authorized by the Office of the President, upon resolution of a provincial board, city or municipal council, in licensed cockpits or in playgrounds or parks: Provided, that this privilege shall be extended for only one time, for a period not exceeding three days, within a year to a province, city, or municipality.

(f) Other games during cockfights prescribed. No gambling of any kind shall be permitted on the premises of the cockpit or place of cockfighting during cockfights. The owner, manager or lessee off such cockpit and the violators of this injunction shall be criminally liable under Section 8 hereof.

Section 6. Licensing of Cockpits. City and municipal mayors are authorized to issue licenses for the operation and maintenance of cockpits subject to the approval of the Chief of Constabulary or his authorized representatives. For this purpose, ordinances may be promulgated for the imposition and collection of taxes and fees not exceeding the rates fixed under Section 13, paragraphs (a) and (b); and 19; paragraph (g) 16 of Presidential Decree No. 231, dated June 28, 1973, otherwise known as the Local Tax Code, as amended.

Section 7. Cockfighting Officials. Gaffers, referees or bet takers or promoters shall not act as such in any cockfight herein authorized, without first securing a license renewable every year on their birthmonth from the city or municipality where such cockfighting is held. Cities and municipalities may charge a tax of not more than twenty pesos. Only licensed gaffers, referees, bet takers or

promoters shall officiate in all kinds of cockfighting authorized in this Decree.

Section 8. Penal Provisions. Any violation of the provisions of this Decree and of the rules and regulations promulgated by the Chief of Constabulary pursuant thereto shall be punished as follows:

a. By prision correccional in its maximum period and a fine of two thousand pesos, with subsidiary imprisonment in case of insolvency, when the offender is the financer, owner, manager or operator of cockpit, or the gaffer, referee or bet taker in cockfights; or the offender is guilty of allowing, promoting or participating in any other kind of gambling in the premises of cockfights during cockfights.

b. By prision correccional or a fine of not less than six hundred pesos nor more than two thousand pesos or both, such imprisonment and fine at the discretion of the court, with subsidiary imprisonment in case of insolvency, in case of any other offender.

Section 9. Repealing Clause. The provisions of Section 2285 and 2286 of the Revised Penal Code, Republic Act No. 946, all laws, decrees, rules and regulations, or orders which are inconsistent with this Decree are hereby repealed or modified accordingly.

Section 10. Date of Effectivity. This Decree shall take effect after fifteen (15) days following the completion of the publication in the Official Gazette.

Done in the City of Manila, this 9th day of May, in the year of Our Lord, nineteen hundred and seventy-four.

PD No 483 | **Penalizing Betting, Game-fixing Or Point Shaving And Machinations In Sports Contests**

PRESIDENTIAL DECREE No. 483 June 13, 1974

PENALIZING BETTING, GAME-FIXING OR POINT SHAVING AND MACHINATIONS IN SPORTS CONTESTS

WHEREAS, the evil that is gambling has again shown its ugly head in the recently-discovered game-fixing or point- shaving scandals during sports contests;

WHEREAS, one of the objectives of the New Society is the development and promotion of desirable moral and cultural values;

WHEREAS, there is urgent need to protect one youth and sports programs and the morality of our society, especially the youth, from the eroding influence of unscrupulous persons who, through fraudulent schemes of game-fixing or point-shaving and other machinations, have made basketball and other sports contests, games and races their media of subverting the aims and goals of true Philippine sportsmanship;

NOW, THEREFORE, I, FERDINAND E. MARCOS, by virtue of the powers vested in me by the Constitution, and pursuant to Proclamations No. 1081, dated September 21, 1972 and No. 1104, dated January 17, 1973; and General Order No. 1, dated September 22, 1972, do hereby order and decree that the following shall be part of the law of the land:

Section 1. *Definitions.* For purposes of this Decree, the following terms shall mean and be understood to be as hereunder indicated:

a. Betting money or any object or article of value or representative of value upon the result of any game, races and other sports contest.

b. Game-fixing any arrangement, combination, scheme or agreement by which the result of any game, races or sports contests shall be predicted and/or known other than on the basis of the honest playing skill or ability of the players or participants.

c. Point-shaving any such arrangement, combination, scheme or agreement by which the skill or ability of any player or participant in a game, races or sports contests to make points or scores shall be limited deliberately in order to influence the result thereof in favor of one or other team, player or participant therein.

d. Game-machinations any other fraudulent, deceitful, unfair or dishonest means, method, manner or practice employed for the purpose of influencing the result of any game, races or sport contest.

Section 2. *Betting, game-fixing, point-shaving or game machination unlawful.* Game-fixing, point-shaving, machination, as defined in the preceding section, in connection with the games of basketball, volleyball, softball, baseball; chess, boxing bouts, "jai-alai", "sipa", "pelota" and all other sports contests, games or races; as well as betting therein except as may be authorized by law, is hereby declared unlawful.

Section 3. *Penalty.* Any violation of this Decree, or of the rules and regulations promulgated in accordance herewith, shall be punished in the manner following:

a. When the offender is an official, such as promoter, referee, umpire, judge, or coach in the game, race or sports contests, or the manager or sponsor of any participating team, individual or player therein, or participants or players in such games, races or other sports contests, he shall, upon conviction, be punished by prision correccional in its maximum period and a fine of 2,000 pesos with subsidiary imprisonment in case of insolvency, at the discretion of the court. This penalty shall also be imposed when the offenders compose a syndicate of five or more persons.

b. In case of any offender, he shall, upon conviction, be punished by prision correccional in its medium period and a fine of 1,000 pesos with subsidiary imprisonment in case of insolvency at the discretion of the court.

c. When the offender is an official or employee of any government office or agency concerned with the enforcement or administration of laws and regulations on sports the penalty provided for in the preceding Section 3 a small be imposed. In addition, he shall be disqualified from holding any public office or employment for life. If he is an alien, he may be deported.

Section 4. *Clearance for arrest, detention or prosecution.* No person who voluntarily discloses or denounces to the President of the Philippine Amateur Athletic Federation or to the National Sports Associations concerned and/or to any law enforcement/police authority any of the acts penalized by this Decree shall be arrested, detained and/or prosecuted except upon prior written clearance from the President of the Philippines and/or of the Secretary of National Defense.

Section 5. *Repealing Clause.* Article 197 of Act No. 3815, otherwise known as the Revised Penal Code, as amended, all provisions of decrees, general orders, letters of instructions, laws, executive orders and rules and regulations which are inconsistent with this Decree are hereby repealed.

Section 6. *Effectivity.* This Decree shall take effect immediately upon publication thereof by the Secretary of the Department of Public Information at least once in a newspaper of general circulation.

Done in the City of Manila, this 13th day of June, in the year of Our Lord, nineteen hundred and seventy-four.

PD No 519 | **Outlawing Pinball and Slot Machines**

PRESIDENTIAL DECREE No. 519 July 23, 1974

OUTLAWING PINBALL AND SLOT MACHINES AND OTHER SIMILAR DEVICES AND NULLIFYING ALL

EXISTING PERMITS AND/OR LICENSES TO OPERATE THE SAME

WHEREAS, there has been widespread use of pinball machines in amusement places all over the country;

WHEREAS, the proliferation of these gambling devices adversely effects the moral regeneration program of the Government under the New Society, especially the youth;

WHEREAS, it has come to my attention that there has been indiscriminate issuance of permits and/or licenses to operate pinball and slot machines and other similar devices to the detriment of the public interest.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution do hereby decree and order:

Section 1. Any provision of existing law to the contrary notwithstanding, the operation, possession, use and importation of pinball and slot machines and other similar devices or paraphernalia used for their operation is hereby declared unlawful and any person guilty of the violation of this Decree shall suffer a fine of not less than five thousand pesos or an imprisonment ranging from prision correccional to prision mayor or both such fine and imprisonment at the discretion of the Court or military tribunal: Provided, That if the offender is a corporation firm, partnership, or association, the penalty shall be imposed upon the guilty officer or officers, as the case may be, and if such guilty officer or officers are aliens, in addition to the penalty prescribed, he or they shall be deported without further proceedings on the part of the Commission on Immigration and Deportation.

Section 2. All existing licenses and/or permits for the operation or use of pinball machines are hereby nullified and all operators or possessors of pinball machines are hereby given a period of fifteen days within which to dismantle or destroy such pinball or slot machines in their possessions or surrender them to the Philippine Constabulary.

Section 3. This Decree shall take effect immediately.

DONE in the City of Manila, this 23rd day of July, in the year of Our Lord, nineteen hundred and seventy-four.

PD No 1563 | **Mendicancy Law of 1978**

PRESIDENTIAL DECREE No. 1563

ESTABLISHING AN INTEGRATED SYSTEM FOR THE CONTROL AND ERADICATION OF MENDICANCY, PROVIDING PENALTIES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

WHEREAS, the promotion of social justice and protection of life, property and dignity of the citizenry in endangered by rampant mendicancy;

WHEREAS, mendicancy breeds crime, creates traffic hazards, endangers health, and exposes mendicants to indignities and degradation; and

WHEREAS, there is an immediate need to provide appropriate services to enable mendicants to meet their basic needs and develop self-reliance;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree:

Section 1. *Title And Scope Of The Decree.* This Decree shall be known as the Mendicancy Law of 1978. It shall apply to all mendicants, and exploited infants or children who are 8 years old and below, minors found begging and covered by Presidential Decree No. 603 and parents of exploited infants and children criminally liable under Article 59 and 60 of Presidential Decree No. 603.

Section 2. *Purpose.* This Decree shall be interpreted so as to, among others:

a. Prevent the commission of mendicancy;

b. Prevent the exploitation of infants and children through mendicancy and provide habilitative services for those already exploited or in immediate danger of exploitation; and

c. Promote the rehabilitation of minors found begging and mendicants by providing an integrated developmental package of preventive, habilitative interceptive, remedial, and/or rehabilitative services.

Section 3. *Definition Of Terms.* As used in this Decree, the following shall, unless the context otherwise requires, be construed thus:

a. "Mendicant" refers to any person, except those enumerated in Section 4 of this Decree, who has no visible and legal means of support, or lawful employment and who is physically able to work but neglects to apply himself to some lawful calling and instead uses begging as a means of living.

b. "Exploited Infant" or "Child" refers to an infant or child 8 years and below who is used in begging or one who accompanies a habitual vagrant or beggar.

c "Habitual Mendicant" refers to one who has been convicted of mendicancy under this Decree two or more times.

d. "Duly Licensed Child Placement Agency" or "Individual" is an institution or person licensed by the Department of Social Services and Development to assume the care, custody, protection and maintenance of children for placement in any child-caring institution or home under the care and custody of any person for purposes of adoption, guardianship or foster care.

e. Integrated Developmental Package of Services include the following:

1. Preventive services to measures that forestall the occurrence of situations identified as contributory to mendicancy;

2. Habilitative services refer to measures which provide environmental or socio-economic conditions for the exploited infant or child which maximize possibilities and opportunities for the enjoyment of satisfactory quality of life before the formation of undesirable attitudes and values or the onset of conditions most conducive to mendicancy;

3. Interceptive services are measures which channel or direct the growth potential and productive energy of the mendicant infant, child, youth or adult to offset the effect of factors contributing to mendicancy;

4. Remedial services refer to measures intended to meet the basic needs and improve living condition of the mendicant; and

5. Rehabilitative services refer to medical, social, educational, psychological and vocational measures to develop and/or restore the mendicant to the fullest state of well-being or economic usefulness of which he is capable, and to engage in a gainful occupation.

Section 4. *Apprehension Of And Services For Persons Found Begging.* Any infants or child 8 years old and below who is found begging or is being utilized by a mendicant for purposes of begging shall be apprehended as a neglected child under Article 141 of PD 603 and shall be committed to the custody and care of the Department of Social Services and Development or to any duly licensed child placement agency or individual.

Any minor over 9 years of age under 15 found begging or is being utilized for purposes of begging and who acted without discernment shall be apprehended as a neglected child under Article 141 of Presidential Decree No. 603 and shall be committed to the custody and care of the Department of Social Services and Development or to any duly licensed placement agency or individual.

Any minor over 9 years of age and under 15 who is found begging or is being utilized for the purpose of begging and who acted with discernment shall be proceeded

against in accordance with the provisions of Chapter 3, Title VIII of Presidential Decree No. 603.

Any person not otherwise covered in the preceding paragraph of this Section who is found begging and who is physically or mentally incapable of gainful occupation shall be provided the integrated package of services by the Department of Social Services and Development, the Welfare units of local governments and other cooperating agencies.

Section 5. *Criminal Liability.* A mendicant as defined in Paragraph (a) Section 3 hereof, shall, upon conviction, be punished by a fine not exceeding P500.00 or by imprisonment for a period not exceeding 2 years or both at the discretion of the court.

A habitual mendicant shall be punished by a fine not exceeding P1,000.00 or by imprisonment for a period not exceeding 4 years or both at the discretion of the court.

Parents of exploited infants or minors under Section 4 of this Decree shall be proceeded against in accordance with Articles 59 and 60 of Presidential Decree No. 603, unless they are themselves mendicants.

Any person who abets mendicancy by giving alms directly to mendicants, exploited infants and minors on public roads, sidewalks, parks and bridges shall be punished by a fine not exceeding P20.00.

Section 6. *Information Program.* The Department of Public Information shall conduct a nationwide educational and information program on the Mendicancy Law and educate the public to contribute only to lawful fund raising projects and prevent the community in giving alms except through organized agencies, subject to such rules and regulations as the Secretary of the Department of Public Information may promulgate.

Section 7. *Local Programs And Facilities.* Local governments shall provide socio-economic programs and establish operating units including reception and action centers, sheltered workshops, constitute homes and other facilities for mendicants, subject to such rules and regulations as the Secretary of the Department of Local Government and Community Development may promulgate.

Section 8. *Health Needs.* The Department of Health shall provide the necessary measures in meeting the health needs of mendicants, subject to such rules and regulations as the Secretary of the Department of Health may promulgate.

Section 9. *Law Enforcement.* The Department of National Defense shall provide the necessary law enforcement and other related services for the implementation of this Decree, subject to such rules and regulations as the Secretary of the Department of National Defense may promulgate.

Section 10. *Integrated Network Of Services.* The Department of Social Services and Development shall provide an integrated network of appropriate services to exploited infants and children 8 years old and below as well as mendicant minors and adult mendicants and shall coordinate the services related to the implementation of this Decree, subject to such rules and regulations as the Secretary of the Department of Social Services and Development may promulgate.

Section 11. *Appropriations.* The sum of two million pesos (P2,000,000) is hereby authorized to be appropriated out of any funds in the National Treasury that are not otherwise appropriated, in order to support the activities under this Decree.

Section 12. *Repealing Clause.* All laws, decrees, orders, rules and regulations which are inconsistent with this Decree are hereby repealed or modified accordingly.

Section 13. *Separability Of Provisions.* If for any reason any section of provision of this Decree is declared unconstitutional or invalid, the other sections or provisions thereof which are not affected thereby shall continue in full force and effect.

Section 14. *Effectivity.* This Decree shall take effect immediately.

Done in the City of Manila, this 11th day of June, in the year of Our Lord, nineteen hundred and seventy-eight.

PD No 1602 | **Stiffer Penalties on Illegal Gambling**

PRESIDENTIAL DECREE No. 1602

PRESCRIBING STIFFER PENALTIES ON ILLEGAL GAMBLING

WHEREAS, Philippine Gambling Laws such as Articles 195-199 of the Revised Penal Code (Forms of Gambling and Betting), R.A. 3063 (Horse racing Bookies), P.D. 449 (Cockfighting), P.D. 483 (Game Fixing), P.D. 510 (Slot Machines) in relation to Opinion Nos. 33 and 97 of the Ministry of Justice, P.D. 1306 (Jai-Alai Bookies) and other City and Municipal Ordinances or gambling all over the country prescribe penalties which are inadequate to discourage or stamp out this pernicious activities;

WHEREAS, there is now a need to increase their penalties to make them more effective in combating this social menace which dissipate the energy and resources of our people;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree:

Section 1. *Penalties.* The following penalties are hereby imposed:

(a) The penalty of *prision correccional* in its medium period of a fine ranging from one thousand to six thousand pesos, and in case of recidivism, the penalty of prision mayor in its medium period or a fine ranging from five thousand to ten thousand pesos shall be imposed upon:

1. Any person other than those referred to in the succeeding sub-sections who in any manner, shall directly or indirectly take part in any illegal or unauthorized activities or games of cockfighting, jueteng, jai alai or horse racing to include bookie operations and game fixing, numbers, bingo and other forms of lotteries; cara y cruz, pompiang and the like; 7-11 and any game using dice; black jack, lucky nine, poker and its derivatives, monte, baccarat, cuajao, pangguingue and other card games; paik que, high and low, mahjong, domino and other games using plastic tiles and the likes; slot machines, roulette, pinball and other mechanical contraptions and devices; dog racing, boat racing, car racing and other forms of races, basketball, boxing, volleyball, bowling, pingpong and other forms of individual or team contests to include game fixing, point shaving and other machinations; banking or percentage game, or any other game scheme, whether upon chance or skill, wherein wagers consisting of money, articles of value or representative of value are at stake or made;

2. Any person who shall knowingly permit any form of gambling referred to in the preceding subparagraph to be carried on in inhabited or uninhabited place or in any building, vessel or other means of transportation owned or controlled by him. If the place where gambling is carried on has a reputation of a gambling place or that prohibited gambling is frequently carried on therein, or the place is a public or government building or barangay hall, the malefactor shall be punished by prision correccional in its maximum period and a fine of six thousand pesos.

(b) The penalty of prision correccional in its maximum period or a fine of six thousand pesos shall be imposed upon the maintainer or conductor of the above gambling schemes.

(c) The penalty of prision mayor in its medium period with temporary absolute disqualification or a fine of six

thousand pesos shall be imposed if the maintainer, conductor or banker of said gambling schemes is a government official, or where such government official is the player, promoter, referee, umpire, judge or coach in case of game fixing, point shaving and machination.

(d) The penalty of prision correccional in its medium period or a fine ranging from four hundred to two thousand pesos shall be imposed upon any person who shall, knowingly and without lawful purpose in any hour of any day, possess any lottery list, paper or other matter containing letters, figures, signs or symbols pertaining to or in any manner used in the games of jueteng, jai-alai or horse racing bookies, and similar games of lotteries and numbers which have taken place or about to take place.

(e) The penalty of temporary absolute disqualifications shall be imposed upon any barangay official who, with knowledge of the existence of a gambling house or place in his jurisdiction fails to abate the same or take action in connection therewith.

(f) The penalty of prision correccional in its maximum period or a fine ranging from five hundred pesos to two thousand pesos shall be imposed upon any security officer, security guard, watchman, private or house detective of hotels, villages, buildings, enclosures and the like which have the reputation of a gambling place or where gambling activities are being held.

Section 2. *Informer's reward.* Any person who shall disclose information that will lead to the arrest and final conviction of the malfactor shall be rewarded twenty percent of the cash money or articles of value confiscated or forfeited in favor of the government.

Section 3. *Repealing Clause.* Provisions of Art. 195-199 of the Revised Penal Code, as amended, Republic Act No. 3063, Presidential Decrees Numbered 483, 449, 510 and 1306, letters of instructions, laws, executive orders, rules and regulations, city and municipal ordinances which are inconsistent with this Decree are hereby repealed.

Section 4. *Effectivity.* This Decree shall take effect immediately upon publication at least once in a newspaper of general circulation.

Done in the City of Manila, this 11th day of June, in the year of Our Lord, nineteen hundred and seventy-eight.

RA No 9287 | **Increasing the Penalties for Illegal Numbers Games**

Republic Act No. 9287 **April 2, 2004**

AN ACT INCREASING THE PENALTIES FOR ILLEGAL NUMBERS GAMES, AMENDING CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO. 1602, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Declaration of Policy.* - It is the policy of the State to promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all. It is likewise the policy of the State that the promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.

Hence, the State hereby condemns the existence of illegal gambling activities such as illegal numbers games as this has become an influential factor in an individual's disregard for the value of dignified work, perseverance and thrift since instant monetary gains from it are being equated to success, thereby becoming a widespread social menace and a source of corruption.

Towards this end, the State shall therefore adopt more stringent measures to stop and eradicate the existence of illegal numbers games in any part of the country.

Sec. 2. *Definition of Terms.* - As used in this Act, the following terms shall mean:

a) *Illegal Numbers Game*. - Any form illegal gambling activity which uses numbers or combinations thereof as factors in giving out jackpots.

b) *Jueteng*. - An illegal numbers game that involves the combination of thirty-seven (37) numbers against thirty-seven (37) numbers from number one (1) to thirty seven (37) or the combination of thirty-eight (38) numbers in some areas, serving as a form of local lottery where bets are placed and accepted per combination, and its variants.

c) *Masiao*. - An illegal numbers game where the winning combination is derived from the results of the last game of Jai Alai or the Special Llave portion or any result thereof based on any fictitious Jai Alai game consisting of ten (10) players pitted against one another, and its variants.

d) *Last Two*. - An illegal numbers game where the winning combination is derived from the last two (2) numbers of the first prize of the winning Sweepstakes ticket which comes out during the weekly draw of the Philippine Charity Sweepstakes Office (PCSO), and its variants.

e) *Bettor ("Mananaya", "Tayador" or variants thereof)*. - Any person who places bets for himself/herself or in behalf of another person, or any person, other than the personnel or staff of any illegal numbers game operation.

f) *Personnel or Staff of Illegal Numbers Game Operation*. - Any person, who acts in the interest of the maintainer, manager or operator, such as, but not limited to, an accountant, cashier, checker, guard, runner, table manager, usher, watcher, or any other personnel performing such similar functions in a building structure, vessel, vehicle, or any other place where an illegal numbers game is operated or conducted.

g) *Collector or Agent ("Cabo", "Cobrador", "Coriador" or variants thereof)*. - Any person who collects, solicits or produces bets in behalf of his/her principal for any illegal numbers game who is usually in possession of gambling paraphernalia.

h) *Coordinator, Controller or Supervisor ("Encargado" or variants thereof)*. - Any person who exercises control and supervision over the collector or agent.

i) *Maintainer, Manager or Operator*. - Any person who maintains, manages or operates any illegal number game in a specific area from whom the coordinator, controller or supervisor, and collector or agent take orders.

j) *Financiers or Capitalist*. - Any person who finances the operations of any illegal numbers game.

k) *Protector or Coddler*. - Any person who lends or provides protection, or receives benefits in any manner in the operation of any illegal numbers game.

Sec. 3. *Punishable Acts.* - Any person who participates in any illegal numbers game shall suffer the following penalties:

a) The penalty of imprisonment from thirty (30) days to ninety (90) days, if such person acts as a bettor;

b) The penalty of imprisonment from six (6) years and one (1) day to eight (8) years, if such person acts as a personnel or staff of an illegal numbers game operation;

The same penalty shall likewise be imposed to any person who allows his vehicle, house, building or land to be used in the operation of the illegal numbers games.

c) The penalty of imprisonment from eight (8) years and one (1) day to ten (10) years, if such person acts as a collector or agent;

d) The penalty of imprisonment from ten (10) years and one (1) day to twelve (12) years, if such person acts as a coordinator, controller or supervisor;

e) The penalty of imprisonment from twelve (12) years and one (1) day to ten (10) fourteen (14) years, if such person acts as a maintainer, manager or operator; and

f) The penalty of imprisonment from fourteen (14) years and one (1) day to sixteen (16) years, if such person acts as a financier or capitalist;

g) The penalty of imprisonment from sixteen (16) years and one (1) day to twenty (20) years, if such person acts as protector or coddler.

Sec. 4. *Possession of Gambling Paraphernalia or Materials*. - The possession of any gambling paraphernalia and other materials used in the illegal numbers game operation shall be deemed prima facie evidence of any offense covered by this Act.

Sec. 5. *Liability of Government Employees and/or Public Officials*. - a) If the collector, agent, coordinator, controller, supervisor, maintainer, manager, operator, financier or capitalist of any illegal numbers game is a government employee and/or public official, whether elected or appointed shall suffer the penalty of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three million pesos (P3,000,000.00) to Five million pesos (P5,000,000.00) and perpetual absolute disqualification from public office.

In addition to the penalty provided in the immediately preceding section, the accessory penalty of perpetual disqualification from public office shall be imposed upon any local government official who, having knowledge of the existence of the operation of any illegal numbers game in his/her jurisdiction, fails to abate or to take action, or tolerates the same in connection therewith.

b) In the case of failure to apprehend perpetrators of any illegal numbers game, any law enforcer shall suffer an administrative penalty of suspension or dismissal, as the case may be, to be imposed by the appropriate authority.

Sec. 6. *Liability of Parents/Guardians*. - The penalty of imprisonment from six (6) months and one (1) day to one (1) year or fine ranging from One hundred thousand pesos (P100,000.00) to Four hundred thousand pesos (P400,000.00) shall be imposed upon any parent, guardian or person exercising moral authority or ascendancy over a minor, ward or incapacitated person, and not otherwise falling under any of the foregoing subsections, who induces or causes such minor, ward or incapacitated person to commit any of the offenses punishable in this Act. Upon conviction, the parent, guardian or person exercising moral authority or ascendancy over the minor, ward or incapacitated person shall be deprived of his/her authority over such person in addition to the penalty imposed.

Sec. 7. *Recidivism*. - The penalty next higher in degree as provided for under Section 3 hereof shall be imposed upon a recidivist who commits any of the offenses punishable in this Act.

Sec. 8. *Immunity from Prosecution*. - Any person who serves as a witness for the government or provides evidence in a criminal case involving any violation of this Act, or who voluntarily or by virtue of a subpoena testificandum or duces tecum, produces, identifies, or gives testimony shall be immune from any criminal prosecution, subject to the compliance with the provisions of Presidential Decree No. 1732, otherwise known as Decree Providing Immunity from Criminal Prosecution to Government Witnesses and the pertinent provisions of the Rules of Court.

Sec. 9. *Prosecution, Judgment and Forfeiture of Property*. - Any person may be charged with or convicted of the offenses covered by this Act without prejudice to the prosecution of any act or acts penalized under the Revised Penal Code or existing laws.

During the pendency of the case, no property or income used or derived therefrom which may be confiscated and forfeited shall be disposed, alienated or transferred and the same shall be in *custodia legis* and no bond shall be admitted for the release of the same.

The trial prosecutors shall avail of provisional remedies provided for under the Revised Rules on Criminal Procedure.

Upon conviction, all proceeds, gambling paraphernalia and other instruments of the crime including any real or personal property used in any illegal numbers game operation shall be confiscated and forfeited in favor of the State. All assets and properties of the accused either owned or held by him/her in his/her name or in the name of another person found to be manifestly out of proportion to his/her lawful income shall be *prima facie* presumed to be proceeds of the offense and shall likewise be confiscated and forfeited in favor of the State.

Sec. 10. *Witness Protection*. - Any person who provides material information, whether testimonial or documentary, necessary for the investigation or prosecution of individuals committing any of the offenses under Sections 3, 4, 5 and 6 herein shall be placed under the Witness Protection Program pursuant to Republic Act. No. 6981.

Sec. 11. *Informer's Reward*. - Any person who, having knowledge or information of any offense committed under this Act and who shall disclose the same which may lead to the arrest and final conviction of the offender, may be rewarded a certain percentage of the cash money or articles of value confiscated or forfeited in favor of the government, which shall be determined through a policy guideline promulgated by the Department of Justice (DOJ) in coordination with the Department of Interior and Local Government (DILG) and the National Police Commission (NAPOLCOM).

The DILG, the NAPOLCOM and the DOJ shall provide for a system of rewards and incentives for law enforcement officers and for local government official for the effective implementation of this Act.

Sec. 12. *Implementing Rules and Regulations*. - Within sixty (60) days from the effectivity of this Act, the DILG, DOJ, NAPOLCOM, and other concerned government agencies shall jointly promulgate the implementing rules and regulations, as may be necessary to ensure the efficient and effective implementation of the provisions of this Act.

Sec. 13. *Separability Clause*. - If for any reason any section or provision of this Act, or any portion thereof, or the application of such section, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remaining provisions of this Act shall not be affected by such declaration and shall remain in force and effect.

Sec. 14. *Amendatory Clause*. - The pertinent provisions of Presidential Decree No. 1602, in so far as they are inconsistent herewith, are hereby expressly amended or modified accordingly.

Sec. 15. *Repealing Clause*. - The provisions of other laws, decrees, executive orders, rules and regulations inconsistent with this Act are hereby repealed, amended or modified accordingly.

Sec. 16. *Effectivity*. - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

RA No 9208 | **Expanded Anti-Trafficking in Persons Act of 2012** as amended by RA No 10364

Republic Act No. 9208 **May 26, 2003**

As amended by RA No 10364

AN ACT TO INSTITUTE POLICIES TO ELIMINATE TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN, ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE PROTECTION AND SUPPORT OF TRAFFICKED PERSONS, PROVIDING PENALTIES FOR ITS VIOLATIONS, AND FOR OTHER

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Section 1. *Title.* This Act shall be known as the **"Expanded Anti-Trafficking in Persons Act of 2012"**.

Section 2. *Declaration of Policy.* – It is hereby declared that the State values the dignity of every human person and guarantees the respect of individual rights. In pursuit of this policy, the State shall give highest priority to the enactment of measures and development of programs that will promote human dignity, protect the people from any threat of violence and exploitation, eliminate trafficking in persons, and mitigate pressures for involuntary migration and servitude of persons, not only to support trafficked persons but more importantly, to ensure their recovery, rehabilitation and reintegration into the mainstream of society.

"It shall be a State policy to recognize the equal rights and inherent human dignity of women and men as enshrined in the United Nations Universal Declaration on Human Rights, United Nations Convention on the Elimination of All Forms of Discrimination Against Women, United Nations Convention on the Rights of the Child, United Nations Convention on the Protection of Migrant Workers and their Families, United Nations Convention Against Transnational Organized Crime Including its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and all other relevant and universally accepted human rights instruments and other international conventions to which the Philippines is a signatory. (***as amended)***

Section 3. *Definition of Terms.* - As used in this Act:

(a) *Trafficking in Persons* – refers to the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The recruitment, transportation, transfer, harboring, adoption or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth in the preceding paragraph.

(b) *Child* – refers to a person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.

(c) *Prostitution* – refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.

(d) *Forced Labor* – refers to the extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of, force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt-bondage or deception including any work or service extracted from any person under the menace of penalty.

(e) *Slavery* – refers to the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

(f) *Involuntary Servitude* – refers to a condition of enforced and compulsory service induced by means of any scheme, plan or pattern, intended to cause a person to believe that if he or she did not enter into or continue in such condition, he or she or another person would suffer serious harm or other forms of abuse or physical restraint, or threat of abuse or harm, or coercion including depriving access to travel documents and withholding salaries, or the abuse or threatened abuse of the legal process.

(g) *Sex Tourism* – refers to a program organized by travel and tourism-related establishments and individuals which consists of tourism packages or activities, utilizing and offering escort and sexual services as enticement for tourists. This includes sexual services and practices offered during rest and recreation periods for members of the military.

(h) *Sexual Exploitation* – refers to participation by a person in prostitution, pornography or the production of pornography, in exchange for money, profit or any other consideration or where the participation is caused or facilitated by any means of intimidation or threat, use of force, or other forms of coercion, abduction, fraud, deception, debt bondage, abuse of power or of position or of legal process, taking advantage of the vulnerability of the person, or giving or receiving of payments or benefits to achieve the consent of a person having control over another person; or in sexual intercourse or lascivious conduct caused or facilitated by any means as provided in this Act.

(i) *Debt Bondage* – refers to the pledging by the debtor of his/her personal services or labor or those of a person under his/her control as security or payment for a debt, when the length and nature of services is not clearly defined or when the value of the services as reasonably assessed is not applied toward the liquidation of the debt.

(j) *Pornography* – refers to any representation, through publication, exhibition, cinematography, indecent shows, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual purposes.

(k) *Council* – shall mean the Inter-Agency Council Against Trafficking created under Section 20 of this Act.

(as amended)

Section 4. *Acts of Trafficking in Persons.* - It shall be unlawful for any person, natural or juridical, to commit any of the following acts: (a) To recruit, obtain, hire, provide, offer, transport, transfer, maintain, harbor, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, or sexual exploitation;

(b) To introduce or match for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 6955, any Filipino woman to a foreign national, for marriage for the purpose of acquiring, buying, offering, selling or trading him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(c) To offer or contract marriage, real or simulated, for the purpose of acquiring, buying, offering, selling, or trading them to engage in prostitution, pornography, sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage;

(d) To undertake or organize tours and travel plans consisting of tourism packages or activities for the purpose of utilizing and offering persons for prostitution, pornography or sexual exploitation;

(e) To maintain or hire a person to engage in prostitution or pornography;

(f) To adopt persons by any form of consideration for exploitative purposes or to facilitate the same for purposes of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(g) To adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(h) To recruit, hire, adopt, transport, transfer, obtain, harbor, maintain, provide, offer, receive or abduct a person, by means of threat or use of force, fraud, deceit, violence, coercion, or intimidation for the purpose of removal or sale of organs of said person;

(i) To recruit, transport, obtain, transfer, harbor, maintain, offer, hire, provide, receive or adopt a child to engage in armed activities in the Philippines or abroad;

(j) To recruit, transport, transfer, harbor, obtain, maintain, offer, hire, provide or receive a person by means defined in Section 3 of this Act for purposes of forced labor, slavery, debt bondage and involuntary servitude, including a scheme, plan, or pattern intended to cause the person either:

(1) To believe that if the person did not perform such labor or services, he or she or another person would suffer serious harm or physical restraint; or

(2) To abuse or threaten the use of law or the legal processes; and

(k) To recruit, transport, harbor, obtain, transfer, maintain, hire, offer, provide, adopt or receive a child for purposes of exploitation or trading them, including but not limited to, the act of baring and/or selling a child for any consideration or for barter for purposes of exploitation. Trafficking for purposes of exploitation of children shall include:

(1) All forms of slavery or practices similar to slavery, involuntary servitude, debt bondage and forced labor, including recruitment of children for use in armed conflict;

(2) The use, procuring or offering of a child for prostitution, for the production of pornography, or for pornographic performances;

(3) The use, procuring or offering of a child for the production and trafficking of drugs; and

(4) The use, procuring or offering of a child for illegal activities or work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals; and

(l) To organize or direct other persons to commit the offenses defined as acts of trafficking under this Act.

(as amended)

Section 4-A. *Attempted Trafficking in Persons.* – Where there are acts to initiate the commission of a trafficking offense but the offender failed to or did not execute all the elements of the crime, by accident or by reason of some cause other than voluntary desistance, such overt acts shall be deemed as an attempt to commit an act of trafficking in persons. As such, an attempt to commit any of the offenses enumerated in Section 4 of this Act shall constitute attempted trafficking in persons.

In cases where the victim is a child, any of the following acts shall also be deemed as attempted trafficking in persons:

(a) Facilitating the travel of a child who travels alone to a foreign country or territory without valid reason therefor and without the required clearance or permit from the Department of Social Welfare and Development, or a written permit or justification from the child's parent or legal guardian;

(b) Executing, for a consideration, an affidavit of consent or a written consent for adoption;

(c) Recruiting a woman to bear a child for the purpose of selling the child;

(d) Simulating a birth for the purpose of selling the child; and

(e) Soliciting a child and acquiring the custody thereof through any means from among hospitals, clinics, nurseries, daycare centers, refugee or evacuation centers, and low-income families, for the purpose of selling the child. (n)

Section 4-B. *Accomplice Liability.* – Whoever knowingly aids, abets, cooperates in the execution of the offense by previous or simultaneous acts defined in this Act shall be punished in accordance with the provisions of Section 10(c) of this Act. (n)

Section 4-C. *Accessories.* – Whoever has the knowledge of the commission of the crime, and without having participated therein, either as principal or as accomplices, take part in its commission in any of the following manners:

(a) By profiting themselves or assisting the offender to profit by the effects of the crime;

(b) By concealing or destroying the body of the crime or effects or instruments thereof, in order to prevent its discovery;

(c) By harboring, concealing or assisting in the escape of the principal of the crime, provided the accessory acts with abuse of his or her public functions or is known to be habitually guilty of some other crime.

Acts defined in this provision shall be punished in accordance with the provision of Section 10(d) as stated thereto. (n)

Section 5. *Acts that Promote Trafficking in Persons.* - The following acts which promote or facilitate trafficking in persons, shall be unlawful:

(a) To knowingly lease or sublease, use or allow to be used any house, building or establishment for the purpose of promoting trafficking in persons;

(b) To produce, print and issue or distribute unissued, tampered or fake counseling certificates, registration stickers, overseas employment certificates or other certificates of any government agency which issues these certificates, decals and such other markers as proof of compliance with government regulatory and pre-departure requirements for the purpose of promoting trafficking in persons; ***(as amended)***

(c) To advertise, publish, print, broadcast or distribute, or cause the advertisement, publication, printing, broadcasting or distribution by any means, including the use of information technology and the internet, of any brochure, flyer, or any propaganda material that promotes trafficking in persons;

(d) To assist in the conduct of misrepresentation or fraud for purposes of facilitating the acquisition of clearances and necessary exit documents from government agencies that are mandated to provide pre-departure registration and services for departing persons for the purpose of promoting trafficking in persons;

(e) To facilitate, assist or help in the exit and entry of persons from/to the country at international and local airports, territorial boundaries and seaports who are in possession of unissued, tampered or fraudulent travel documents for the purpose of promoting trafficking in persons;

(f) To confiscate, conceal, or destroy the passport, travel documents, or personal documents or belongings of trafficked persons in furtherance of trafficking or to prevent them from leaving the country or seeking redress from the government or appropriate agencies; and

(g) To knowingly benefit from, financial or otherwise, or make use of, the labor or services of a person held to a condition of involuntary servitude, forced labor, or slavery.

(h) To tamper with, destroy, or cause the destruction of evidence, or to influence or attempt to influence witnesses, in an investigation or prosecution of a case under this Act; (n)

(i) To destroy, conceal, remove, confiscate or possess, or attempt to destroy, conceal, remove, confiscate or possess, any actual or purported passport or other travel, immigration or working permit or document, or any other actual or purported government identification, of any person in order to prevent or restrict, or attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel in order to maintain the labor or services of that person; (n) or

(j) To utilize his or her office to impede the investigation, prosecution or execution of lawful orders in a case under this Act. (n)

Section 6. *Qualified Trafficking in Persons.* - Violations of Section 4 of this Act shall be considered as qualified trafficking:

(a) When the trafficked person is a child;

(b) When the adoption is effected through Republic Act No. 8043, otherwise known as the "Inter-Country Adoption Act of 1995" and said adoption is for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(c) When the crime is committed by a syndicate, or in large scale. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons, individually or as a group;

(d) When the offender is a spouse, an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offense is committed by a public officer or employee; ***(as amended)***

(e) When the trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies;

(f) When the offender is a member of the military or law enforcement agencies; ***(as amended)***

(g) When by reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation or is afflicted with Human Immunodeficiency Virus (HIV) or the Acquired Immune Deficiency Syndrome (AIDS); ***(as amended)***

(h) When the offender commits one or more violations of Section 4 over a period of sixty (60) or more days, whether those days are continuous or not; (h) and

(i) When the offender directs or through another manages the trafficking victim in carrying out the exploitative purpose of trafficking. (n)

Section 7. *Confidentiality.* - At any stage of the investigation, rescue, prosecution and trial of an offense under this Act, law enforcement officers, prosecutors, judges, court personnel, social workers and medical practitioners, as well as parties to the case, shall protect the right to privacy of the trafficked person. Towards this end, law enforcement officers, prosecutors and judges to whom the complaint has been referred may, whenever necessary to ensure a fair and impartial proceeding, and after considering all circumstances for the best interest of the parties, order a closed-door investigation, prosecution or trial. The name and personal circumstances of the trafficked person or any other information tending to establish the identity of the trafficked person and his or her family shall not be disclosed to the public.

It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person utilizing tri-media facilities or electronic information technology to cause publicity of the name, personal circumstances, or any information tending to establish the identity of the trafficked person except when the trafficked person in a written statement duly notarized knowingly, voluntarily and willingly waives said confidentiality.

Law enforcement officers, prosecutors, judges, court personnel, social workers and medical practitioners shall be trained on the importance of maintaining confidentiality as a means to protect the right to privacy of victims and to encourage victims to file complaints. ***(as amended)***

Section 8. *Initiation and Prosecution of Cases.* - (a) *Initiation of Investigation.* – Law enforcement agencies are mandated to immediately initiate investigation and counter-trafficking-intelligence gathering upon receipt of statements or affidavit from victims of trafficking, migrant workers, or their families who are in possession of knowledge or information about trafficking in persons cases.

(b) *Prosecution of Cases.* – Any person who has personal knowledge of the commission of any offense under this Act, such as the trafficked person, the parents, spouse, siblings, children or legal guardian may file a complaint for trafficking.

(c) *Affidavit of Desistance.* – Cases involving trafficking in persons should not be dismissed based on the affidavit of desistance executed by the victims or their parents or legal guardians. Public and private prosecutors are directed to oppose and manifest objections to motions for dismissal.

Any act involving the means provided in this Act or any attempt thereof for the purpose of securing an Affidavit of Desistance from the complainant shall be punishable under this Act.

(as amended)

Section 9. *Venue*. - A criminal action arising from violation of this Act shall be filed where the offense was committed, or where any of its elements occurred, or where the trafficked person actually resides at the time of the commission of the offense: *Provided*, That the court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts.

Section 10. *Penalties and Sanctions.* - The following penalties and sanctions are hereby established for the offenses enumerated in this Act:

(a) Any person found guilty of committing any of the acts enumerated in Section 4 shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00);

(b) Any person found guilty of committing any of the acts enumerated in Section 4-A of this Act shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

(c) Any person found guilty of Section 4-B of this Act shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

In every case, conviction shall cause and carry the automatic revocation of the license or registration of the recruitment agency involved in trafficking. The license of a recruitment agency which trafficked a child shall be automatically revoked.

(d) Any person found, guilty of committing any of the acts enumerated in Section 5 shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

(e) Any person found guilty of qualified trafficking under Section 6 shall suffer the penalty of life imprisonment and

a fine of not less than Two million pesos (P2,000,000.00) but not more than Five million pesos (P5,000,000.00);

(f) Any person who violates Section 7 hereof shall suffer the penalty of imprisonment of six (6) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

(g) If the offender is a corporation, partnership, association, club, establishment or any juridical person, the penalty shall be imposed upon the owner, president, partner, manager, and/or any responsible officer who participated in the commission of the crime or who shall have knowingly permitted or failed to prevent its commission;

(h) The registration with the Securities and Exchange Commission (SEC) and license to operate of the erring agency, corporation, association, religious group, tour or travel agent, club or establishment, or any place of entertainment shall be cancelled and revoked permanently. The owner, president, partner or manager thereof shall not be allowed to operate similar establishments in a different name;

(i) If the offender is a foreigner, he or she shall be immediately deported after serving his or her sentence and be barred permanently from entering the country;

(j) Any employee or official of government agencies who shall issue or approve the issuance of travel exit clearances, passports, registration certificates, counseling certificates, marriage license, and other similar documents to persons, whether juridical or natural, recruitment agencies, establishments or other individuals or groups, who fail to observe the prescribed procedures and the requirement as provided for by laws, rules and regulations, shall be held administratively liable, without prejudice to criminal liability under this Act. The concerned government official or employee shall, upon conviction, be dismissed from the service and be barred permanently to hold public office. His or her retirement and other benefits shall likewise be forfeited; and

(k) Conviction, by final judgment of the adopter for any offense under this Act shall result in the immediate rescission of the decree of adoption.

(as amended)

Section 11. *Use of Trafficked Persons.* - Any person who buys or engages the services of a trafficked person for prostitution shall be penalized with the following: *Provided,* That the Probation Law (Presidential Decree No. 968) shall not apply:

(a) *Prision Correccional* in its maximum period to *prision mayor* or six (6) years to twelve (12) years imprisonment and a fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00): *Provided, however,* That the following acts shall be exempted thereto:

(1) If an offense under paragraph (a) involves sexual intercourse or lascivious conduct with a child, the penalty shall be *reclusion temporal* in its medium period to *reclusion perpetua* or seventeen (17) years to forty (40) years imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

(2) If an offense under paragraph (a) involves carnal knowledge of, or sexual intercourse with, a male or female trafficking victim and also involves the use of force or intimidation, to a victim deprived of reason or to an unconscious victim, or a victim under twelve (12) years of age, instead of the penalty prescribed in the subparagraph above the penalty shall be a fine of not less than One million pesos (P1,000,000.00) but not more than Five million pesos (P5,000,000.00) and imprisonment of *reclusion perpetua* or forty (40) years imprisonment with no possibility of parole; except that if a person violating paragraph (a) of this section knows the person that provided prostitution services is in fact a victim of trafficking, the offender shall not be likewise penalized under this section but under Section 10 as a person violating Section 4; and if in committing such an offense, the offender also knows a qualifying circumstance for trafficking, the offender shall be penalized under Section 10 for qualified trafficking. If in violating this section the offender also violates Section 4, the offender shall be penalized under Section 10 and, if applicable, for qualified trafficking instead of under this section;

(b) *Deportation.* – If a foreigner commits any offense described by paragraph (1) or (2) of this section or violates any pertinent provision of this Act as an accomplice or accessory to, or by attempting any such offense, he or she shall be immediately deported after serving his or her sentence and be barred permanently from entering the country; and

(c) *Public Official.* – If the offender is a public official, he or she shall be dismissed from service and shall suffer perpetual absolute disqualification to hold public, office, in addition to any imprisonment or fine received pursuant to any other provision of this Act. ***(as amended)***

Section 12. *Prescriptive Period.* - Trafficking cases under this Act shall prescribe in ten (10) years: *Provided, however,* That trafficking cases committed by a syndicate or in a large scale as defined under Section 6, or against a child, shall prescribe in twenty (20) years.

The prescriptive period shall commence to run from the day on which the trafficked person is delivered or released from the conditions of bondage, or in the case of a child victim, from the day the child reaches the age of majority, and shall be interrupted by the filing of the complaint or information and shall commence to run again when the proceedings terminate without the accused being convicted or acquitted or are unjustifiably stopped for any reason not imputable to the accused. ***(as amended)***

Section 13. *Exemption from Filing Fees.* - When the trafficked person institutes a separate civil action for the recovery of civil damages, he/she shall be exempt from the payment of filing fees.

Section 14. *Confiscation and Forfeiture of the Proceeds and Instruments Derived from Trafficking in Persons.* - In addition to the penalty imposed for the violation of this Act, the court shall order the confiscation and forfeiture, in favor of the government, of all the proceeds and properties derived from the commission of the crime, unless they are the property of a third person not liable for the unlawful act; *Provided, however,* That all awards for damages shall be taken from the personal and separate properties of the offender; *Provided, further,* That if such properties are insufficient, the balance shall be taken from the confiscated and forfeited properties.

When the proceeds, properties and instruments of the offense have been destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly, of the offender, or it has been concealed, removed, converted or transferred to prevent the same from being found or to avoid forfeiture or confiscation, the offender shall be ordered to pay the amount equal to the value of the proceeds, property or instruments of the offense.

Section 15. *Trust Fund.* - All fines imposed under this Act and the proceeds and properties forfeited and confiscated pursuant to Section 14 hereof shall accrue to a Trust Fund to be administered and managed by the Council to be used exclusively for programs that will prevent acts of trafficking and protect, rehabilitate, reintegrate trafficked persons into the mainstream of society. Such programs shall include, but not limited to, the following:

(a) Provision for mandatory services set forth in Section 23 of this Act;

(b) Sponsorship of a national research program on trafficking and establishment of a data collection system for monitoring and evaluation purposes;

(c) Provision of necessary technical and material support services to appropriate government agencies and non-government organizations (NGOs);

(d) Sponsorship of conferences and seminars to provide venue for consensus building amongst the public, the academe, government, NGOs and international organizations; and

(e) Promotion of information and education campaign on trafficking.

Section 16. *Programs that Address Trafficking in Persons*. - The government shall establish and implement preventive, protective and rehabilitative programs for trafficked persons. For this purpose, the following agencies are hereby mandated to implement the following programs:

(a) Department of Foreign Affairs (DFA) – shall make available its resources and facilities overseas for trafficked persons regardless of their manner of entry to the receiving country, and explore means to further enhance its assistance in eliminating trafficking activities through closer networking with government agencies in the country and overseas, particularly in the formulation of policies and implementation of relevant programs. It shall provide Filipino victims of trafficking overseas with free legal assistance and counsel to pursue legal action against his or her traffickers, represent his or her interests in any criminal investigation or prosecution, and assist in the application for social benefits and/or regular immigration status as may be allowed or provided for by the host country. The DFA shall repatriate trafficked Filipinos with the consent of the victims.

The DFA shall take necessary measures for the efficient implementation of the Electronic Passporting System to protect the integrity of Philippine passports, visas and other travel documents to reduce the incidence of trafficking through the use of fraudulent identification documents.

In coordination with the Department of Labor and Employment, it shall provide free temporary shelters and other services to Filipino victims of trafficking overseas through the migrant workers and other overseas Filipinos resource centers established overseas under Republic Act No. 8042, as amended.

(b) Department of Social Welfare and Development (DSWD) – shall implement rehabilitative and protective programs for trafficked persons. It shall provide counseling and temporary shelter to trafficked persons and develop a system for accreditation among NGOs for purposes of establishing centers and programs for intervention in various levels of the community. It shall establish free temporary shelters, for the protection and housing of trafficked persons to provide the following basic services to trafficked persons:

(1) Temporary housing and food facilities;

(2) Psychological support and counseling;

(3) 24-hour call center for crisis calls and technology-based counseling and referral system;

(4) Coordination with local law enforcement entities; and

(5) Coordination with the Department of Justice, among others.

The DSWD must conduct information campaigns in communities and schools teaching parents and families that receiving consideration in exchange for adoption is punishable under the law. Furthermore, information campaigns must be conducted with the police that they must not induce poor women to give their children up for adoption in exchange for consideration.

(c) Department of Labor and Employment (DOLE) – shall ensure the strict implementation and compliance with the rules and guidelines relative to the employment of persons locally and overseas. It shall likewise monitor, document and report cases of trafficking in persons involving employers and labor recruiters.

(d) Department of Justice (DOJ) – shall ensure the prosecution of persons accused of trafficking and designate and train special prosecutors who shall handle and prosecute cases of trafficking. It shall also establish a mechanism for free legal assistance for trafficked persons, in coordination with the DSWD, Integrated Bar of the Philippines (IBP) and other NGOs and volunteer groups.

(e) Philippine Commission on Women (PCW) – shall actively participate and coordinate in the formulation and monitoring of policies addressing the issue of trafficking in persons in coordination with relevant government agencies. It shall likewise advocate for the inclusion of the issue of trafficking in persons in both its local and international advocacy for women's issues.

(f) Bureau of Immigration (BI) – shall strictly administer and enforce immigration and alien administration laws. It shall adopt measures for the apprehension of suspected traffickers both at the place of arrival and departure and shall ensure compliance by the Filipino fiancés/fiancées and spouses of foreign nationals with the guidance and counseling requirement as provided for in this Act.

(g) Philippine National Police (PNP) and National Bureau of Investigation (NBI) – shall be the primary law enforcement agencies to undertake surveillance, investigation and arrest of individuals or persons suspected to be engaged in trafficking. They shall closely coordinate with each other and with other law enforcement agencies to secure concerted efforts for effective investigation and apprehension of suspected traffickers. They shall also establish a system to receive complaints and calls to assist trafficked persons and conduct rescue operations.

(h) Philippine Overseas Employment Administration (POEA) and Overseas Workers and Welfare Administration (OWWA) – POEA shall implement Pre-Employment Orientation Seminars (PEOS) while Pre-Departure Orientation Seminars (PDOS) shall be conducted by the OWWA. It shall likewise formulate a system of providing free legal assistance to trafficked persons, in coordination with the DFA.

The POEA shall create a blacklist of recruitment agencies, illegal recruiters and persons facing administrative, civil and criminal complaints for trafficking filed in the receiving country and/or in the Philippines and those agencies, illegal recruiters and persons involved in cases of trafficking who have been rescued by the DFA and DOLE in the receiving country or in the Philippines even if no formal administrative, civil or criminal complaints have been filed: *Provided,* That the rescued victims shall execute an affidavit attesting to the acts violative of the anti-trafficking law. This blacklist shall be posted in conspicuous places in concerned government agencies and shall be updated bi-monthly.

The blacklist shall likewise be posted by the POEA in the shared government information system, which is mandated to be established under Republic Act No. 8042, as amended.

The POEA and OWWA shall accredit NGOs and other service providers to conduct PEOS and PDOS, respectively. he PEOS and PDOS should include the discussion and distribution of the blacklist.

The license or registration of a recruitment agency that has been blacklisted may be suspended by the POEA upon a review of the complaints filed against said agency.

(i) Department of the Interior and Local Government (DILG) – shall institute a systematic information and prevention campaign in coordination with pertinent agencies of government as provided for in this Act. It shall provide training programs to local government units, in coordination with the Council, in ensuring wide understanding and application of this Act at the local level.

(j) Commission on Filipinos Overseas – shall conduct pre-departure counseling services for Filipinos in

intermarriages. It shall develop a system for accreditation of NGOs that may be mobilized for purposes of conducting pre-departure counseling services for Filipinos in intermarriages. As such, it shall ensure that the counselors contemplated under this Act shall have the minimum qualifications and training of guidance counselors as provided for by law.

It shall likewise assist in the conduct of information campaigns against trafficking in coordination with local government units, the Philippine Information Agency, and NGOs.

(k) Local government units (LGUs) – shall monitor and document cases of trafficking in persons in their areas of jurisdiction, effect the cancellation of licenses of establishments which violate the provisions of this Act and ensure effective prosecution of such cases. They shall also undertake an information campaign against trafficking in persons through the establishment of the Migrants Advisory and Information Network (MAIN) desks in municipalities or provinces in coordination with the DILG, Philippine Information Agency (PIA), Commission on Filipinos Overseas (CFO), NGOs and other concerned agencies. They shall encourage and support community-based initiatives which address the trafficking in persons.

In implementing this Act, the agencies concerned may seek and enlist the assistance of NGOs, people's organizations (POs), civic organizations and other volunteer groups. ***(as amended)***

Section 16-A. *Anti-Trafficking in Persons Database*. – An anti-trafficking in persons central database shall be established by the Inter-Agency Council Against Trafficking created under Section 20 of this Act. The Council shall submit a report to the President of the Philippines and to Congress, on or before January 15 of every year, with respect to the preceding year's programs and data on trafficking-related cases.

All government agencies tasked under the law to undertake programs and render assistance to address trafficking in persons shall develop their respective monitoring and data collection systems, and databases, for purposes of ensuring efficient collection and storage of data on cases of trafficking in persons handled by their respective offices. Such data shall be submitted to the Council for integration in a central database system.

For this purpose, the Council is hereby tasked to ensure the harmonization and standardization of databases, including minimum data requirements, definitions, reporting formats, data collection systems, and data verification systems. Such databases shall have, at the minimum, the following information:

(a) The number of cases of trafficking in persons, sorted according to status of cases, including the number of cases being investigated, submitted for prosecution, dropped, and filed and/or pending before the courts and the number of convictions and acquittals;

(b) The profile/information on each case;

(c) The number of victims of trafficking in persons referred to the agency by destination countries/areas and by area of origin; and

(d) Disaggregated data on trafficking victims and the accused/defendants. (n)

Section 17. *Legal Protection to Trafficked Persons*. -Trafficked persons shall be recognized as victims of the act or acts of trafficking and as such, shall not be penalized for unlawful acts committed as a direct result of, or as an incident or in relation to, being trafficked based on the acts of trafficking enumerated in this Act or in obedience to the order made by the trafficker in relation thereto. In this regard, the consent of a trafficked person to the intended exploitation set forth in this Act shall be irrelevant.

Victims of trafficking for purposes of prostitution as defined under Section 4 of this Act are not covered by Article 202 of the Revised Penal Code and as such, shall not be prosecuted, fined, or otherwise penalized under the said law. ***(as amended)***

Section 17-A. *Temporary Custody of Trafficked Victims*. – The rescue of victims should be done as much as possible with the assistance of the DSWD or an accredited NGO that services trafficked victims. A law enforcement officer, on a reasonable suspicion that a person is a victim of any offense defined under this Act including attempted trafficking, shall immediately place that person in the temporary custody of the local social welfare and development office, or any accredited or licensed shelter institution devoted to protecting trafficked persons after the rescue. (n)

Section 17-B. *Irrelevance of Past Sexual Behavior, Opinion Thereof or Reputation of Victims and of Consent of Victims in Cases of Deception, Coercion and Other Prohibited Means*. – The past sexual behavior or the sexual predisposition of a trafficked person shall be considered inadmissible in evidence for the purpose of proving consent of the victim to engage in sexual behavior, or to prove the predisposition, sexual or otherwise, of a trafficked person. Furthermore, the consent of a victim of trafficking to the intended exploitation shall be irrelevant where any of the means set forth in Section 3(a) of this Act has been used. (n)

Section 17-C. *Immunity from Suit, Prohibited Acts and Injunctive Remedies*. – No action or suit shall be brought, instituted or maintained in any court or tribunal or before any other authority against any: (a) law enforcement officer; (b) social worker; or (c) person acting in compliance with a lawful order from any of the above, for lawful acts done or statements made during an authorized rescue operation, recovery or rehabilitation/intervention, or an investigation or prosecution of an anti-trafficking case: *Provided,* That such acts shall have been made in good faith.

The prosecution of retaliatory suits against victims of trafficking shall be held in abeyance pending final resolution and decision of criminal complaint for trafficking.

It shall be prohibited for the DFA, the DOLE, and the POEA officials, law enforcement officers, prosecutors and judges to urge complainants to abandon their criminal, civil and administrative complaints for trafficking.

The remedies of injunction and attachment of properties of the traffickers, illegal recruiters and persons involved in trafficking may be issued *motu proprio* by judges. (n)

Section 18. *Preferential Entitlement Under the Witness Protection Program*. - Any provision of Republic Act No. 6981 to the contrary notwithstanding, any trafficked person shall be entitled to the witness protection program provided therein.

Section 19. *Trafficked Persons Who are Foreign Nationals*. - Subject to the guidelines issued by the Council, trafficked persons in the Philippines who are nationals of a foreign country shall also be entitled to appropriate protection, assistance and services available to trafficked persons under this Act: *Provided*, That they shall be permitted continued presence in the Philippines for a length of time prescribed by the Council as necessary to effect the prosecution of offenders.

Section 20. *Inter-Agency Council Against Trafficking*. - There is hereby established an Inter-Agency Council Against Trafficking, to be composed of the Secretary of the Department of Justice as Chairperson and the Secretary of the Department of Social Welfare and Development as Co-Chairperson and shall have the following as members:

(a) Secretary, Department of Foreign Affairs;

(b) Secretary, Department of Labor and Employment;

(c) Secretary, Department of the Interior and Local Government;

(d) Administrator, Philippine Overseas Employment Administration;

(e) Commissioner, Bureau of Immigration;

(f) Chief, Philippine National Police;

(g) Chairperson, Philippine Commission on Women;

(h) Chairperson, Commission on Filipinos Overseas;

(i) Executive Director, Philippine Center for Transnational Crimes; and

(j) Three (3) representatives from NGOs, who shall include one (1) representative each from among the sectors representing women, overseas Filipinos, and children, with a proven record of involvement in the prevention and suppression of trafficking in persons. These representatives shall be nominated by the government agency representatives of the Council, for appointment by the President for a term of three (3) years.

The members of the Council may designate their permanent representatives who shall have a rank not lower than an assistant secretary or its equivalent to meetings, and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations. ***(as amended)***

Section 21. *Functions of the Council.* - The Council shall have the following powers and functions:

(a) Formulate a comprehensive and integrated program to prevent and suppress the trafficking in persons;

(b) Promulgate rules and regulations as may be necessary for the effective implementation of this Act;

(c) Monitor and oversee the strict implementation of this Act;

(d) Coordinate the programs and projects of the various member agencies to effectively address the issues and problems attendant to trafficking in persons;

(e) Coordinate the conduct of massive information dissemination and campaign on the existence of the law and the various issues and problems attendant to trafficking through the LGUs, concerned agencies, and NGOs;

(f) Direct other agencies to immediately respond to the problems brought to their attention and report to the Council on action taken;

(g) Assist in filing of cases against individuals, agencies, institutions or establishments that violate the provisions of this Act;

(h) Formulate a program for the reintegration of trafficked persons in cooperation with DOLE, DSWD, Technical Education and Skills Development Authority (TESDA), Commission on Higher Education (CHED), LGUs and NGOs;

(i) Secure from any department, bureau, office, agency, or instrumentality of the government or from NGOs and other civic organizations such assistance as may be needed to effectively implement this Act;

(j) Complement the shared government information system for migration established under Republic Act No. 8042, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995" with data on cases of trafficking in persons, and ensure that the proper agencies conduct a continuing research and study on the patterns and scheme of trafficking in persons which shall form the basis for policy formulation and program direction;

(k) Develop the mechanism to ensure the timely, coordinated, and effective response to cases of trafficking in persons;

(l) Recommend measures to enhance cooperative efforts and mutual assistance among foreign countries through bilateral and/or multilateral arrangements to prevent and suppress international trafficking in persons;

(m) Coordinate with the Department of Transportation and Communications (DOTC), Department of Trade and Industry (DTI), and other NGOs in monitoring the promotion of advertisement of trafficking in the internet;

(n) Adopt measures and policies to protect the rights and needs of trafficked persons who are foreign nationals in the Philippines;

(o) Initiate training programs in identifying and providing the necessary intervention or assistance to trafficked persons; and

(p) Exercise all the powers and perform such other functions necessary to attain the purposes and objectives of this Act.

Section 22. *Secretariat to the Council.* - The Department of Justice shall establish the necessary Secretariat for the Council.

The secretariat shall provide support for the functions and projects of the Council. The secretariat shall be headed by an executive director, who shall be appointed by the Secretary of the DOJ upon the recommendation of the Council. The executive director must have adequate knowledge on, training and experience in the phenomenon of and issues involved in trafficking in persons and in the field of law, law enforcement, social work, criminology, or psychology.

The executive director shall be under the supervision of the Inter-Agency Council Against Trafficking through its Chairperson and Co-Chairperson, and shall perform the following functions:

(a) Act as secretary of the Council and administrative officer of its secretariat;

(b) Advise and assist the Chairperson in formulating and implementing the objectives, policies, plans and programs of the Council, including those involving mobilization of government offices represented in the Council as well as other relevant government offices, task forces, and mechanisms;

(c) Serve as principal assistant to the Chairperson in the overall supervision of council administrative business;

(d) Oversee all council operational activities;

(e) Ensure an effective and efficient performance of council functions and prompt implementation of council objectives, policies, plans and programs;

(f) Propose effective allocations of resources for implementing council objectives, policies, plans and programs;

(g) Submit periodic reports to the Council on the progress of council objectives, policies, plans and programs;

(h) Prepare annual reports of all council activities; and

(i) Perform other duties as the Council may assign. ***(as amended)***

Section 23. *Mandatory Services to Trafficked Persons.* - To ensure recovery, rehabilitation and reintegration into the mainstream of society, concerned government agencies shall make available the following services to trafficked persons:

(a) Emergency shelter or appropriate housing;

(b) Counseling;

(c) Free legal services which shall include information about the victims' rights and the procedure for filing complaints, claiming compensation and such other legal remedies available to them, in a language understood by the trafficked person;

(d) Medical or psychological services;

(e) Livelihood and skills training; and

(f) Educational assistance to a trafficked child.

Sustained supervision and follow through mechanism that will track the progress of recovery, rehabilitation and

reintegration of the trafficked persons shall be adopted and carried out.

Section 24. *Other Services for Trafficked Persons.* -

(a) *Legal Assistance.* - Trafficked persons shall be considered under the category "Overseas Filipino in Distress" and may avail of the legal assistance created by Republic Act No. 8042, subject to the guidelines as provided by law.

(b) *Overseas Filipino Resource Centers.* - The services available to overseas Filipinos as provided for by Republic Act No. 8042 shall also be extended to trafficked persons regardless of their immigration status in the host country.

(c) *The Country Team Approach.* - The country team approach under Executive Order No. 74 of 1993, shall be the operational scheme under which Philippine embassies abroad shall provide protection to trafficked persons insofar as the promotion of their welfare, dignity and fundamental rights are concerned.

Section 25. *Repatriation of Trafficked Persons.* - The DFA, in coordination with DOLE and other appropriate agencies, shall have the primary responsibility for the repatriation of trafficked persons, regardless of whether they are documented or undocumented.

If, however, the repatriation of the trafficked persons shall expose the victims to greater risks, the DFA shall make representation with the host government for the extension of appropriate residency permits and protection, as may be legally permissible in the host country.

Section 26. *Extradition.* - The DOJ, in consultation with DFA, shall endeavor to include offenses of trafficking in persons among extraditable offenses.

Section 26-A. *Extra-Territorial Jurisdiction.* – The State shall exercise jurisdiction over any act defined and penalized under this Act, even if committed outside the Philippines and whether or not such act or acts constitute an offense at the place of commission, the crime being a continuing offense, having been commenced in the Philippines and other elements having been committed in another country, if the suspect or accused:

(a) Is a Filipino citizen; or

(b) Is a permanent resident of the Philippines; or

(c) Has committed the act against a citizen of the Philippines.

No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the Philippines, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Secretary of Justice.

The government may surrender or extradite persons accused of trafficking in the Philippines to the appropriate international court if any, or to another State pursuant to the applicable extradition laws and treaties. (n)

Section 27. *Reporting Requirements.* - The Council shall submit to the President of the Philippines and to Congress an annual report of the policies, programs and activities relative to the implementation of this Act.

Section 28. *Funding.* - The amount necessary to implement the provisions of this Act shall be charged against the current year's appropriations of the Inter-Agency Council Against Trafficking under the budget of the DOJ and the appropriations of the other concerned departments. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act. ***(as amended)***

Section 28-A. *Additional Funds for the Council.* – The amount collected from every penalty, fine or asset derived from any violation of this Act shall be earmarked as additional funds for the use of the Council. The fund may be augmented by grants, donations and endowment from various sources, domestic or foreign, for purposes related to their functions, subject to the existing accepted rules and regulations of the Commission on Audit. (n)

Section 29. *Implementing Rules and Regulations.* - The Council shall promulgate the necessary implementing rules and regulations within sixty (60) days from the effectivity of this Act.

Section 30. *Non-restriction of Freedom of Speech and of Association, Religion and the Right to Travel.* - Nothing in this Act shall be interpreted as a restriction of the freedom of speech and of association, religion and the right to travel for purposes not contrary to law as guaranteed by the Constitution.

Section 31. *Separability Clause.* - If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby.

Section 32. *Repealing clause.* - Article 202 of the Revised Penal Code, as amended, and all laws, acts, presidential decrees, executive orders, administrative orders, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly: *Provided,* That this Act shall not in any way amend or repeal the provisions of Republic Act No. 7610, otherwise known as the 'Special Protection of Child Against Child Abuse, Exploitation and Discrimination Act'. ***(as amended)***

Section 33. *Effectivity.* - This Act shall take effect fifteen (15) days following its complete publication in at least two (2) newspapers of general circulation. ***(as amended)***

RA No 9775 | **Anti-Child Pornography Act of 2009**

Republic Act No. 9775

AN ACT DEFINING THE CRIME OF CHILD PORNOGRAPHY, PRESCRIBING PENALTIES THEREFOR AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Short Title.* - This Act shall be known as the ***"Anti-Child Pornography Act of 2009."***

Section 2. *Declaration of Policy.* - The State recognizes the vital role of the youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual, emotional, psychological and social well-being. Towards this end, the State shall:

(a) Guarantee the fundamental rights of every child from all forms of neglect, cruelty and other conditions prejudicial to his/her development;

(b) Protect every child from all forms of exploitation and abuse including, but not limited to:

(1) the use of a child in pornographic performances and materials; and

(2) the inducement or coercion of a child to engage or be involved in pornography through whatever means; and

(c) Comply with international treaties to which the Philippines is a signatory or a State party concerning the rights of children which include, but not limited to, the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child of the Child on the Sale of Children, Child Prostitution and Child Pornography, the International Labor Organization (ILO) Convention No.182 on the Elimination of the Worst Forms of Child Labor and the Convention Against Transnational Organized Crime.

Section 3. *Definition of Terms.* -

(a) "Child" refers to a person below eighteen (18) years of age or over, but is unable to fully take care of himself/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

For the purpose of this Act, a child shall also refer to:

(1) a person regardless of age who is presented, depicted or portrayed as a child as defined herein; and

(2) computer-generated, digitally or manually crafted images or graphics of a person who is represented or who is made to appear to be a child as defined herein.

(b) "Child pornography" refers to any representation, whether visual, audio, or written combination thereof, by electronic, mechanical, digital, optical, magnetic or any other means, of child engaged or involved in real or simulated explicit sexual activities.

(c) "Explicit Sexual Activity" includes actual or simulated -

(1) As to form:

(i) sexual intercourse or lascivious act including, but not limited to, contact involving genital to genital, oral to genital, anal to genital, or oral to anal, whether between persons of the same or opposite sex;

(2) bestiality;

(3) masturbation;

(4) sadistic or masochistic abuse;

(5) lascivious exhibition of the genitals, buttocks, breasts, pubic area and/or anus; or

(6) use of any object or instrument for lascivious acts

(d) "Internet address" refers to a website, bulletin board service, internet chat room or news group, or any other internet or shared network protocol address.

(e) "Internet cafe or kiosk" refers to an establishment that offers or proposes to offer services to the public for the use of its computer/s or computer system for the purpose of accessing the internet, computer games or related services.

(f) "Internet content host" refers to a person who hosts or who proposes to host internet content in the Philippines.

(g) "Internet service provider (ISP)" refers to a person or entity that supplies or proposes to supply, an internet carriage service to the public.

(h) "Grooming" refers to the act of preparing a child or someone who the offender believes to be a child for sexual activity or sexual relationship by communicating any form of child pornography. It includes online enticement or enticement through any other means.

(i) "Luring" refers to the act of communicating, by means of a computer system, with a child or someone who the offender believes to be a child for the purpose of facilitating the commission of sexual activity or production of any form of child pornography.(2) Bestiality;

(j) "Pandering" refers to the act of offering, advertising, promoting, representing or distributing through any means any material or purported material that is intended to cause another to believe that the material or purported material contains any form of child pornography, regardless of the actual content of the material or purported material.

(k) "Person" refers to any natural or juridical entity.

Section 4. *Unlawful or Prohibited Acts.* - It shall be unlawful for any person:

(a) To hire, employ, use, persuade, induce or coerce a child to perform in the creation or production of any form of child pornography;

(b) To produce, direct, manufacture or create any form of child pornography;

(c) To publish offer, transmit, sell, distribute, broadcast, advertise, promote, export or import any form of child pornography;

(d) To possess any form of child pornography with the intent to sell, distribute, publish, or broadcast: Provided. That possession of three (3) or more articles of child pornography of the same form shall be prima facie evidence of the intent to sell, distribute, publish or broadcast;

(e) To knowingly, willfully and intentionally provide a venue for the commission of prohibited acts as, but not limited to, dens, private rooms, cubicles, cinemas, houses or in establishments purporting to be a legitimate business;

(f) For film distributors, theaters and telecommunication companies, by themselves or in cooperation with other entities, to distribute any form of child pornography;

(g) For a parent, legal guardian or person having custody or control of a child to knowingly permit the child to engage, participate or assist in any form of child pornography;

(h) To engage in the luring or grooming of a child;

(i) To engage in pandering of any form of child pornography;

(j) To willfully access any form of child pornography;

(k) To conspire to commit any of the prohibited acts stated in this section. Conspiracy to commit any form of child pornography shall be committed when two (2) or more persons come to an agreement concerning the commission of any of the said prohibited acts and decide to commit it; and

(l) To possess any form of child pornography.

Section 5. *Syndicated Child Pornography* - The crime of child pornography is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another and shall be punished under Section 15(a) of this Act.

Section 6. *Who May File a Complaint.* - Complaints on cases of any form of child pornography and other offenses punishable under this Act may be filed by the following:

(a) Offended party;

(b) Parents or guardians;

(c) Ascendant or collateral relative within the third degree of consanguinity;

(d) Officer, social worker or representative of a licensed child-caring institution;

(e) Officer or social worker of the Department of Social Welfare and Development (DSWD);

(f) Local social welfare development officer;

(g) Barangay chairman;

(h) Any law enforcement officer;

(i) At least three (3) concerned responsible citizens residing in the place where the violation occurred; or

(j) Any person who has personal knowledge of the circumstances of the commission of any offense under this Act.

Section 7. *Appointment of Special Prosecutors.* - The Department of Justice (DOJ) shall appoint or designate special prosecutors to prosecute cases for the violation of this Act.

Section 8. *Jurisdiction.* - Jurisdiction over cases for the violation of this Act shall be vested in the Family Court which has territorial jurisdiction over the place where the offense or any of its essential elements was committed pursuant to Republic Act No. 8369, otherwise known as "Family Courts Act of 1997".

Section 9. *Duties of an Internet Service Provider (ISP).* - All internet service providers (ISPs) shall notify the Philippine National Police (PNP) or the National Bureau of Investigation (NBI) within seven (7) days from obtaining facts and circumstances that any form of child pornography is being committed using its server or

facility. Nothing in this section may be construed to require an ISP to engage in the monitoring of any user, subscriber or customer, or the content of any communication of any such person: *Provided*, That no ISP shall be held civilly liable for damages on account of any notice given in good faith in compliance with this section.

Furthermore, an ISP shall preserve such evidence for purpose of investigation and prosecution by relevant authorities.

An ISP shall, upon the request of proper authorities, furnish the particulars of users who gained or attempted to gain access to an internet address which contains any form of child pornography.

All ISPs shall install available technology, program or software to ensure that access to or transmittal of any form of child pornography will be blocked or filtered.

An ISP who shall knowingly, willfully and intentionally violate this provision shall be subject to the penalty provided under Section 15(k) of this Act.

The National Telecommunications Commission (NTC) shall promulgate within ninety (90) days from the effectivity of this Act the necessary rules and regulations for the implementation of this provision which shall include, among others, the installation of filtering software that will block access to or transmission of any form of the child pornography.

Section 10. *Responsibility of Mall Owners/Operators and Owners or Lessors of Other Business Establishments.* - All mall owners/operators and owners or lessors of other business establishments shall notify the PNP or the NBI within seven (7) days from obtaining facts and circumstances that child pornography is being committed in their premises. *Provided,* That public display of any form of child pornography within their premises is a conclusive presumption of the knowledge of the mall owners/operators and owners or lessors of other business establishments of the violation of this Act: *Provided, further,* That a disputable presumption of knowledge by mall owners/operators and owners or lessors of other business establishments should know or reasonably know that a violation of this Act is being committed in their premises.

Photo developers, information technology professionals, credit card companies and banks and any person who has direct knowledge of any form of child pornography activities shall have the duty to report any suspected child pornography materials or transactions to the proper authorities within seven (7) days from discovery thereof.

Any willful and intentional violation of this provision shall be subject to the penalty provided under Section 15(l) of this Act.

Section 11. *Duties of an Internet Content Host.* - An internet content host shall:

(a) Not host any form of child pornography on its internet address;

(b) Within seven (7) days, report the presence of any form of child pornography, as well as the particulars of the person maintaining, hosting, distributing or in any manner contributing to such internet address, to the proper authorities; and

(c) Preserve such evidence for purposes of investigation and prosecution by relevant authorities.

An internet content host shall, upon the request of proper authorities, furnish the particulars of users who gained or attempted to gain access to an internet address that contains any form of child pornography.

An internet content host who shall knowingly, willfully and intentionally violate this provision shall be subject to the penalty provided under Section 15(j) of this Act: Provided, That the failure of the internet content host to remove any form of child pornography within forty-eight (48) hours from receiving the notice that any form of child pornography is hitting its server shall be conclusive evidence of willful and intentional violation thereof.

Section 12. *Authority to Regulate Internet Café or Kiosk.* - The local government unit (LGU) of the city or municipality where an internet café or kiosk is located shall have the authority to monitor and regulate the establishment and operation of the same or similar establishments in order to prevent violation of the provisions of this Act.

Section 13. *Confidentiality.* - The right to privacy of the child shall be ensured at any stage of the investigation, prosecution and trial of an offense under this Act. Towards this end, the following rules shall be observed:

(a) The judge, prosecutor or any officer of the law to whom the complaint has been referred to may, whenever necessary to ensure a fair and impartial proceeding and after considering all circumstances for the best interest of the child conduct a closed-door investigation, prosecution or trial;

(b) The name and personal circumstances of the child, including the child's immediate family, or any other information tending to establish his/her identity shall not be disclosed to the public;

(c) Any record regarding a child shall be confidential and kept under seal. Except upon written request and order of the court, a record shall be released only to the following:

(1) Members of the court staff for administrative use;

(2) The prosecuting attorney;

(3) Defense counsel;

(4) The guardian *ad litem*;

(5) Agents of investigating law enforcement agencies and

(6) Other persons as determined by the court.

(d) Any form of child pornography that is part of the court records shall be subject to a protective order that provides as follows:

(1) Any form of child pornography may be viewed only by the parties, their counsel, their expert witness and guardian *ad litem*;

(2) Neither form of child pornography nor any portion thereof shall be divulged to any other person, except as necessary for investigation, prosecution or trial; and

(3) No person shall be granted access to any form of child pornography or any part thereof unless he/she signs a written affirmation that he/she has received and read a copy of the protection order; that he/she submits to the jurisdiction of the court with respect to the protective order; and that, in case of violation thereof, he/she will be subject to the contempt power of the court; and

(e) In cases when prosecution or trial is conducted behind closed doors, it shall be unlawful for any editor, publisher and reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person utilizing the tri-media facilities or information technology to publish or broadcast the names of the victims of any case of child pornography.

Any violation of this provision shall be subject to the penalty provided for under Section 15(m) of this Act.

Section 14. *Care, Custody and Treatment of a Child Victim.* - The DSWD shall ensure that the child who is a victim of any form of child pornography is provided appropriate care, custody and support for their recovery and reintegration in accordance with existing laws.

The child and his family shall be entitled to protection as well as to the rights and benefits of witnesses under Republic Act No. 6981, otherwise known as "The Witness Protection, Security and Benefit Act".

The child shall also be considered as a victim of a violent crime defined under Section 3(d) of Republic Act No. 7309, otherwise known as "An Act Creating a Board of Claims under the Department of Justice for Victims of

Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes", so that the child may claim compensation therein.

Section 15. *Penalties and Sanctions.* - The following penalties and sanctions are hereby established for offenses enumerated in this Act:

(a) Any person found guilty of syndicated child pornography as defined in Section 5 of this Act shall suffer the penalty of *reclusion perpetua* and a fine of not less than Two million pesos (Php2,000,000.00) but not more than Five million pesos (Php5,000,000.00);

(b) Any person found guilty of violating Section 4(a), (b) and (c) of this Act shall suffer the penalty of *reclusion temporal* in its maximum period and a fine of not less than One million pesos (Php1,000,000.00) but not more than Two million (Php2,000,000.00);

(c) Any person found guilty of violating Section 4(d), (e) and (f) of this Act shall suffer the penalty of *reclusion temporal* in its medium period and a fine of not less than Seven hundred fifty thousand pesos (Php750,000.00) but not more than One million pesos (Php1,000,000.00);

(d) Any person found guilty of violating Section 4(g) of this Act shall suffer the penalty of *reclusion temporal* in its minimum period and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Seven hundred thousand pesos (Php700,000.00);

(e) Any person found guilty of violating Section 4(h) of this Act shall suffer the penalty of *prision mayor* in its maximum period and a fine of not less than Three hundred thousand pesos (Php300,000.00) but not more than Five hundred thousand pesos (Php500,000.00);

(f) Any person found guilty of violating Section 4(I) of this Act shall suffer the penalty of *prision mayor* in its minimum period and a fine of not less than Three hundred thousand pesos (php300,000.00) but not more than Five hundred thousand pesos (Php500,000.00);

(g) Any person found guilty of violating Section 4(j) of this Act shall suffer the penalty of *prision correccional* in its maximum period and a fine of not less than Two hundred thousand pesos (Php200,000.00) but not more than Three hundred thousand pesos (Php300,000.00);

(h) Any person found guilty of violating Section 4(k) of this Act shall suffer the penalty of *prision correccional* in its medium period and a fine of not less than One hundred thousand pesos (php100,000.00) but not more than Two hundred fifty thousand pesos (php250,000.00);

(i) Any person found guilty of violating Section 4(l) of this Act shall suffer the penalty of *arresto mayor* in its minimum period and a fine of not less than Fifty thousand pesos (Php50,000.00) but not more than One hundred thousand pesos (Php100,000.00);

(j) Any person found guilty of violating Section 11 of this Act shall suffer the penalty of *prision correccional* in its medium period and a fine of not less than One million pesos (Php1,000,000.00) but not more than Two million pesos (Php2,000,000.00) for the first offense. In the case of a subsequent offense, the penalty shall be a fine not less than Two million pesos (Php2,000,000.00) but not more than Three million pesos (Php3,000,000.00) and revocation of its license to operate and immediate closure of the establishment;

(k) Any ISP found guilty of willfully and knowingly failing to comply with the notice and installation requirements under Section 9 of this Act shall suffer the penalty of a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00) for the first offense. In case of subsequent offense, the penalty shall be a fine of not less than One million pesos (Php1,000,000.00) but not more than Two million pesos (Php2,000,000.00) and revocation of its license to operate;

(l) Any mall owner-operator and owner or lessor of other business establishments including photo developers, information technology professionals, credit card companies and banks, found guilty of willfully and knowingly failing to comply with the notice requirements under Section 10 of this Act shall suffer the penalty of a fine of not less than One million pesos (Php1,000,000.00) but not more than Two million pesos (Php2,000,000.00) for the first offense. In the case of a subsequent offense, the penalty shall be a fine of not less than Two million pesos (Php2,000,000.00) but not more than Three million pesos (Php3,000,000.00) and revocation of its license to operate and immediate closure of the establishment; and

(m) Any person found guilty of violating Section 13 of this Act shall suffer the penalty of *arresto mayor* in its minimum period and a fine of not less than One hundred thousand pesos (Php100,000.00) but not more than Three hundred thousand pesos (Php300,000.00).

Section 16. *Common Penal Provisions.* -

(a) If the offender is a parent, ascendant, guardian, step-parent or collateral relative within the third degree of consanguinity or affinity or any person having control or moral ascendancy over the child, the penalty provided herein shall be in its maximum duration; *Provided,* That this provision shall not apply to Section 4(g) of this Act;

(b) If the offender is a juridical person, the penalty shall be imposed upon the owner, manager, partner, member of the board of directors and/or any responsible officer who participated in the commission of the crime or shall have knowingly permitted or failed to prevent its commissions;

(c) If the offender is a foreigner, he/she shall be immediately deported after the complete service of his/her sentence and shall forever be barred from entering the country; and

(d) The penalty provided for in this Act shall be imposed in its maximum duration if the offender is a public officer or employee.

Section 17. *Confiscation and Forfeiture of the Proceeds, Tools and Instruments Used in Child Pornography.* - In addition to the penalty imposed for the violation of this Act, the court shall order the confiscation and forfeiture in favor of the government of all the proceeds, tools and instruments used in the commission of the crime, unless they are the property of a third person not liable for the unlawful act; *Provided,* however, That all awards for damages shall be taken from the personal and separate properties of the offender; *Provided,* further, That if such properties are insufficient, the deficiency shall be taken from the confiscated and forfeited proceeds, tools and instruments.

All proceeds derived from the sale of properties used for the commission of any form of child pornography shall accrue to the special account of the DSWD which shall be used exclusively for the implementation of this Act.

When the proceeds, tools and instruments used in the commission of the offense have been destroyed diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly, of the offender, or it has been concealed, removed, converted or transferred to prevent the same from being found or to avoid forfeiture or confiscation, the offender shall be ordered to pay the amount equal to the value of the proceeds, tools and instruments used in the commission of the offense.

Section 18. *Mandatory Services to Victims of Child Pornography.* - To ensure recovery, rehabilitation and reintegration into the mainstream of society concerned government agencies and the LGUs shall make available the following services to victims of any form of child pornography:

(a) Emergency shelter or appropriate housing;

(b) Counseling;

(c) Free legal services, which shall include information about the victim's rights and the procedure for filing of complaints, claims for compensation and such other legal remedies available to them in a language understood by the child;

(d) Medical or psychological services;

(e) Livelihood and skills training; and

(f) Educational assistance.

Sustained supervision and follow through mechanism that will track the progress of recovery, rehabilitation and reintegration of the child victims shall adopted and carried out.

Section 19. *Programs for Victims of Child Pornography.* The Inter-Agency Council Against Child Pornography created under Section 20 of this Act shall develop and implement the necessary programs that will prevent any form of child pornography, as well as protect, heal and reintegrate the child into the mainstream of society. Such programs shall include beat but not limited to the following:

(a) Provision of mandatory services including counseling free legal services, medical or psychological services, livelihood and skills training and educational assistance to the child pursuant to Section 18 of this Act;

(b) Sponsorship of a national research program on any form of child pornography and other acts covered by the law and the establishment of a data collection system for monitoring and evaluation purposes;

(c) Provision of necessary technical and material support services to appropriate government agencies and nongovernmental organizations:

(d) Sponsorship of conferences and seminars to provide venue for consensus building amongst the public, the academe , government, nongovernmental and international organizations and

(e) Promotion of information and education campaign.

Section 20. *Inter - Agency Council against Child Pornography.* - There is hereby established an Inter-Agency Council against Child Pornography to be composed of the Secretary of the DSWD as chairperson and the following as members:

(a) Secretary of the Department of Justice:

(b) Secretary of the Department of Labor and Employment

(c) Secretary of the Department of Science and Technology

(d) Chief of the Philippine National Police;

(e) Chairperson of the Commission on Information and Communications Technology;

(g) Commissioner of the National Telecommunications Commission;

(h) Executive Director of the Council for the Welfare of Children;

(i) Executive Director of the Philippine Center for Transnational Crimes;

(j) Executive Director of the Optical Media Board;

(k) Director of the National Bureau of Investigation; and

(l) Three (3) representatives from children's nongovernmental organizations. These representatives shall be nominated by the government agency representatives of the Council for appointment by the President for a term of three (3) years and may be renewed upon renomination and reappointment by the Council and the President respectively.

The members of the Council may designate their permanent representatives, who shall have a rank not lower than assistant secretary or its equivalent, to meetings and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations.

The DSWD shall establish the necessary Secretariat for the Council.

Section 21. *Functions of the Council.* - The Council shall have the following powers and functions:

(a) Formulate comprehensive and integrated plans and programs to prevent and suppress any form of child pornography;

(b) Promulgate rules and regulations as may be necessary for the effective implementation of this Act;

(c) Monitor and oversee the strict implementation of this Act;

(d) Coordinate the programs and projects of the various members agencies effectively address the issues and problems attendant to child pornography;

(e) Conduct and coordinate massive information disseminations and campaign on the existence of the law and the various issues and problems attendant to child pornography;

(f) Direct other agencies to immediately respond to the problems brought to their attention and report to the Council on the action taken;

(g) Assist in the filling of cases against individuals, agencies, institutions or establishments that violate the provisions of this Act;

(h) Formulate a program for the reintegration of victims of child pornography;

(i) Secure from any department, bureau, office, agency or instrumentality of the government or from NGOs and other civic organizations such assistance as may be needed to effectively implement this Act;

(j) Complement the shared government information system relative to child abuse and exploitation and ensure that the proper agencies conduct a continuing research and study on the patterns and schemes of any form of child pornography which form basis for policy formulation and program direction;

(k) develop the mechanism to ensure the timely, coordinated and effective response to cases of child pornography;

(l) Recommend measures to enhance cooperative efforts and mutual assistance among foreign countries through bilateral and/or multilateral arrangements to prevent and suppress any form of child pornography;

(m) Adopt measures and policies to protect the rights and needs of the victims of child pornography who are foreign nationals in the Philippines;

(n) maintain a database of cases of child pornography;

(o) Initiate training programs in identifying and providing the necessary intervention or assistance to victims of child pornography.

(p) Submit to the President and the Congressional Oversight committee credited herein the annual report on the policies, plans, programs and activities of the Council relative to the implementation of this Act; and

(q) Exercise all the powers and perform such other functions necessary to attain the purposes and objectives of this Act.

Section 22. *Child Pornography as a Transnational Crime.* - Pursuant to the Convention on transnational Organized Crime, the DOJ may execute the request of a foreign state for assistance in the investigation or prosecution of any form of child pornography by: (1) conducting a preliminary investigation against the offender and, if appropriate, to file the necessary charges in court; (2) giving information needed by the foreign state; and (3) to apply for an order of forfeiture of any proceeds or monetary instrument or properly located in the Philippines used in connection with child pornography in the court; *Provided,* That if the DOJ refuses to act on the request of for delaying the execution thereof: *Provided,* further, That the principles of mutuality and reciprocity shall, for this purpose, be at all times recognized.

Section 23. *Extradition.* - The DOJ, in consultation with the Department of Foreign Affairs (DFA), shall endeavor

to include child pornography among extraditable offenses in future treaties.

Section 24. *Congressional Oversight Committee.* -There is hereby created a Congressional Oversight Committee composed of five (5) members from the Senate and five (5) members from the House of Representatives. The members from the Senate shall be appointed by the Senate President based on proportional representation of the parties or coalition therein with at least one (1) member representing the Minority. The members from the House of Representative shall be appointed by the Speaker, also based on proportional representation of the parties or coalitions therein with the Chair of the House of Committee on Welfare of Children and at least one (1) member representing the Minority

The Committee shall be headed by the respective Chairs of the Senate Committee on Youth, Women and Family relations and the House of Representatives Committee on Justice. The Secretariat of the Congressional Oversight Committee shall come from the existing Secretariat personnel of the Committees of the Senate and the House of Representatives concerned.

The Committee shall monitor and ensure the effective implementation of this Act, determine inherent weakness and loopholes in the law. Recommend the necessary remedial legislator or administrative measures and perform such other duties and functions as may be necessary to attain the objectives of this Act.

Section 25. *Appropriations.* - The amount necessary to implement the provisions of the Anti-Child Pornography Act and the operationalization of the Inter-Agency Council Against Child Pornography shall be included in the annual General Appropriations Act.

Section 26. *Implementing Rules and Regulations.* - The Inter- Agency Council Against Child pornography shall promulgate the necessary implementing rules and regulations within ninety (90) days from the effectivity of this Act.

Section 27. *Suppletory Application of the Revised Penal Code.* - The Revised penal Code shall be suppletorily applicable to this Act.

Section 28. *Separability Clause.* - If any part of this Act is declared unconstitutional or invalid, the other provisions not affected thereby shall continue to be in full force and effect.

Section 29. *Repealing Clause.* - All laws, presidential decrees, executive orders, administrative orders, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly.

Section 30. *Effectivity.* - This Act shall effect after fifteen (15) days following its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

RA No 9995 | **Anti-Photo and Video Voyeurism Act of 2009**

Republic Act No. 9995

AN ACT DEFINING AND PENALIZING THE CRIME OF PHOTO AND VIDEO VOYEURISM, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representative of the Philippines in Congress assembled:

Section 1. *Short Title.* - This Act shall be known as the ***"Anti-Photo and Video Voyeurism Act of 2009"***.

Section 2. *Declaration of Policy.* - The State values the dignity and privacy of every human person and guarantees full respect for human rights. Toward this end, the State shall penalize acts that would destroy the honor, dignity and integrity of a person.

Section 3. *Definition of Terms.* - For purposes of this Act, the term:

(a) "Broadcast" means to make public, by any means, a visual image with the intent that it be viewed by a person or persons.

(b) "Capture" with respect to an image, means to videotape, photograph, film, record by any means, or broadcast.

(c) "Female breast" means any portion of the female breast.

(d) "Photo or video voyeurism" means the act of taking photo or video coverage of a person or group of persons performing sexual act or any similar activity or of capturing an image of the private area of a person or persons without the latter's consent, under circumstances in which such person/s has/have a reasonable expectation of privacy, or the act of selling, copying, reproducing, broadcasting, sharing, showing or exhibiting the photo or video coverage or recordings of such sexual act or similar activity through VCD/DVD, internet, cellular phones and similar means or device without the written consent of the person/s involved, notwithstanding that consent to record or take photo or video coverage of same was given by such person's.

(e) "Private area of a person" means the naked or undergarment clad genitals, public area, buttocks or female breast of an individual.

(f) "Under circumstances in which a person has a reasonable expectation of privacy" means believe that he/she could disrobe in privacy, without being concerned that an image or a private area of the person was being captured; or circumstances in which a reasonable person would believe that a private area of the person would not be visible to the public, regardless of whether that person is in a public or private place.

Section 4. *Prohibited Acts.* - It is hereby prohibited and declared unlawful for any person:

(a) To take photo or video coverage of a person or group of persons performing sexual act or any similar activity or to capture an image of the private area of a person/s such as the naked or undergarment clad genitals, public area, buttocks or female breast without the consent of the person/s involved and under circumstances in which the person/s has/have a reasonable expectation of privacy;

(b) To copy or reproduce, or to cause to be copied or reproduced, such photo or video or recording of sexual act or any similar activity with or without consideration;

(c) To sell or distribute, or cause to be sold or distributed, such photo or video or recording of sexual act, whether it be the original copy or reproduction thereof; or

(d) To publish or broadcast, or cause to be published or broadcast, whether in print or broadcast media, or show or exhibit the photo or video coverage or recordings of such sexual act or any similar activity through VCD/DVD, internet, cellular phones and other similar means or device.

The prohibition under paragraphs (b), (c) and (d) shall apply notwithstanding that consent to record or take photo or video coverage of the same was given by such person/s. Any person who violates this provision shall be liable for photo or video voyeurism as defined herein.

Section 5. *Penalties.* - The penalty of imprisonment of not less that three (3) years but not more than seven (7) years and a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Five hundred thousand pesos (P500,000.00), or both, at the discretion of the court shall be imposed upon any person found guilty of violating Section 4 of this Act.

If the violator is a juridical person, its license or franchise shall be automatically be deemed revoked and the persons liable shall be the officers thereof including the editor and reporter in the case of print media, and the

station manager, editor and broadcaster in the case of a broadcast media.

If the offender is a public officer or employee, or a professional, he/she shall be administratively liable.

If the offender is an alien, he/she shall be subject to deportation proceedings after serving his/her sentence and payment of fines.

Section 6. *Exemption*. - Nothing contained in this Act, however, shall render it unlawful or punishable for any peace officer, who is authorized by a written order of the court, to use the record or any copy thereof as evidence in any civil, criminal investigation or trial of the crime of photo or video voyeurism: Provided, That such written order shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he/she may produce, and upon showing that there are reasonable grounds to believe that photo or video voyeurism has been committed or is about to be committed, and that the evidence to be obtained is essential to the conviction of any person for, or to the solution or prevention of such, crime.

Section 7. *Inadmissibility of Evidence*. - Any record, photo or video, or copy thereof, obtained or secured by any person in violation of the preceding sections shall not be admissible in evidence in any judicial, quasi-judicial, legislative or administrative hearing or investigation.

Section 8. *Separability Clause*. - If any provision or part hereof is held invalid or unconstitutional, the remaining provisions not affected thereby shall remain valid and subsisting.

Section 9. *Repealing Clause*. - Any law, presidential decree or issuance, executive order, letter of instruction , administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 10. *Effectivity Clause*. - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two(2) newspapers of general circulation.

SPL | *Related to Crimes Committed By Public Officers*

Book TWO Title SEVEN

RA No. 3019 | **Anti-Graft And Corrupt Practices Act**

Section 1. *Statement of policy.* It is the policy of the Philippine Government, in line with the principle that a public office is a public trust, to repress certain acts of public officers and private persons alike which constitute graft or corrupt practices or which may lead thereto.

Section 2. *Definition of terms*. As used in this Act, that term

(a) "Government" includes the national government, the local governments, the government-owned and government-controlled corporations, and all other instrumentalities or agencies of the Republic of the Philippines and their branches.

(b) "Public officer" includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exempt service receiving compensation, even nominal, from the government as defined in the preceding subparagraph.

(c) "Receiving any gift" includes the act of accepting directly or indirectly a gift from a person other than a member of the public officer's immediate family, in behalf of himself or of any member of his family or relative within the fourth civil degree, either by consanguinity or affinity, even on the occasion of a family celebration or national festivity like Christmas, if the value of the gift is under the circumstances manifestly excessive.

(d) "Person" includes natural and juridical persons, unless the context indicates otherwise.

Section 3. *Corrupt practices of public officers*. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

(b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other part, wherein the public officer in his official capacity has to intervene under the law.

(c) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in consideration for the help given or to be given, without prejudice to Section thirteen of this Act.

(d) Accepting or having any member of his family accept employment in a private enterprise which has pending official business with him during the pendency thereof or within one year after its termination.

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

(f) Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

(h) Director or indirectly having financing or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

(i) Directly or indirectly becoming interested, for personal gain, or having a material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercises discretion in such approval, even if he votes against the same or does not participate in the action of the board, committee, panel or group.

Interest for personal gain shall be presumed against those public officers responsible for the approval of manifestly unlawful, inequitable, or irregular transaction or acts by the board, panel or group to which they belong.

(j) Knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for

or not legally entitled to such license, permit, privilege or advantage, or of a mere representative or dummy of one who is not so qualified or entitled.

(k) Divulging valuable information of a confidential character, acquired by his office or by him on account of his official position to unauthorized persons, or releasing such information in advance of its authorized release date.

The person giving the gift, present, share, percentage or benefit referred to in subparagraphs (b) and (c); or offering or giving to the public officer the employment mentioned in subparagraph (d); or urging the divulging or untimely release of the confidential information referred to in subparagraph (k) of this section shall, together with the offending public officer, be punished under Section nine of this Act and shall be permanently or temporarily disqualified in the discretion of the Court, from transacting business in any form with the Government.

Section 4. *Prohibition on private individuals.* (a) It shall be unlawful for any person having family or close personal relation with any public official to capitalize or exploit or take advantage of such family or close personal relation by directly or indirectly requesting or receiving any present, gift or material or pecuniary advantage from any other person having some business, transaction, application, request or contract with the government, in which such public official has to intervene. Family relation shall include the spouse or relatives by consanguinity or affinity in the third civil degree. The word "close personal relation" shall include close personal friendship, social and fraternal connections, and professional employment all giving rise to intimacy which assures free access to such public officer.

(b) It shall be unlawful for any person knowingly to induce or cause any public official to commit any of the offenses defined in Section 3 hereof.

Section 5. *Prohibition on certain relatives.* It shall be unlawful for the spouse or for any relative, by consanguinity or affinity, within the third civil degree, of the President of the Philippines, the Vice-President of the Philippines, the President of the Senate, or the Speaker of the House of Representatives, to intervene, directly or indirectly, in any business, transaction, contract or application with the Government: Provided, That this section shall not apply to any person who, prior to the assumption of office of any of the above officials to whom he is related, has been already dealing with the Government along the same line of business, nor to any transaction, contract or application already existing or pending at the time of such assumption of public office, nor to any application filed by him the approval of which is not discretionary on the part of the official or officials concerned but depends upon compliance with requisites provided by law, or rules or regulations issued pursuant to law, nor to any act lawfully performed in an official capacity or in the exercise of a profession.

Section 6. *Prohibition on Members of Congress.* It shall be unlawful hereafter for any Member of the Congress during the term for which he has been elected, to acquire or receive any personal pecuniary interest in any specific business enterprise which will be directly and particularly favored or benefited by any law or resolution authored by him previously approved or adopted by the Congress during the same term.

The provision of this section shall apply to any other public officer who recommended the initiation in Congress of the enactment or adoption of any law or resolution, and acquires or receives any such interest during his incumbency.

It shall likewise be unlawful for such member of Congress or other public officer, who, having such interest prior to the approval of such law or resolution authored or recommended by him, continues for thirty days after such approval to retain such interest.

Section 7. *Statement of assets and liabilities.* Every public officer, within thirty days after assuming office and, thereafter, on or before the fifteenth day of April following the close of every calendar year, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or Chief of an independent office, with the Office of the President, a true, detailed and sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year; Provided, That public officers assuming office less than two months before the end of the calendar year, may file their first statement on or before the fifteenth day of April following the close of the said calendar year. (***as amended by RA No 3047, PD No 677, 1288)***

Section 8. *Prima facie evidence of and dismissal due to unexplained wealth.*If in accordance with the provisions of Republic Act Numbered One thousand three hundred seventy-nine, a public official has been found to have acquired during his incumbency, whether in his name or in the name of other persons, an amount of property and/or money manifestly out of proportion to his salary and to his other lawful income, that fact shall be a ground for dismissal or removal. Properties in the name of the spouse and dependents of such public official may be taken into consideration, when their acquisition through legitimate means cannot be satisfactorily shown. Bank deposits in the name of or manifestly excessive expenditures incurred by the public official, his spouse or any of their dependents including but not limited to activities in any club or association or any ostentatious display of wealth including frequent travel abroad of a non-official character by any public official when such activities entail expenses evidently out of proportion to legitimate income, shall likewise be taken into consideration in the enforcement of this section, notwithstanding any provision of law to the contrary. The circumstances hereinabove mentioned shall constitute valid ground for the administrative suspension of the public official concerned for an indefinite period until the investigation of the unexplained wealth is completed. ***(as amended by Batas Pambansa Blg. 195, [March 16, 1982])***

Section 9. *Penalties for violations.* (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

Any complaining party at whose complaint the criminal prosecution was initiated shall, in case of conviction of the accused, be entitled to recover in the criminal action with priority over the forfeiture in favor of the Government, the amount of money or the thing he may have given to the accused, or the fair value of such thing.

(b) Any public officer violating any of the provisions of Section 7 of this Act shall be punished by a fine of not less than one thousand pesos nor more than five thousand pesos, or by imprisonment not exceeding one year and six months, or by both such fine and imprisonment, at the discretion of the Court.

The violation of said section proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public officer, even if no criminal prosecution is instituted against him.

(as amended by Batas Pambansa Blg. 195, [March 16, 1982])

Section 10. *Competent court.* Until otherwise provided by law, all prosecutions under this Act shall be within the

original jurisdiction of the Sandiganbayan. ***(as amended by Batas Pambansa Blg. 195, [March 16, 1982])***

Section 11. *Prescription of offenses.* All offenses punishable under this Act shall prescribe in twenty years. ***(as amended by Batas Pambansa Blg. 195, [March 16, 1982], Republic Act No. 10910, [July 21, 2016])***

Section 12. *Termination of office.* No public officer shall be allowed to resign or retire pending an investigation, criminal or administrative, or pending a prosecution against him, for any offense under this Act or under the provisions of the Revised Penal Code on bribery.

Section 13. *Suspension and loss of benefits.* Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title 7, Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as a complex offense and in whether stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.

In the event that such convicted officer, who may have already been separated from the service, has already received such benefits he shall be liable to restitute the same to the Government. ***(as amended by Batas Pambansa Blg. 195, [March 16, 1982])***

Section 14. *Exception.* Unsolicited gifts or presents of small or insignificant value offered or given as a mere ordinary token of gratitude or friendship according to local customs or usage, shall be excepted from the provisions of this Act.

Nothing in this Act shall be interpreted to prejudice or prohibit the practice of any profession, lawful trade or occupation by any private person or by any public officer who under the law may legitimately practice his profession, trade or occupation, during his incumbency, except where the practice of such profession, trade or occupation involves conspiracy with any other person or public official to commit any of the violations penalized in this Act.

Section 15. *Separability clause.* If any provision of this Act or the application of such provision to any person or circumstances is declared invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

Section 16. *Effectivity.* This Act shall take effect on its approval, but for the purpose of determining unexplained wealth, all property acquired by a public officer since he assumed office shall be taken into consideration.

Approved: August 17, 1960

RA No 7080 | **Anti-Plunder Act**

Republic Act No. 7080 **July 12, 1991**

AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled::

Section 1. ***Definition of Terms*** - As used in this Act, the term -

a) Public Officer means any person holding any public office in the Government of the Republic of the Philippines by virtue of an appointment, election or contract.

b) Government includes the National Government, and any of its subdivisions, agencies or instrumentalities, including government-owned or -controlled corporations and their subsidiaries.

c) Person includes any natural or juridical person, unless the context indicates otherwise.

d) Ill-gotten wealth means any asset, property, business enterprise or material possession of any person within the purview of Section Two (2) hereof, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes:

1) Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;

2) By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;

3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities or government-owned or -controlled corporations and their subsidiaries;

4) By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including promise of future employment in any business enterprise or undertaking;

5) By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or

6) By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

See Section 2 As amended by Section 12 of RA No.7659

Section 2. ***Definition of the Crime of Plunder; Penalties*** - Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1(d) hereof, in the aggregate amount or total value of at least Seventy-five million pesos (P75,000,000.00), shall be guilty of the crime of plunder and shall be punished by life imprisonment with perpetual absolute disqualification from holding any public office. Any person who participated with said public officer in the commission of plunder shall likewise be punished. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stock derived from the deposit or investment thereof forfeited in favor of the State.

Section 3. ***Competent Court*** - Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan.

Section 4. ***Rule of Evidence*** - For purposes of establishing the crime of plunder, it shall not be necessary to prove each and every criminal act done by the accused in furtherance of the scheme or conspiracy to amass, accumulate or acquire ill-gotten wealth, it being sufficient to establish beyond reasonable doubt a pattern of overt or criminal acts indicative of the overall unlawful scheme or conspiracy.

Section 5. ***Suspension and Loss of Benefits*** - Any public officer against whom any criminal prosecution under a valid information under this Act in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and other benefits which he failed to receive during suspension, unless in the meantime, administrative proceedings have been filed against him.

Section 6. ***Prescription of Crimes*** - The crime punishable under this Act shall prescribe in twenty (20) years. However, the right of the State to recover properties unlawfully acquired by public officers from them or from their nominees or transferees shall not be barred by prescription, laches, or estoppel.

Section 7. ***Separability of Provisions*** - If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the remaining provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 8. ***Scope*** - This Act shall not apply to or affect pending prosecutions or proceedings, or those which may be instituted under Executive Order No. 1, issued and promulgated on February 28, 1986.

Section 9. ***Effectivity*** - This Act shall take effect after fifteen (15) days from its publication in the Official Gazette and in a newspaper of general circulation.

Approved: July 12, 1991

RA No 1379 | **Forfeiture in Favor of the State**

REPUBLIC ACT No. 1379

AN ACT DECLARING FORFEITURE IN FAVOR OF THE STATE ANY PROPERTY FOUND TO HAVE BEEN UNLAWFULLY ACQUIRED BY ANY PUBLIC OFFICER OR EMPLOYEE AND PROVIDING FOR THE PROCEEDINGS THEREFOR.

Section 1. *Definitions.* (a) For the purposes of this Act, a "public officer or employee" means any person holding any public office or employment by virtue of an appointment, election or contract, and any person holding any office or employment, by appointment or contract, in any State owned or controlled corporation or enterprise.

(b) "Other legitimately acquired property" means any real or personal property, money or securities which the respondent has at any time acquired by inheritance and the income thereof, or by gift inter vivos before his becoming a public officer or employee, or any property (or income thereof) already pertaining to him when he qualified for public office or employment, or the fruits and income of the exclusive property of the respondent's spouse. It shall not include:

1. Property unlawfully acquired by the respondent, but its ownership is concealed by its being recorded in the name of, or held by, the respondent's spouse, ascendants, descendants, relatives, or any other person.

2. Property unlawfully acquired by the respondent, but transferred by him to another person or persons on or after the effectivity of this Act.

3. Property donated to the respondent during his incumbency, unless he can prove to the satisfaction of the court that the donation is lawful.

Section 2. *Filing of petition.* Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed prima facie to have been unlawfully acquired. The Solicitor General, upon complaint by any taxpayer to the city or provincial fiscal who shall conduct a previous inquiry similar to preliminary investigations in criminal cases and shall certify to the Solicitor General that there is reasonable ground to believe that there has been committed a violation of this Act and the respondent is probably guilty thereof, shall file, in the name and on behalf of the Republic of the Philippines, in the Court of First Instance of the city or province where said public officer or employee resides or holds office, a petition for a writ commanding said officer or employee to show cause why the property aforesaid, or any part thereof, should not be declared property of the State: *Provided*, That no such petition shall be filed within one year before any general election or within three months before any special election.

The resignation, dismissal or separation of the officer or employee from his office or employment in the Government or in the Government-owned or controlled corporation shall not be a bar to the filing of the petition: *Provided, however*, That the right to file such petition shall prescribe after four years from the date of the resignation, dismissal or separation or expiration of the term of the office or employee concerned, except as to those who have ceased to hold office within ten years prior to the approval of this Act, in which case the proceedings shall prescribe after four years from the approval hereof.

Section 3. The petition. The petition shall contain the following information:

(a) The name and address of the respondent.

(b) The public officer or employment he holds and such other public offices or employment which he has previously held.

(c) The approximate amount of property he has acquired during his incumbency in his past and present offices and employments.

(d) A description of said property, or such thereof as has been identified by the Solicitor General.

(e) The total amount of his government salary and other proper earnings and incomes from legitimately acquired property, and

(f) Such other information as may enable the court to determine whether or not the respondent has unlawfully acquired property during his incumbency.

Section 4. *Period for the answer.* The respondent shall have a period of fifteen days within which to present his answer.

Section 5. *Hearing.* The Court shall set a date for a hearing, which may be open to the public, and during which the respondent shall be given ample opportunity to explain, to the satisfaction of the court, how he has acquired the property in question.

Section 6. *Judgment.* If the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property, forfeited in favor of the State, and by virtue of such judgment the property aforesaid shall become property of the State: *Provided*, That no judgment shall be rendered within six months before any general election or within three months before any special election. The Court may, in addition, refer this case to the corresponding Executive Department for administrative or criminal action, or both.

Section 7. *Appeal.* The parties may appeal from the judgment of the Court of First Instance as provided in the Rules of Court for appeals in civil cases.

Section 8. *Protection against self-incrimination.* Neither the respondent nor any other person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to prosecution; but no individual shall be prosecuted criminally for or on account

of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and conviction for perjury or false testimony committed in so testifying or from administrative proceedings.

Section 9. *Immunity.* The Solicitor General may grant immunity from criminal prosecution to any person who testifies to the unlawful manner in which the respondent has acquired any of the property in question in cases where such testimony is necessary to prove violations of this Act.

Section 10. *Effect of record of title.* The fact that any real property has been recorded in the Registry of Property or office of the Register of Deeds in the name of the respondent or of any person mentioned in paragraphs (1) and (2) of subsection (b) of section one hereof shall not prevent the rendering of the judgment referred to in section six of this Act.

Section 11. *Laws on prescription.* The laws concerning acquisitive prescription and limitation of actions cannot be invoked by, nor shall they benefit the respondent, in respect of any property unlawfully acquired by him.

Section 12. *Penalties.* Any public officer or employee who shall, after the effective date of this Act, transfer or convey any unlawfully acquired property shall be repressed with imprisonment for a term not exceeding five years, or a fine not exceeding ten thousand pesos, or both such imprisonment and fine. The same repression shall be imposed upon any person who shall knowingly accept such transfer or conveyance.

Section 13. *Separability of provisions.* If any provision of this Act or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 14. *Effective date.* This Act shall take effect on its approval, and shall apply not only to property thereafter unlawfully acquired but also to property unlawfully acquired before the effective date of this Act.

Approved: June 18, 1955

PD No 749 | **Immunity to Givers of Bribes**

PRESIDENTIAL DECREE No. 749 July 18, 1975

GRANTING IMMUNITY FROM PROSECUTION TO GIVERS OF BRIBES AND OTHER GIFTS AND TO THEIR ACCOMPLICES IN BRIBERY AND OTHER GRAFT CASES AGAINST PUBLIC OFFICERS

WHEREAS, public office is a public trust: public officers are but servants of the people, whom they must serve with utmost fidelity and integrity;

WHEREAS, it has heretofore been virtually impossible to secure the conviction and removal of dishonest public servants owing to the lack of witnesses: the bribe or gift-givers being always reluctant to testify against the corrupt public officials and employees concerned for fear of being indicted and convicted themselves of bribery and corruption;

WHEREAS, it is better by far and more socially desirable, as well as just, that the bribe or gift giver be granted immunity from prosecution so that he may freely testify as to the official corruption, than that the official who receives the bribe or gift should be allowed to go free, insolently remaining in public office, and continuing with his nefarious and corrupt practices, to the great detriment of the public service and the public interest.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree and order that:

Section 1. Any person who voluntarily gives information about any violation of Articles 210, 211, and 212 of the Revised Penal Code; Republic Act Numbered Three Thousand Nineteen, as amended; Section 345 of the Internal Revenue Code and Section 3604 of the Tariff and Customs Code and other provisions of the said Codes penalizing abuse or dishonesty on the part of the public officials concerned; and other laws, rules and regulations punishing acts of graft, corruption and other forms of official abuse; and who willingly testifies against any public official or employee for such violation shall be exempt from prosecution or punishment for the offense with reference to which his information and testimony were given, and may plead or prove the giving of such information and testimony in bar of such prosecution: Provided; that this immunity may be enjoyed even in cases where the information and testimony are given against a person who is not a public official but who is a principal, or accomplice, or accessory in the commission of any of the above-mentioned violations: Provided, further, that this immunity may be enjoyed by such informant or witness notwithstanding that he offered or gave the bribe or gift to the public official or his accomplice for such gift or bribe-giving; and Provided, finally, that the following conditions concur:

1. The information must refer to consummated violations of any of the above-mentioned provisions of law, rules and regulations;

2. The information and testimony are necessary for the conviction of the accused public officer;

3. Such information and testimony are not yet in the possession of the State;

4. Such information and testimony can be corroborated on its material points; and

5. The informant or witness has not been previously convicted of a crime involving moral turpitude.

Section 2. The immunity granted hereunder shall not attach should it turn out subsequently that the information and/or testimony is false and malicious or made only for the purpose of harassing, molesting or in any way prejudicing the public officer denounced. In such a case, the public officer so denounced shall be entitled to any action, civil or criminal, against said informant or witness.

Section 3. All preliminary investigations conducted by a prosecuting fiscal, judge or committee, and all proceedings undertaken in connection therewith, shall be strictly confidential or private in order to protect the reputation of the official under investigation in the event that the report proves to be unfounded or no prima facie case is established.

Section 4. All acts, decrees and rules and regulations inconsistent with the provisions of this decree are hereby repealed or modified accordingly.

Section 5. This Decree shall take effect immediately.

DONE in the City of Manila, this 18th day of July, in the year of Our Lord, nineteen hundred and seventy-five.

PD No 46 | **Prohibition of Public Officials from Receiving Gifts**

PRESIDENTIAL DECREE No. 46 November 10, 1972

MAKING IT PUNISHABLE FOR PUBLIC OFFICIALS AND EMPLOYEES TO RECEIVE, AND FOR PRIVATE PERSONS TO GIVE, GIFTS ON ANY OCCASION, INCLUDING CHRISTMAS

WHEREAS, under existing laws and the civil service rules, it is prohibited to receive, directly or indirectly, any gift, present or any other form of benefit in the course of official duties;

WHEREAS, it is believed necessary to put more teeth to existing laws and regulations to wipe out all conceivable

forms of graft and corruption in the public service, the members of which should not only be honest but above suspicion and reproach; and

WHEREAS, the stoppage of the practice of gift-giving to government men is a concrete step in the administration's program of reforms for the development of new moral values in the social structure of the country, one of the main objectives of the New Society;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081 dated September 21, 1972, and General Order No. 1 dated September 22, 1972, do hereby make it punishable for any public official or employee, whether of the national or local governments, to receive, directly or indirectly, and for private persons to give, or offer to give, any gift, present or other valuable thing to any occasion, including Christmas, when such gift, present or other valuable thing is given by reason of his official position, regardless of whether or not the same is for past favor or favors or the giver hopes or expects to receive a favor or better treatment in the future from the public official or employee concerned in the discharge of his official functions. Included within the prohibition is the throwing of parties or entertainments in honor of the official or employees or his immediate relatives.

For violation of this Decree, the penalty of imprisonment for not less than one (1) year nor more than five (5) years and perpetual disqualification from public office shall be imposed. The official or employee concerned shall likewise be subject to administrative disciplinary action and, if found guilty, shall be meted out the penalty of suspension or removal, depending on the seriousness of the offense.

Any provision of law, executive order, rule or regulation or circular inconsistent with this Decree is hereby repealed or modified accordingly.

This Decree shall take effect immediately after its publication.

Done in the City of Manila, this 10th day of November, in the year of Our Lord, nineteen hundred and seventy-two.

PD No 1445 | **State Audit Code of the Philippines**

Section 67. *Warrants and checks receivables in payment for taxes or other indebtedness to the government.*

1. An office charged with the collection of revenue or the receiving of moneys payable to the government shall accept payment for taxes, dues or other indebtedness to the government in the form of checks and warrants issued in payment of government obligations, upon proper indorsement and identification of the payee or indorsee. Checks drawn in favor of the government in payment of any such indebtedness shall likewise be accepted by the officer concerned.

2. When a check drawn in favor of the government is not accepted by the drawee bank for any reason, the drawer shall continue to be liable for the sum due and all penalties resulting from delayed payment. Where the reason for non-acceptance by the drawee bank is insufficiency of funds, the drawer shall be criminally liable therefore.

3. At no instance should money in the hands of the collecting officer be utilized for the purpose of encashing private checks.

Section 68. *Issuance of Official receipt..*

1. No payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof The receipt may be in the form of postage, internal revenue or documentary stamps and the like, or officially numbered receipts, subject to proper custody, accountability, and audit.

2. Where mechanical devices are used to acknowledge cash receipts, the Commission may approve, upon request, exemption from the use of accountable forms.

Section 89. *Limitations on cash advance.* No cash advance shall be given unless for a legally authorized specific purpose. A cash advance shall be reported on and liquidated as soon as the purpose for which it was given has been served. No additional cash advance shall be allowed to any official or employee unless the previous cash advance given to him is first settled or a proper accounting thereof is made.

Section 106. *Liability for acts done by direction of superior officer.* No accountable officer shall be relieved from liability by reason of his having acted under the direction of a superior officer in paying out, applying, or disposing of the funds or property with which he is chargeable, unless prior to that act, he notified the superior officer in writing of the illegality of the payment, application, or disposition. The officer directing any illegal payment or disposition of the funds or property shall be primarily liable for the loss, while the accountable officer who fails to serve the required notice shall be secondarily liable.

Section 108. *Prohibition against pecuniary interest.* No accountable or responsible officer shall be pecuniary interested, directly or indirectly, in any contract or transaction of the agency in which he is such an officer.

Section 128. *Penal provision.* Any violation of the provisions of Sections 67, 68, 89, 106, and 108 of this Code or any regulation issued by the Commission implementing these sections, shall be punished by a fine not exceeding one thousand pesos or by imprisonment not exceeding six (6) months, or both such fine and imprisonment in the discretion of the court.

RA No 9184 | **Government Procurement Act**

ARTICLE XXI

PENAL CLAUSE

Section 65. *Offenses and Penalties.* - (a) Without prejudice to the provisions of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practice Act" and other penal laws, public officers who commit any of the following acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years:

1. Open any sealed Bid including but not limited to Bids that may have been submitted through the electronic system and any and all documents required to be sealed or divulging their contents, prior to the appointed time for the public opening of Bids or other documents.

2. Delaying, without justifiable cause, the screening for eligibility, opening of bids, evaluation and post evaluation of bids, and awarding of contracts beyond the prescribed periods of Bids or other documents.

3. Unduly influencing or exerting undue pressure on any member of the BAC or any officer or employee of the procuring entity to take a particular bidder.

4. Splitting of contracts which exceed procedural purchase limits and competitive bidding.

5. When the head of the agency abuses the exercise of his power to reject any and all bids as mentioned under Section 41 of this Act with manifest preference to any bidder who is closely related to him in accordance with Section 47 of this Act.

When any of the foregoing acts is done in collusion with private individuals, the private individuals shall likewise be liable for the offense.

In addition, the public officer involved shall also suffer the penalty of temporary disqualification from public office, while the private individual shall be permanently

disqualified from transacting business with the government.

(b) Private individuals who commit any of the following acts, including any public officer, who conspires with them, shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years:

1. When two or more bidders agree and submit different Bids as if they were bona fide, when they knew that one or more of them was so much higher than the other that it could not be honestly accepted and that the contract will surely be awarded to the pre-arranged lowest Bid.

2. When a bidder maliciously submits different Bids through two or more persons, corporations, partnerships or any other business entity in which he has interest of create the appearance of competition that does not in fact exist so as to be adjudged as the winning bidder.

3. When two or more bidders enter into an agreement which call upon one to refrain from bidding for Procurement contracts, or which call for withdrawal of bids already submitted, or which are otherwise intended to secure as undue advantage to any one of them.

4. When a bidder, by himself or in connivance with others, employ schemes which tend to restrain the natural rivalry of the parties or operates to stifle or suppress competition and thus produce a result disadvantageous to the public.

In addition, the persons involved shall also suffer the penalty of temporary or perpetual disqualification from public office and be permanently disqualified from transacting business with the government.

(c) Private individuals who commit any of the following acts, and any public officer conspiring with them, shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but more than fifteen (15) years:

1. Submit eligibility requirements of whatever kind and nature that contain false information or falsified documents calculated to influence the outcome of the eligibility screening process or conceal such information in the eligibility requirements when the information will lead to a declaration of ineligibility from participating in public bidding.

2. Submit Bidding Documents of whatever kind and nature than contain false information or falsified documents or conceal such information in the Bidding Documents, in order to influence the outcome of the public bidding.

3. Participate in a public bidding using the name of another or allow another to use one's name for the purpose of participating in a public bidding.

4. Withdraw a Bid, after it shall have qualified as the Lowest Calculated Bid/Highest Rated Bid, or to accept and award, without just cause or for the purpose of forcing the Procuring Entity to award the contract to another bidder. This shall include the non-submission of requirements such as, but not limited to, performance security, preparatory to the final award of the contract.

(d) When the bidder is a juridical entity, criminal liability and the accessory penalties shall be imposed on its directors, officers or employees who actually commit any of the foregoing acts.

Section 66. *Jurisdiction.* - Jurisdiction over the offenses defined under this Article shall belong to the appropriate courts, according to laws existing at the time of the commission of the offenses.

ARTICLE XXII

CIVIL LIABILITY

Section 67. *Civil Liability in Case of Conviction.* - Without prejudice to administrative sanctions that may be imposed in proper cases, a conviction under this Act or Republic Act No. 3019 shall carry with it civil liability, which may either consist of restitution for the damage done or the forfeiture in favor of the government of any unwarranted benefit derived from the act or acts in question or both, at the discretion of the courts.

Section 68. *Liquidated Damages.* - All contracts executed in accordance with this Act shall contain a provision on liquidated damages which shall be payable in case of breach thereof. The amount thereof shall be specified in the IRR.

RA No 9745 | **Anti-Torture Act of 2009**

REPUBLIC ACT N0. 9745

AN ACT PENALIZING TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT AND PRESCRIBING PENALTIES THEREFOR

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Short Title.* - This Ad shall be known as the ***"Anti-Torture Act of 2009".***

Section 2. *Statement of Policy.* - It is hereby declared the policy of the State:

(a) To value the dignity of every human person and guarantee full respect for human rights;

(b) To ensure that the human rights of all persons, including suspects, detainees and prisoners are respected at all times; and that no person placed under investigation or held in custody of any person in authority or, agent of a person authority shall be subjected to physical, psychological or mental harm, force, violence, threat or intimidation or any act that impairs his/her free wi11 or in any manner demeans or degrades human dignity;

(c) To ensure that secret detention places, solitary, incommunicado or other similar forms of detention, where torture may be carried out with impunity, are prohibited; and

(d) To fully adhere to the principles and standards on the absolute condemnation and prohibition of torture as provided for in the 1987 Philippine Constitution; various international instruments to which the Philippines is a State party such as, but not limited to, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and all other relevant international human rights instruments to which the Philippines is a signatory.

Section 3. *Definitions.* - For purposes of this Act, the following terms shall mean:

(a) "Torture" refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or Buffering arising only from, inherent in or incidental to lawful sanctions.

(b) "Other cruel, inhuman and degrading treatment or punishment" refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against a person under his/her custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter.

(c) "Victim" refers to the person subjected to torture or other cruel, inhuman and degrading treatment or punishment as defined above and any individual who has suffered harm as a result of any act(s) of torture, or other cruel, inhuman and degrading treatment or punishment.

(d) "Order of Battle" refers to any document or determination made by the military, police or any law enforcement agency of the government, listing the names of persons and organizations that it perceives to be enemies of the State and that it considers as legitimate targets as combatants that it could deal with, through the use of means allowed by domestic and international law.

Section 4. *Acts of Torture.* - For purposes of this Act, torture shall include, but not be limited to, the following:

(a) Physical torture is a form of treatment or punishment inflicted by a person in authority or agent of a person in authority upon another in his/her custody that causes severe pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:

(1) Systematic beating, headbanging, punching, kicking, striking with truncheon or rifle butt or other similar objects, and jumping on the stomach;

(2) Food deprivation or forcible feeding with spoiled food, animal or human excreta and other stuff or substances not normally eaten;

(3) Electric shock;

(4) Cigarette burning; burning by electrically heated rods, hot oil, acid; by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wound(s);

(5) The submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;

(6) Being tied or forced to assume fixed and stressful bodily position;

(7) Rape and sexual abuse, including the insertion of foreign objects into the sex organ or rectum, or electrical torture of the genitals;

(8) Mutilation or amputation of the essential parts of the body such as the genitalia, ear, tongue, etc.;

(9) Dental torture or the forced extraction of the teeth;

(10) Pulling out of fingernails;

(11) Harmful exposure to the elements such as sunlight and extreme cold;

(12) The use of plastic bag and other materials placed over the head to the point of asphyxiation;

(13) The use of psychoactive drugs to change the perception, memory. alertness or will of a person, such as:

(i) The administration or drugs to induce confession and/or reduce mental competency; or

(ii) The use of drugs to induce extreme pain or certain symptoms of a disease; and

(14) Other analogous acts of physical torture; and

(b) "Mental/Psychological Torture" refers to acts committed by a person in authority or agent of a person in authority which are calculated to affect or confuse the mind and/or undermine a person's dignity and morale, such as:

(1) Blindfolding;

(2) Threatening a person(s) or his/her relative(s) with bodily harm, execution or other wrongful acts;

(3) Confinement in solitary cells or secret detention places;

(4) Prolonged interrogation;

(5) Preparing a prisoner for a "show trial", public display or public humiliation of a detainee or prisoner;

(6) Causing unscheduled transfer of a person deprived of liberty from one place to another, creating the belief that he/she shall be summarily executed;

(7) Maltreating a member/s of a person's family;

(8) Causing the torture sessions to be witnessed by the person's family, relatives or any third party;

(9) Denial of sleep/rest;

(10) Shame infliction such as stripping the person naked, parading him/her in public places, shaving the victim's head or putting marks on his/her body against his/her will;

(11) Deliberately prohibiting the victim to communicate with any member of his/her family; and

(12) Other analogous acts of mental/psychological torture.

Section 5. *Other Cruel, Inhuman and Degrading Treatment or Punishment.* - Other cruel, inhuman or degrading treatment or punishment refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against another person in custody, which attains a level of severity sufficient to cause suffering, gross humiliation or debasement to the latter. The assessment of the level of severity shall depend on all the circumstances of the case, including the duration of the treatment or punishment, its physical and mental effects and, in some cases, the sex, religion, age and state of health of the victim.

Section 6. *Freedom from Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, An Absolute Bight.* - Torture and other cruel, inhuman and degrading treatment or punishment as criminal acts shall apply to all circumstances. A state of war or a threat of war, internal political instability, or any other public emergency, or a document or any determination comprising an "order of battle" shall not and can never be invoked as a justification for torture and other cruel, inhuman and degrading treatment or punishment.

Section 7. *Prohibited Detention.* - Secret detention places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried out with impunity. Are hereby prohibited.

In which case, the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP) and other law enforcement. agencies concerned shall make an updated list of all detention centers and facilities under their respective jurisdictions with the corresponding data on the prisoners or detainees incarcerated or detained therein such as, among others, names, date of arrest and incarceration, and the crime or offense committed. This list shall be made available to the public at all times, with a copy of the complete list available at the respective national headquarters of the PNP and AFP. A copy of the complete list shall likewise be submitted by the PNP, AFP and all other law enforcement agencies to the Commission on Human Rights (CHR), such list to be periodically updated, by the same agencies, within the first five (5) days of every month at the minimum. Every regional office of the PNP, AFP and other law enforcement agencies shall also maintain a similar list far all detainees and detention facilities within their respective areas, and shall make the same available to the public at all times at their respective regional headquarters, and submit a copy. updated in the same manner provided above, to the respective regional offices of the CHR.

Section 8. *Applicability of the Exclusionary Rule; Exception.* - Any confession, admission or statement obtained as a result of torture shall be inadmissible in evidence in any proceedings, except if the same is used as evidence against a person or persons accused of committing torture.

Section 9. *Institutional Protection of Torture Victims and Other Persons Involved.* - A victim of torture shall have the

following rights in the institution of a criminal complaint for torture:

(a) To have a prompt and an impartial investigation by the CHR and by agencies of government concerned such as the Department of Justice (DOJ), the Public Attorney's Office (PAO), the PNP, the National Bureau of Investigation (NBI) and the AFP. A prompt investigation shall mean a maximum period of sixty (60) working days from the time a complaint for torture is filed within which an investigation report and/or resolution shall be completed and made available. An appeal whenever available shall be resolved within the same period prescribed herein,

(b) To have sufficient government protection against all forms of harassment; threat and/or intimidation as a consequence of the filing of said complaint or the presentation of evidence therefor. In which case, the State through its appropriate agencies shall afford security in order to ensure his/her safety and all other persons involved in the investigation and prosecution such as, but not limited to, his/her lawyer, witnesses and relatives; and

(c) To be accorded sufficient protection in the manner by which he/she testifies and presents evidence in any fora in order to avoid further trauma.

Section 10. *Disposition of Writs of Habeas Corpus, Amparo and Habeas Data Proceedings and Compliance with a Judicial 07'der.* - A writ of habeas corpus or writ of amparo or writ of habeas data proceeding, if any, filed on behalf of the victim of torture or other cruel, degrading and inhuman treatment or punishment shall be disposed of expeditiously and any order of release by virtue thereof, or other appropriate order of a court relative thereto, shall be executed or complied with immediately.

Section 11. *Assistance in Filing a Complaint.* - The CHR and the PAO shall render legal assistance in the investigation and monitoring and/or filing of the complaint for a person who suffers torture and other cruel, inhuman and degrading treatment or punishment, or for any interested party thereto.

The victim or interested party may also seek legal assistance from the Barangay Human Rights Action Center (BRRAC) nearest him/her as well as from human rights nongovernment organizations (NGOs).

Section 12. *Right to' Physical, Medical and Psychological Examination.* - Before and after interrogation, every person arrested, detained or under custodial investigation shall have the right to he informed of his/her right to demand physical examination by an independent and competent doctor of his/her own choice. If such person cannot afford the services of his/her own doctor, he/she shall he provided by the State with a competent and independent doctor to conduct physical examination. The State shall endeavor to provide the victim with psychological evaluation if available under the circumstances. If the person arrested is a female, she shall be attended to preferably by a female doctor. Furthermore, any person arrested, detained or under custodial investigation, including his/her immediate family, shall have the right to immediate access to proper and adequate medical treatment. The physical examination and/or psychological evaluation of the victim shall be contained in a medical report, duly signed by the attending physician, which shall include in detail his/her medical history and findings, and which shall he attached to the custodial investigation report. Such report shall be considered a public document.

Following applicable protocol agreed upon by agencies tasked to conduct physical, psychological and mental examinations, the medical reports shall, among others, include:

(a) The name, age and address of the patient or victim;

(b) The name and address of the nearest kin of the patient or victim;

(c) The name and address of the person who brought the patient or victim for physical, psychological and mental examination, and/or medical treatment;

(d) The nature and probable cause of the patient or victim's injury, pain and disease and/or trauma;

(e) The approximate time and date when the injury, pain, disease and/or trauma was/were sustained;

(f) The place where the injury, pain, disease and/or trauma was/were sustained;

(g) The time, date and nature of treatment necessary; and

(h) The diagnosis, the prognosis and/or disposition of the patient.

Any person who does not wish to avail of the rights under this provision may knowingly and voluntarily waive such rights in writing, executed in the presence and assistance of his/her counsel.

Section 13. *Who are Criminally Liable.* - Any person who actually participated Or induced another in the commission of torture or other cruel, inhuman and degrading treatment or punishment or who cooperated in the execution of the act of torture or other cruel, inhuman and degrading treatment or punishment by previous or simultaneous acts shall be liable as principal

Any superior military, police or law enforcement officer or senior government official who issued an order to any lower ranking personnel to commit torture for whatever purpose shall be held equally liable as principals.

The immediate commanding officer of the unit concerned of the AFP or the immediate senior public official of the PNP and other law enforcement agencies shall be held liable as a principal to the crime of torture or other cruel or inhuman and degrading treatment or punishment for any act or omission, or negligence committed by him/her that shall have led, assisted, abetted or allowed, whether directly or indirectly, the commission thereof by his/her subordinates. If he/she has knowledge of or, owing to the circumstances at the time, should have known that acts of torture or other cruel, inhuman and degrading treatment or punishment shall be committed, is being committed, or has been committed by his/her subordinates or by others within his/her area of responsibility and, despite such knowledge, did not take preventive or corrective action either before, during or immediately after its commission, when he/she has the authority to prevent or investigate allegations of torture or other cruel, inhuman and degrading treatment or punishment but failed to prevent or investigate allegations of such act, whether deliberately or due to negligence shall also be liable as principals.

Any public officer or employee shall be liable as an accessory if he/she has knowledge that torture or other cruel, inhuman and degrading treatment or punishment is being committed and without having participated therein, either as principal or accomplice, takes part subsequent to its commission in any of the following manner:

(a) By themselves profiting from or assisting the offender to profit from the effects of the act of torture or other cruel, inhuman and degrading treatment or punishment;

(b) By concealing the act of torture or other cruel, inhuman and degrading treatment or punishment and/or destroying the effects or instruments thereof in order to prevent its discovery; or(c) By harboring, concealing or assisting m the escape of the principal/s in the act of torture or other cruel, inhuman and degrading treatment or punishment: Provided, That the accessory acts are done with the abuse of the official's public functions.

Section 14. *Penalties.* - (a) The penalty of reclusion perpetua shall be imposed upon the perpetrators of the following acts:

(1) Torture resulting in the death of any person;

(2) Torture resulting in mutilation;

(3) Torture with rape;

(4) Torture with other forms of sexual abuse and, in consequence of torture, the victim shall have become insane, imbecile, impotent, blind or maimed for life; and

(5) Torture committed against children.

(b) The penalty of reclusion temporal shall be imposed on those who commit any act of mental/psychological torture resulting in insanity, complete or partial amnesia, fear of becoming insane or suicidal tendencies of the victim due to guilt, worthlessness or shame.

(c) The penalty of prision correccional shall be imposed on those who commit any act of torture resulting in psychological, mental and emotional harm other than those described 1n paragraph (b) of this section. '

(d) The penalty of prision mayor in its medium and maximum periods shall be imposed if, in consequence of torture, the victim shall have lost the power of speech or the power to hear or to smell; or shall have lost an eye, a hand, a foot, an arm or a leg; or shall have lost the use of any such member; Or shall have become permanently incapacitated for labor.

(e) The penalty of prision mayor in its minimum and medium periods shall be imposed if, in consequence of torture, the victim shall have become deformed or shall have lost any part of his/her body other than those aforecited, or shall have lost the use thereof, or shall have been ill or incapacitated for labor for a period of more than ninety (90) days.

(f) The penalty of prision correccional in its maximum period to prision mayor in its minimum period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for more than thirty (30) days but not more than ninety (90) days.

(g) The penalty of prision correccional in its minimum and medium period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for thirty (30) days or less.

(h) The penalty of arresto mayor shall be imposed for acts constituting cruel, inhuman or degrading treatment or punishment as defined in Section 5 of this Act.

(i) The penalty of prision correccional shall be imposed upon those who establish, operate and maintain secret detention places and/or effect or cause to effect solitary confinement, incommunicado or other similar forms of prohibited detention as provided in Section 7 of this Act where torture may be carried out with impunity.

(j) The penalty of arresto mayor shall be imposed upon the responsible officers or personnel of the AFP, the PNP and other law enforcement agencies for failure to perform his/her duty to maintain, submit or make available to the public an updated list of detention centers and facilities with the corresponding data on the prisoners or detainees incarcerated or detained therein, pursuant to Section 7 of this Act.

Section 15. *Torture as a Separate and Independent Crime.* - Torture as a crime shall not absorb or shall not be absorbed by any other crime or felony committed as a consequence, or as a means in the conduct or commission thereof. In which case, torture shall be treated as a separate and independent criminal act whose penalties shall be imposable without prejudice to any other criminal liability provided for by domestic and international laws.

Section 16. *Exclusion from the Coverage of Special Amnesty Law.* - In order not to depreciate the crime of torture, persons who have committed any act of torture shall not benefit from any special amnesty law or similar measures that will have the effect of exempting them from any criminal proceedings and sanctions.

Section 17. *Applicability of Refouler.* - No person shall be expelled, returned or extradited to another State where there are substantial grounds to believe that such person shall be in danger of being subjected to torture. For the purposes of determining whether such grounds exist, the Secretary of the Department of Foreign Affairs (DFA) and the Secretary of the DOJ, in coordination with the Chairperson of the CHR, shall take into account all relevant considerations including, where applicable and not limited to, the existence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights.

Section 18. *Compensation to Victims of Torture.* - Any person who has suffered torture shall have the right to claim for compensation as provided for under Republic Act No. 7309: Provided, That in no case shall compensation be any lower than Ten thousand pesos (P10,000.00). Victims of torture shall also have the right to claim for compensation from such other financial relief programs that may be made available to him/her under existing law and rules and regulations.

Section 19. *Formulation of a Rehabilitation Program.* - Within one (1) year from the effectivity of this Act, the Department of Social Welfare and Development (DSWD), the DOJ and the Department of Health (DOH) and such other concerned government agencies, and human rights organizations shall formulate a comprehensive rehabilitation program for victims of torture and their families. The DSWD, the DOJ and thc DOH shall also call on human rights nongovernment organizations duly recognized by the government to actively participate in the formulation of such program that shall provide for the physical, mental, social, psychological healing and development of victims of torture and their families. Toward the attainment of restorative justice, a parallel rehabilitation program for persons who have committed torture and other cruel, inhuman and degrading punishment shall likewise be formulated by the same agencies.

Section 20. *Monitoring of Compliance with this Act.* - An Oversight Committee is hereby created to periodically oversee the implementation of this Act. The Committee shall be headed by a Commissioner of the CRR, with the following as members: the Chairperson of the Senate Committee on Justice and Human Rights, the respective Chairpersons of the House of Representatives' Committees on Justice and Human Rights, and the Minority Leaders of both houses or their respective representatives in the minority.

Section 21. *Education and Information Campaign.* - The CHR, the DOJ, the Department of National Defense (DND), the Department of the Interior and Local Government (DILG) and such other concerned parties in both the public and private sectors shall ensure that education and information regarding prohibition against torture and other cruel, inhuman and degrading treatment or punishment shall be fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. The Department of Education (DepED) and the Commission on Higher Education (CHED) shall also ensure the integration of human rights education courses in all primary, secondary and tertiary level academic institutions nationwide.

Section 22. *Applicability of the Revised Penal Code.* - The provisions of the Revised Penal Code insofar as they are applicable shall be suppletory to this Act. Moreover, if the commission of any crime punishable under Title Eight (Crimes Against Persons) and Title Nine (Crimes Against Personal Liberty and Security) of the Revised Penal Code is attended by any of the acts constituting torture and other cruel, inhuman and degrading treatment or punishment as defined herein, the penalty to be imposed shall be in its maximum period.

Section 23. *Appropriations.* - The amount of Five million pesos (Php5,000,000.00) is hereby appropriated to the CHR for the initial implementation of tills Act. Thereafter, such sums as may be necessary for the continued

implementation of this Act shall be included in the annual General Appropriations Act.

Section 24. *Implementing Rules and Regulations.* - The DOJ and the CHR, with the active participation of human rights nongovernmental organizations, shall promulgate the rules and regulations for the effective implementation of tills Act. They shall also ensure the full dissemination of such rules and regulations to all officers and members of various law enforcement agencies.

Section 25. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

Section 26. *Repealing Clause.* - All laws, decrees, executive orders or rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 27. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

RA No 10353 | **Anti-Enforced or Involuntary Disappearance Act of 2012**

REPUBLIC ACT NO. 10353

AN ACT DEFINING AND PENALIZING ENFORCED OR INVOLUNTARY DISAPPEARANCE

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Short Title.* –This Act shall be known as the "Anti-Enforced or Involuntary Disappearance Act of 2012".

Section 2. *Declaration of Policy.* –The State values the dignity of every human person and guarantees full respect for human rights for which highest priority shall be given to the enactment of measures for the enhancement of the right of all people to human dignity, the prohibition against secret detention places, solitary confinement, *incommunicado,* or other similar forms of detention, the provision for penal and civil sanctions for such violations, and compensation and rehabilitation for the victims and their families, particularly with respect to the use of torture, force, violence, threat, intimidation or any other means which vitiate the free will of persons abducted, arrested, detained, disappeared or otherwise removed from the effective protection of the law.

Furthermore, the State adheres to the principles and standards on the absolute condemnation of human rights violations set by the 1987 Philippine Constitution and various international instruments such as, but not limited to, the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which the Philippines is a State party.

Section 3. *Definitions.* –For purposes of this Act, the following terms shall be defined as follows:

(a) *Agents of the State* refer to persons who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the government, or shall perform in the government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class.

(b) *Enforced or involuntary disappearance* refers to the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law.

(c) *Order of Battle* refers to a document made by the military, police or any law enforcement agency of the government, listing the names of persons and organizations that it perceives to be enemies of the State and which it considers as legitimate targets as combatants that it could deal with, through the use of means allowed by domestic and international law.

(d) *Victim* refers to the disappeared person and any individual who has suffered harm as a direct result of an enforced or involuntary disappearance as defined in letter (b) of this Section.

Section 4. *Nonderogability of the Right Against Enforced or Involuntary Disappearance.* –The right against enforced or involuntary disappearance and the fundamental safeguards for its prevention shall not be suspended under any circumstance including political instability, threat of war, state of war or other public emergencies.

Section 5. *"Order of Battle" or Any Order of Similar Nature, Not Legal Ground, for Enforced or Involuntary Disappearance.* – An "Order of Battle" or any order of similar nature, official or otherwise, from a superior officer or a public authority causing the commission of enforced or involuntary disappearance is unlawful and cannot be invoked as a justifying or exempting circumstance. Any person receiving such an order shall have the right to disobey it.

Section 6. *Right of* Access *to Communication.* – It shall be the absolute right of any person deprived of liberty to have immediate access to any form of communication available in order for him or her to inform his or her family, relative, friend, lawyer or any human rights organization on his or her whereabouts and condition.

Section 7. *Duty to Report Victims of Enforced or Involuntary Disappearance.* – Any person, not being a principal, accomplice or accessory, who has an information of a case of enforced or involuntary disappearance or who shall learn of such information or that a person is a victim of enforced or involuntary disappearance, shall immediately report in writing the circumstances and whereabouts of the victim to any office, detachment or division of the Department of the Interior and Local Government (DILG), the Department of National Defense (DND), the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP), the National Bureau of Investigation (NBI), the City or Provincial Prosecutor, the Commission on Human Rights (CHR) or any human rights organization and, if known, the victim's family, relative, or lawyer.

Section 8. *Duty to Certify in Writing on the Results of Inquiry into a Reported Disappeared Person's Whereabouts.* –In case a family member, relative, lawyer, representative of a human rights organization or a member of the media inquires with a member or official of any police or military detention center, the PNP or any of its agencies, the AFP or any of its agencies, the NBI or any other agency or instrumentality of the government, as well as any hospital or morgue, public or private, on the presence or whereabouts of a reported victim of enforced or involuntary disappearance, such member or official shall immediately issue a certification in writing to the inquiring person or entity on the presence or absence and/or information on the whereabouts of such disappeared person, stating, among others, in clear and unequivocal manner the date and time of inquiry, details of the inquiry and the response to the inquiry.

Section 9. *Duty of Inquest/Investigating Public Prosecutor or any Judicial or Quasi-Judicial Official or Employee.* –Any inquest or investigating public prosecutor, or any judicial or quasi-judicial official or employee who learns that the person delivered for inquest or preliminary investigation or for any other judicial process is a victim of enforced or involuntary disappearance shall have the duty to immediately

disclose the victim's whereabouts to his or her immediate family, relatives, lawyer/s or to a human rights organization by the most expedient means.

Section 10. *Official Up-to-Date Register of All Persons Detained or Confined.* - All persons detained or confined shall be placed solely in officially recognized and controlled places of detention or confinement where an official up-to-date register of such persons shall be maintained. Relatives, lawyers, judges, official bodies and all persons who have legitimate interest in the whereabouts and condition of the persons deprived of liberty shall have free access to the register.

The following details, among others, shall be recorded, in the register:

(a) The identity or name, description and address of the person deprived of liberty;

(b) The date, time and location where the person was deprived of liberty and the identity of the person who made such deprivation of liberty;

(c) The authority who decided the deprivation of liberty and the reasons for the deprivation of liberty or the crime or offense committed;

(d) The authority controlling the deprivation of liberty;

(e) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;

(f) Records of physical, mental and psychological condition of the detained or confined person before and after the deprivation of liberty and the name and address of the physician who examined him or her physically, mentally and medically;

(g) The date and time of release or transfer of the detained or confined person to another place of detention, the destination and the authority responsible for the transfer;

(h) The date and time of each removal of the detained or confined person from his or her cell, the reason or purpose for such removal and the date and time of his or her return to his or her cell;

(i) A summary of the physical, mental and medical findings of the detained or confined person after each interrogation;

(j) The names and addresses of the persons who visit the detained or confined person and the date and time of such visits and the date and time of each departure;

(k) In the event of death during the deprivation of liberty, the identity, the circumstances and cause of death of the victim as well as the destination of the human remains; and

(l) All other important events bearing on and all relevant details regarding the treatment of the detained or confined person.

Provided, That the details required under letters (a) to (f) shall be entered immediately in the register upon arrest and/or detention.

All information contained in the register shall be regularly or upon request reported to the CHR or any other agency of government tasked to monitor and protect human rights and shall be made available to the public.

Section 11. *Submission of List of Government Detention Facilities.* –Within six (6) months from the effectivity of this Act and as may be requested by the CHR thereafter, all government agencies concerned shall submit an updated inventory or list of all officially recognized and controlled detention or confinement facilities, and the list of detainees or persons deprived of liberty under their respective jurisdictions to the CHR.

Section 12. *Immediate Issuance and Compliance of the Writs of Habeas Corpus, Amparo and Habeas Data.* – All proceedings pertaining to the issuance of the writs of *habeas corpus, amparo* and *habeas data* shall be dispensed with expeditiously. As such, all courts and other concerned agencies of government shall give priority to such proceedings.

Moreover, any order issued or promulgated pursuant to such writs or their respective proceedings shall be executed and complied with immediately.

Section 13. *Visitation /Inspection of Places of Detention and, Confinement.* –The CHR or its duly authorized representatives are hereby mandated and authorized to conduct regular, independent, unannounced and unrestricted visits to or inspection of all places of detention and confinement.

Section 14. *Liability of Commanding Officer or Superior.* - The immediate commanding officer of the unit concerned of the AFP or the immediate senior official of the PNP and other law enforcement agencies shall be held liable as a principal to the crime of enforced or involuntary disappearance for acts committed by him or her that shall have led, assisted, abetted or allowed, whether directly or indirectly, the commission thereof by his or her subordinates. If such commanding officer has knowledge of or, owing to the circumstances at the time, should have known that an enforced or involuntary disappearance is being committed, or has been committed by subordinates or by others within the officer's area of responsibility and, despite such knowledge, did not take preventive or coercive action either before, during or immediately after its commission, when he or she has the authority to prevent or investigate allegations of enforced or involuntary disappearance but failed to prevent or investigate such allegations, whether deliberately or due to negligence, shall also be held liable as principal.

Section 15. *Penal Provisions.* – (a) The penalty of *reclusion perpetua* and its accessory penalties shall be imposed upon the following persons:

(1) Those who directly committed the act of enforced or involuntary disappearance;

(2) Those who directly forced, instigated, encouraged or induced others to commit the act of enforced or involuntary disappearance;

(3) Those who cooperated in the act of enforced or involuntary disappearance by committing another act without which the act of enforced or involuntary disappearance would not have been consummated;

(4) Those officials who allowed the act or abetted in the consummation of enforced or involuntary disappearance when it is within their power to stop or uncover the commission thereof; and

(5) Those who cooperated in the execution of the act of enforced or involuntary disappearance by previous or simultaneous acts.

(b) The penalty of *reclusion temporal* and its accessory penalties shall be imposed upon those who shall commit the act of enforced or involuntary disappearance in the attempted stage as provided for and defined under Article 6 of the Revised Penal Code.

(c) The penalty of *reclusion temporal* and its accessory penalties shall also be imposed upon persons who, having knowledge of the act of enforced or involuntary disappearance and without having participated therein, either as principals or accomplices, took part subsequent to its commission in any of the following manner:

(1) By themselves profiting from or assisting the offender to profit from the effects of the act of enforced or involuntary disappearance;

(2) By concealing the act of enforced or involuntary disappearance and/or destroying the effects or instruments thereof in order to prevent its discovery; or

(3) By harboring, concealing or assisting in the escape of the principal/s in the act of enforced or involuntary disappearance, provided such accessory acts are done with the abuse of official functions.

(d) The penalty of *prision correctional* and its accessory penalties shall be imposed against persons who defy, ignore or unduly delay compliance with any order duly issued or promulgated pursuant to the writs of *habeas corpus, amparo* and *habeas data* or their respective proceedings.

(e) The penalty of *arresto mayor* and its accessory penalties shall be imposed against any person who shall violate the provisions of Sections 6, 7, 8, 9 and 10 of this Act.

Section 16. *Preventive Suspension/Summary Dismissal.* –Government officials and personnel who are found to be perpetrators of or participants in any manner in the commission of enforced or involuntary disappearance as a result of a preliminary investigation conducted for that purpose shall be preventively suspended or summarily dismissed from the service, depending on the strength of the evidence so presented and gathered in the said preliminary investigation or as may be recommended by the investigating authority.

Section 17. *Civil Liability.* –The act of enforced or involuntary disappearance shall render its perpetrators and the State agencies which organized, acquiesced in or tolerated such disappearance liable under civil law.

Section 18. *Independent Liability.* –The criminal liability of the offender under this Act shall be independent of or without prejudice to the prosecution and conviction of the said offender for any violation of Republic Act No. 7438, otherwise known as "An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining, and Investigating Officers, and Providing Penalties for Violations Thereof"; Republic Act No. 9745, otherwise known as "An Act Penalizing Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, and Prescribing Penalties Therefor"; and applicable provisions of the Revised Penal Code.

Section 19. *Nonexclusivity or Double Jeopardy Under International Law*. – Any investigation, trial and decision in any Philippines court, or body for any violation of this Act shall; be without prejudice to any investigation, trial, decision or any other legal or administrative process before any appropriate international court or agency under applicable international human rights and humanitarian law.

Section 20. *Exemption from Prosecution*. – Any offender who volunteers information that leads to the discovery of the victim of enforced or involuntary disappearance or the prosecution of the offenders without the victim being found shall be exempt from any criminal and/or civil liability under this Act: *Provided*, That said offender does not appear to be the most guilty.

Section 21. *Continuing Offense*. – An act constituting enforced or involuntary disappearance shall be considered a continuing offense as long as the perpetrators continue to conceal the fate and whereabouts of the disappeared person and such circumstances have not been determined with certainty.

Section 22. *Statute of Limitations Exemption*. – The prosecution of persons responsible for enforced or involuntary disappearance shall not prescribe unless the victim surfaces alive. In which case, the prescriptive period shall be twenty-five (25) years from the date of such reappearance.

Section 23. Special Amnesty Law Exclusion. – Persons who are changed with and/or guilty of the act of enforced or involuntary disappearance shall not benefit from any special amnesty law or other similar executive measures that shall exempt them from any penal proceedings or sanctions.

Section 24. *State Protection* – The State, through its appropriate agencies, shall ensure the safety of all persons involved in the search, investigation and prosecution of enforced or involuntary disappearance including, but not limited to, the victims, their families, complainants, witnesses, legal counsel and representatives of human rights organizations and media. They shall likewise be protected from any intimidation or reprisal.

Section 25. *Applicability of Refouler.* –No person shall be expelled, returned or extradited to another State where there are substantial grounds to believe that such person shall be in danger of being subjected to enforced or involuntary disappearance. For purposes of determining whether such grounds exist, the Secretary of the Department, of Foreign Affairs (DFA) and the Secretary of the Department of Justice (DOJ) in coordination with the Chairperson of the CHR, shall take into account all relevant considerations including where applicable and not limited to, the existence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights.

Section 26. *Restitution and Compensation to Victims of Enforced or Involuntary Disappearance and/or Their Immediate Relatives.* –The victims of enforced or involuntary disappearance who surface alive shall be entitled to monetary compensation, rehabilitation and restitution of honor and reputation. Such restitution of honor and reputation shall include immediate expunging or rectification of any derogatory record, information or public declaration/statement on his or her person, personal circumstances, status, and/or organizational affiliation by the appropriate government or private agency or agencies concerned.

The immediate relatives of a victim of enforced or involuntary disappearance, within the fourth civil degree of consanguinity or affinity, may also claim for compensation as provided for under Republic Act No. 7309, entitled "An Act Creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and For Other Purposes", and other relief programs of the government.

The package of indemnification for both the victims and the immediate relatives within the fourth civil degree of consanguinity or affinity shall be without prejudice to other legal remedies that may be available to them.

Section 27. *Rehabilitation of Victims and/or Their Immediate Relatives, and Offenders.* – In order that the victims of enforced or involuntary disappearance who surfaced alive and/or their immediate relatives within the fourth civil degree of consanguinity or affinity, may be effectively reintegrated into the mainstream of society and in the process of development, the State, through the CHR, in coordination with the Department of Health, the Department of Social Welfare and Development (DSWD) and the concerned nongovernment organization/s, shall provide them with appropriate medical care and rehabilitation free of charge.

Toward the attainment of restorative justice, a parallel rehabilitation program for persons who have committed enforced or involuntary disappearance shall likewise be implemented without cost to such offenders.

Section 28. *Implementing Rules and Regulations.* – Within thirty (30) days from the effectivity of this Act, the DOJ, the DSWD, the CHR, the Families of Victims of Involuntary Disappearance (FIND) and the Families of *Desaparecidos* for Justice *(Desaparecidos),* in consultation with other human rights organizations, shall jointly promulgate the rules and regulations for the effective implementation of this Act and shall ensure the full dissemination of the same to the public.

Section 29. *Suppletory Applications.* – The applicable provisions of the Revised Penal Code shall have suppletory application insofar as they are consistent with the provisions of this Act.

Section 30. *Appropriations.* –The amount of Ten million pesos (P10,000,000.00) is hereby appropriated for the initial implementation of this Act by the CHR. Subsequent fluids for the continuing implementation of this Act shall

be included in the respective budgets of the CHR and the DOJ in the annual General Appropriations Act.

Section 31. *Separability Clause.* –If for any reason, any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

Section 32. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 33. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation or the *Official Gazette,* which shall not be later than seven (7) days after the approval thereof.

SPL | *Related to Crimes Against Persons*
Book TWO Title EIGHT

RA No 8049 | **Hazing Regulation Act**

REPUBLIC ACT No. 8049

AN ACT REGULATING HAZING AND OTHER FORMS OF INITIATION RITES IN FRATERNITIES, SORORITIES, AND OTHER ORGANIZATIONS AND PROVIDING PENALTIES THEREFOR

Section 1. Hazing, as used in this Act, is an initiation rite or practice as a prerequisite for admission into membership in a fraternity, sorority or organization by placing the recruit, neophyte or applicant in some embarrassing or humiliating situations such as forcing him to do menial, silly, foolish and other similar tasks or activities or otherwise subjecting him to physical or psychological suffering or injury.

The term "organization" shall include any club or the Armed Forces of the Philippines, Philippine National Police, Philippine Military Academy, or officer and cadet corp of the Citizen's Military Training and Citizen's Army Training. The physical, mental and psychological testing and training procedure and practices to determine and enhance the physical, mental and psychological fitness of prospective regular members of the Armed Forces of the Philippines and the Philippine National Police as approved by the Secretary of National Defense and the National Police Commission duly recommended by the Chief of Staff, Armed Forces of the Philippines and the Director General of the Philippine National Police shall not be considered as hazing for the purposes of this Act.

Section 2. No hazing or initiation rites in any form or manner by a fraternity, sorority or organization shall be allowed without prior written notice to the school authorities or head of organization seven (7) days before the conduct of such initiation. The written notice shall indicate the period of the initiation activities which shall not exceed three (3) days, shall include the names of those to be subjected to such activities, and shall further contain an undertaking that no physical violence be employed by anybody during such initiation rites.

Section 3. The head of the school or organization or their representatives must assign at least two (2) representatives of the school or organization, as the case may be, to be present during the initiation. It is the duty of such representative to see to it that no physical harm of any kind shall be inflicted upon a recruit, neophyte or applicant.

Section 4. If the person subjected to hazing or other forms of initiation rites suffers any physical injury or dies as a result thereof, the officers and members of the fraternity, sorority or organization who actually participated in the infliction of physical harm shall be liable as principals. The person or persons who participated in the hazing shall suffer:

1. The penalty of reclusion perpetua (life imprisonment) if death, rape, sodomy or mutilation results there from.

2. The penalty of reclusion temporal in its maximum period (17 years, 4 months and 1 day to 20 years) if in consequence of the hazing the victim shall become insane, imbecile, impotent or blind.

3. The penalty of reclusion temporal in its medium period (14 years, 8 months and one day to 17 years and 4 months) if in consequence of the hazing the victim shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm or a leg or shall have lost the use of any such member shall have become incapacitated for the activity or work in which he was habitually engaged.

4. The penalty of reclusion temporal in its minimum period (12 years and one day to 14 years and 8 months) if in consequence of the hazing the victim shall become deformed or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged for a period of more than ninety (90) days.

5. The penalty of prison mayor in its maximum period (10 years and one day to 12 years) if in consequence of the hazing the victim shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged for a period of more than thirty (30) days.

6. The penalty of prison mayor in its medium period (8 years and one day to 10 years) if in consequence of the hazing the victim shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged for a period of ten (10) days or more, or that the injury sustained shall require medical assistance for the same period.

7. The penalty of prison mayor in its minimum period (6 years and one day to 8 years) if in consequence of the hazing the victim shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged from one (1) to nine (9) days, or that the injury sustained shall require medical assistance for the same period.

8. The penalty of prision correccional in its maximum period (4 years, 2 months and one day to 6 years) if in consequence of the hazing the victim sustained physical injuries which do not prevent him from engaging in his habitual activity or work nor require medical attendance.

The responsible officials of the school or of the police, military or citizen's army training organization, may impose the appropriate administrative sanctions on the person or the persons charged under this provision even before their conviction. The maximum penalty herein provided shall be imposed in any of the following instances:

(a) when the recruitment is accompanied by force, violence, threat, intimidation or deceit on the person of the recruit who refuses to join;

(b) when the recruit, neophyte or applicant initially consents to join but upon learning that hazing will be committed on his person, is prevented from quitting;

(c) when the recruit, neophyte or applicant having undergone hazing is prevented from reporting the unlawful act to his parents or guardians, to the proper school authorities, or to the police authorities, through force, violence, threat or intimidation;

(d) when the hazing is committed outside of the school or institution; or

(e) when the victim is below twelve (12) years of age at the time of the hazing.

The owner of the place where hazing is conducted shall be liable as an accomplice, when he has actual

knowledge of the hazing conducted therein but failed to take any action to prevent the same from occurring. If the hazing is held in the home of one of the officers or members of the fraternity, group, or organization, the parents shall be held liable as principals when they have actual knowledge of the hazing conducted therein but failed to take any action to prevent the same from occurring.

The school authorities including faculty members who consent to the hazing or who have actual knowledge thereof, but failed to take any action to prevent the same from occurring shall be punished as accomplices for the acts of hazing committed by the perpetrators.

The officers, former officers, or alumni of the organization, group, fraternity or sorority who actually planned the hazing although not present when the acts constituting the hazing were committed shall be liable as principals. A fraternity or sorority's adviser who is present when the acts constituting the hazing were committed and failed to take action to prevent the same from occurring shall be liable as principal.

The presence of any person during the hazing is prima facie evidence of participation therein as principal unless he prevented the commission of the acts punishable herein.

Any person charged under this provision shall not be entitled to the mitigating circumstance that there was no intention to commit so grave a wrong.

This section shall apply to the president, manager, director or other responsible officer of a corporation engaged in hazing as a requirement for employment in the manner provided herein.

Section 5. If any provision or part of this Act is declared invalid or unconstitutional, the other parts or provisions thereof shall remain valid and effective.

Section 6. All laws, orders, rules or regulations which are inconsistent with or contrary to the provisions of this Act are hereby amended or repealed accordingly.

Section 7. This Act shall take effect fifteen (15) calendar days after its publication in at least two (2) national newspapers of general circulation.

RA No 9262 | **Anti-VAWC Act of 2004**

Republic Act No. 9262 **March 08, 2004**

AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.*- This Act shall be known as the "Anti-Violence Against Women and Their Children Act of 2004".

SECTION 2. *Declaration of Policy.*- It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.

Towards this end, the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party.

SECTION 3. *Definition of Terms.*- As used in this Act,

(a) "*Violence against women and their children*" refers to any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:

A. "*Physical Violence*" refers to acts that include bodily or physical harm;

B. "*Sexual violence*" refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:

a) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;

b) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;

c) Prostituting the woman or child.

C. "*Psychological violence*" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.

D. "*Economic abuse*" refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:

1. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;

2. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;

3. destroying household property;

4. controlling the victims' own money or properties or solely controlling the conjugal money or properties.

(b) "*Battery*" refers to an act of inflicting physical harm upon the woman or her child resulting to the physical and psychological or emotional distress.

(c) "*Battered Woman Syndrome*" refers to a scientifically defined pattern of psychological and behavioral symptoms found in women living in battering relationships as a result of cumulative abuse.

(d) "*Stalking*" refers to an intentional act committed by a person who, knowingly and without lawful justification follows the woman or her child or places the woman or her child under surveillance directly or indirectly or a combination thereof.

(e) "*Dating relationship*" refers to a situation wherein the parties live as husband and wife without the benefit of marriage or are romantically involved over time and on a continuing basis during the course of the relationship. A casual acquaintance or ordinary socialization between

two individuals in a business or social context is not a dating relationship.

(f) "*Sexual relations*" refers to a single sexual act which may or may not result in the bearing of a common child.

(g) "*Safe place or shelter*" refers to any home or institution maintained or managed by the Department of Social Welfare and Development (DSWD) or by any other agency or voluntary organization accredited by the DSWD for the purposes of this Act or any other suitable place the resident of which is willing temporarily to receive the victim.

(h) "*Children*" refers to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610. As used in this Act, it includes the biological children of the victim and other children under her care.

SECTION 4. *Construction*.- This Act shall be liberally construed to promote the protection and safety of victims of violence against women and their children.

SECTION 5. *Acts of Violence Against Women and Their Children*.- The crime of violence against women and their children is committed through any of the following acts:

(a) Causing physical harm to the woman or her child;

(b) Threatening to cause the woman or her child physical harm;

(c) Attempting to cause the woman or her child physical harm;

(d) Placing the woman or her child in fear of imminent physical harm;

(e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:

(1) Threatening to deprive or actually depriving the woman or her child of custody to her/his family;

(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;

(3) Depriving or threatening to deprive the woman or her child of a legal right;

(4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own mon4ey or properties, or solely controlling the conjugal or common money, or properties;

(f) Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;

(g) Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family;

(h) Engaging in purposeful, knowing, or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the woman or her child. This shall include, but not be limited to, the following acts:

(1) Stalking or following the woman or her child in public or private places;

(2) Peering in the window or lingering outside the residence of the woman or her child;

(3) Entering or remaining in the dwelling or on the property of the woman or her child against her/his will;

(4) Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child; and

(5) Engaging in any form of harassment or violence;

(i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children of access to the woman's child/children.

SECTION 6. *Penalties*.- The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

(a) Acts falling under Section 5(a) constituting attempted, frustrated or consummated parricide or murder or homicide shall be punished in accordance with the provisions of the Revised Penal Code.

If these acts resulted in mutilation, it shall be punishable in accordance with the Revised Penal Code; those constituting serious physical injuries shall have the penalty of prison mayor; those constituting less serious physical injuries shall be punished by prision correccional; and those constituting slight physical injuries shall be punished by arresto mayor.

Acts falling under Section 5(b) shall be punished by imprisonment of two degrees lower than the prescribed penalty for the consummated crime as specified in the preceding paragraph but shall in no case be lower than arresto mayor.

(b) Acts falling under Section 5(c) and 5(d) shall be punished by arresto mayor;

(c) Acts falling under Section 5(e) shall be punished by prision correccional;

(d) Acts falling under Section 5(f) shall be punished by arresto mayor;

(e) Acts falling under Section 5(g) shall be punished by prision mayor;

(f) Acts falling under Section 5(h) and Section 5(i) shall be punished by prision mayor.

If the acts are committed while the woman or child is pregnant or committed in the presence of her child, the penalty to be applied shall be the maximum period of penalty prescribed in the section.

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (300,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

SECTION 7. *Venue*.- The Regional Trial Court designated as a Family Court shall have original and exclusive jurisdiction over cases of violence against women and their children under this law. In the absence of such court in the place where the offense was committed, the case shall be filed in the Regional Trial Court where the crime or any of its elements was committed at the option of the compliant.

SECTION 8. *Protection Orders*.- A protection order is an order issued under this act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act and granting other necessary relief. The relief granted under a protection order serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Act are the barangay protection order (BPO), temporary protection order (TPO) and permanent protection order (PPO). The protection orders that may be

issued under this Act shall include any, some or all of the following reliefs:

(a) Prohibition of the respondent from threatening to commit or committing, personally or through another, any of the acts mentioned in Section 5 of this Act;

(b) Prohibition of the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the petitioner, directly or indirectly;

(c) Removal and exclusion of the respondent from the residence of the petitioner, regardless of ownership of the residence, either temporarily for the purpose of protecting the petitioner, or permanently where no property rights are violated, and if respondent must remove personal effects from the residence, the court shall direct a law enforcement agent to accompany the respondent has gathered his things and escort respondent from the residence;

(d) Directing the respondent to stay away from petitioner and designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member;

(e) Directing lawful possession and use by petitioner of an automobile and other essential personal effects, regardless of ownership, and directing the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to the possession of the automobile and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(f) Granting a temporary or permanent custody of a child/children to the petitioner;

(g) Directing the respondent to provide support to the woman and/or her child if entitled to legal support. Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent's employer for the same to be automatically remitted directly to the woman. Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause shall render the respondent or his employer liable for indirect contempt of court;

(h) Prohibition of the respondent from any use or possession of any firearm or deadly weapon and order him to surrender the same to the court for appropriate disposition by the court, including revocation of license and disqualification to apply for any license to use or possess a firearm. If the offender is a law enforcement agent, the court shall order the offender to surrender his firearm and shall direct the appropriate authority to investigate on the offender and take appropriate action on matter;

(i) Restitution for actual damages caused by the violence inflicted, including, but not limited to, property damage, medical expenses, childcare expenses and loss of income;

(j) Directing the DSWD or any appropriate agency to provide petitioner may need; and

(k) Provision of such other forms of relief as the court deems necessary to protect and provide for the safety of the petitioner and any designated family or household member, provided petitioner and any designated family or household member consents to such relief.

Any of the reliefs provided under this section shall be granted even in the absence of a decree of legal separation or annulment or declaration of absolute nullity of marriage.

The issuance of a BPO or the pendency of an application for BPO shall not preclude a petitioner from applying for, or the court from granting a TPO or PPO.

SECTION 9. *Who may file Petition for Protection Orders.* – A petition for protection order may be filed by any of the following:

(a) the offended party;

(b) parents or guardians of the offended party;

(c) ascendants, descendants or collateral relatives within the fourth civil degree of consanguinity or affinity;

(d) officers or social workers of the DSWD or social workers of local government units (LGUs);

(e) police officers, preferably those in charge of women and children's desks;

(f) *Punong Barangay* or *Barangay Kagawad*;

(g) lawyer, counselor, therapist or healthcare provider of the petitioner;

(h) At least two (2) concerned responsible citizens of the city or municipality where the violence against women and their children occurred and who has personal knowledge of the offense committed.

SECTION 10. *Where to Apply for a Protection Order.* – Applications for BPOs shall follow the rules on venue under Section 409 of the Local Government Code of 1991 and its implementing rules and regulations. An application for a TPO or PPO may be filed in the regional trial court, metropolitan trial court, municipal trial court, municipal circuit trial court with territorial jurisdiction over the place of residence of the petitioner: Provided, however, That if a family court exists in the place of residence of the petitioner, the application shall be filed with that court.

SECTION 11. *How to Apply for a Protection Order.* – The application for a protection order must be in writing, signed and verified under oath by the applicant. It may be filed as an independent action or as incidental relief in any civil or criminal case the subject matter or issues thereof partakes of a violence as described in this Act. A standard protection order application form, written in English with translation to the major local languages, shall be made available to facilitate applications for protections order, and shall contain, among other, the following information:

(a) names and addresses of petitioner and respondent;

(b) description of relationships between petitioner and respondent;

(c) a statement of the circumstances of the abuse;

(d) description of the reliefs requested by petitioner as specified in Section 8 herein;

(e) request for counsel and reasons for such;

(f) request for waiver of application fees until hearing; and

(g) an attestation that there is no pending application for a protection order in another court.

If the applicants is not the victim, the application must be accompanied by an affidavit of the applicant attesting to (a) the circumstances of the abuse suffered by the victim and (b) the circumstances of consent given by the victim for the filling of the application. When disclosure of the address of the victim will pose danger to her life, it shall be so stated in the application. In such a case, the applicant shall attest that the victim is residing in the municipality or city over which court has territorial jurisdiction, and shall provide a mailing address for purpose of service processing.

An application for protection order filed with a court shall be considered an application for both a TPO and PPO.

Barangay officials and court personnel shall assist applicants in the preparation of the application. Law enforcement agents shall also extend assistance in the application for protection orders in cases brought to their attention.

SECTION 12. *Enforceability of Protection Orders.* – All TPOs and PPOs issued under this Act shall be enforceable anywhere in the Philippines and a violation thereof shall

be punishable with a fine ranging from Five Thousand Pesos (P5,000.00) to Fifty Thousand Pesos (P50,000.00) and/or imprisonment of six (6) months.

SECTION 13. *Legal Representation of Petitioners for Protection Order*. – If the woman or her child requests in the applications for a protection order for the appointment of counsel because of lack of economic means to hire a counsel de parte, the court shall immediately direct the Public Attorney's Office (PAO) to represent the petitioner in the hearing on the application. If the PAO determines that the applicant can afford to hire the services of a counsel de parte, it shall facilitate the legal representation of the petitioner by a counsel de parte. The lack of access to family or conjugal resources by the applicant, such as when the same are controlled by the perpetrator, shall qualify the petitioner to legal representation by the PAO.

However, a private counsel offering free legal service is not barred from representing the petitioner.

SECTION 14. *Barangay Protection Orders (BPOs); Who May Issue and How.* - Barangay Protection Orders (BPOs) refer to the protection order issued by the *Punong Barangay* ordering the perpetrator to desist from committing acts under Section 5 (a) and (b) of this Act. A *Punong Barangay* who receives applications for a BPO shall issue the protection order to the applicant on the date of filing after *ex parte* determination of the basis of the application. If the *Punong Barangay* is unavailable to act on the application for a BPO, the application shall be acted upon by any available *Barangay Kagawad*. If the BPO is issued by a *Barangay Kagawad* the order must be accompanied by an attestation by the *Barangay Kagawad* that the *Punong Barangay* was unavailable at the time for the issuance of the BPO. BPOs shall be effective for fifteen (15) days. Immediately after the issuance of an *ex parte* BPO, the *Punong Barangay or Barangay Kagawad* shall personally serve a copy of the same on the respondent, or direct any barangay official to effect is personal service.

The parties may be accompanied by a non-lawyer advocate in any proceeding before the Punong Barangay.

SECTION 15. *Temporary Protection Orders*. – Temporary Protection Orders (TPOs) refers to the protection order issued by the court on the date of filing of the application after *ex parte* determination that such order should be issued. A court may grant in a TPO any, some or all of the reliefs mentioned in this Act and shall be effective for thirty (30) days. The court shall schedule a hearing on the issuance of a PPO prior to or on the date of the expiration of the TPO. The court shall order the immediate personal service of the TPO on the respondent by the court sheriff who may obtain the assistance of law enforcement agents for the service. The TPO shall include notice of the date of the hearing on the merits of the issuance of a PPO.

SECTION 16. *Permanent Protection Orders*. – Permanent Protection Order (PPO) refers to protection order issued by the court after notice and hearing.

Respondents non-appearance despite proper notice, or his lack of a lawyer, or the non-availability of his lawyer shall not be a ground for rescheduling or postponing the hearing on the merits of the issuance of a PPO. If the respondents appears without counsel on the date of the hearing on the PPO, the court shall appoint a lawyer for the respondent and immediately proceed with the hearing. In case the respondent fails to appear despite proper notice, the court shall allow ex parte presentation of the evidence by the applicant and render judgment on the basis of the evidence presented. The court shall allow the introduction of any history of abusive conduct of a respondent even if the same was not directed against the applicant or the person for whom the applicant is made.

The court shall, to the extent possible, conduct the hearing on the merits of the issuance of a PPO in one (1) day. Where the court is unable to conduct the hearing within one (1) day and the TPO issued is due to expire, the court shall continuously extend or renew the TPO for a period of thirty (30) days at each particular time until final judgment is issued. The extended or renewed TPO may be modified by the court as may be necessary or applicable to address the needs of the applicant.

The court may grant any, some or all of the reliefs specified in Section 8 hereof in a PPO. A PPO shall be effective until revoked by a court upon application of the person in whose favor the order was issued. The court shall ensure immediate personal service of the PPO on respondent.

The court shall not deny the issuance of protection order on the basis of the lapse of time between the act of violence and the filing of the application.

Regardless of the conviction or acquittal of the respondent, the Court must determine whether or not the PPO shall become final. Even in a dismissal, a PPO shall be granted as long as there is no clear showing that the act from which the order might arise did not exist.

SECTION 17. *Notice of Sanction in Protection Orders*. – The following statement must be printed in bold-faced type or in capital letters on the protection order issued by the *Punong Barangay* or court:

"**VIOLATION OF THIS ORDER IS PUNISHABLE BY LAW**."

SECTION 18. *Mandatory Period For Acting on Applications For Protection Orders* – Failure to act on an application for a protection order within the reglementary period specified in the previous section without justifiable cause shall render the official or judge administratively liable.

SECTION 19. *Legal Separation Cases*. – In cases of legal separation, where violence as specified in this Act is alleged, Article 58 of the Family Code shall not apply. The court shall proceed on the main case and other incidents of the case as soon as possible. The hearing on any application for a protection order filed by the petitioner must be conducted within the mandatory period specified in this Act.

SECTION 20. *Priority of Application for a Protection Order*. – Ex parte and adversarial hearings to determine the basis of applications for a protection order under this Act shall have priority over all other proceedings. Barangay officials and the courts shall schedule and conduct hearings on applications for a protection order under this Act above all other business and, if necessary, suspend other proceedings in order to hear applications for a protection order.

SECTION 21. *Violation of Protection Orders*. – A complaint for a violation of a BPO issued under this Act must be filed directly with any municipal trial court, metropolitan trial court, or municipal circuit trial court that has territorial jurisdiction over the barangay that issued the BPO. Violation of a BPO shall be punishable by imprisonment of thirty (30) days without prejudice to any other criminal or civil action that the offended party may file for any of the acts committed.

A judgement of violation of a BPO ma be appealed according to the Rules of Court. During trial and upon judgment, the trial court may motu proprio issue a protection order as it deems necessary without need of an application.

Violation of any provision of a TPO or PPO issued under this Act shall constitute contempt of court punishable under Rule 71 of the Rules of Court, without prejudice to any other criminal or civil action that the offended party may file for any of the acts committed.

SECTION 22. *Applicability of Protection Orders to Criminal Cases*. – The foregoing provisions on protection orders shall be applicable in impliedly instituted with the criminal actions involving violence against women and their children.

SECTION 23. *Bond to Keep the Peace*. – The Court may order any person against whom a protection order is issued to give a bond to keep the peace, to present two

sufficient sureties who shall undertake that such person will not commit the violence sought to be prevented.

Should the respondent fail to give the bond as required, he shall be detained for a period which shall in no case exceed six (6) months, if he shall have been prosecuted for acts punishable under Section 5(a) to 5(f) and not exceeding thirty (30) days, if for acts punishable under Section 5(g) to 5(l).

The protection orders referred to in this section are the TPOs and the PPOs issued only by the courts.

SECTION 24. *Prescriptive Period.* – Acts falling under Sections 5(a) to 5(f) shall prescribe in twenty (20) years. Acts falling under Sections 5(g) to 5(l) shall prescribe in ten (10) years.

SECTION 25. *Public Crime.* – Violence against women and their children shall be considered a public offense which may be prosecuted upon the filing of a complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime.

SECTION 26. *Battered Woman Syndrome as a Defense.* – Victim-survivors who are found by the courts to be suffering from battered woman syndrome do not incur any criminal and civil liability notwithstanding the absence of any of the elements for justifying circumstances of self-defense under the Revised Penal Code.

In the determination of the state of mind of the woman who was suffering from battered woman syndrome at the time of the commission of the crime, the courts shall be assisted by expert psychiatrists/ psychologists.

SECTION 27. *Prohibited Defense.* – Being under the influence of alcohol, any illicit drug, or any other mind-altering substance shall not be a defense under this Act.

SECTION 28. *Custody of children.* – The woman victim of violence shall be entitled to the custody and support of her child/children. Children below seven (7) years old older but with mental or physical disabilities shall automatically be given to the mother, with right to support, unless the court finds compelling reasons to order otherwise.

A victim who is suffering from battered woman syndrome shall not be disqualified from having custody of her children. In no case shall custody of minor children be given to the perpetrator of a woman who is suffering from Battered woman syndrome.

SECTION 29. *Duties of Prosecutors/Court Personnel.* – Prosecutors and court personnel should observe the following duties when dealing with victims under this Act:

a) communicate with the victim in a language understood by the woman or her child; and

b) inform the victim of her/his rights including legal remedies available and procedure, and privileges for indigent litigants.

SECTION 30. *Duties of Barangay Officials and Law Enforcers.* – Barangay officials and law enforcers shall have the following duties:

(a) respond immediately to a call for help or request for assistance or protection of the victim by entering the necessary whether or not a protection order has been issued and ensure the safety of the victim/s;

(b) confiscate any deadly weapon in the possession of the perpetrator or within plain view;

(c) transport or escort the victim/s to a safe place of their choice or to a clinic or hospital;

(d) assist the victim in removing personal belongs from the house;

(e) assist the barangay officials and other government officers and employees who respond to a call for help;

(f) ensure the enforcement of the Protection Orders issued by the *Punong Barangay* or the courts;

(g) arrest the suspected perpetrator without a warrant when any of the acts of violence defined by this Act is occurring, or when he/she has personal knowledge that any act of abuse has just been committed, and there is imminent danger to the life or limb of the victim as defined in this Act; and

(h) immediately report the call for assessment or assistance of the DSWD, social Welfare Department of LGUs or accredited non-government organizations (NGOs).

Any barangay official or law enforcer who fails to report the incident shall be liable for a fine not exceeding Ten Thousand Pesos (P10,000.00) or whenever applicable criminal, civil or administrative liability.

SECTION 31. *Healthcare Provider Response to Abuse* – Any healthcare provider, including, but not limited to, an attending physician, nurse, clinician, barangay health worker, therapist or counselor who suspects abuse or has been informed by the victim of violence shall:

(a) properly document any of the victim's physical, emotional or psychological injuries;

(b) properly record any of victim's suspicions, observations and circumstances of the examination or visit;

(c) automatically provide the victim free of charge a medical certificate concerning the examination or visit;

(d) safeguard the records and make them available to the victim upon request at actual cost; and

(e) provide the victim immediate and adequate notice of rights and remedies provided under this Act, and services available to them.

SECTION 32. *Duties of Other Government Agencies and LGUs* – Other government agencies and LGUs shall establish programs such as, but not limited to, education and information campaign and seminars or symposia on the nature, causes, incidence and consequences of such violence particularly towards educating the public on its social impacts.

It shall be the duty of the concerned government agencies and LGU's to ensure the sustained education and training of their officers and personnel on the prevention of violence against women and their children under the Act.

SECTION 33. *Prohibited Acts.* – A *Punong Barangay, Barangay Kagawad* or the court hearing an application for a protection order shall not order, direct, force or in any way unduly influence he applicant for a protection order to compromise or abandon any of the reliefs sought in the application for protection under this Act. Section 7 of the Family Courts Act of 1997 and Sections 410, 411, 412 and 413 of the Local Government Code of 1991 shall not apply in proceedings where relief is sought under this Act.

Failure to comply with this Section shall render the official or judge administratively liable.

SECTION 34. *Persons Intervening Exempt from Liability.* – In every case of violence against women and their children as herein defined, any person, private individual or police authority or barangay official who, acting in accordance with law, responds or intervenes without using violence or restraint greater than necessary to ensure the safety of the victim, shall not be liable for any criminal, civil or administrative liability resulting therefrom.

SECTION 35. *Rights of Victims.* – In addition to their rights under existing laws, victims of violence against women and their children shall have the following rights:

(a) to be treated with respect and dignity;

(b) to avail of legal assistance form the PAO of the Department of Justice (DOJ) or any public legal assistance office;

(c) To be entitled to support services form the DSWD and LGUs'

(d) To be entitled to all legal remedies and support as provided for under the Family Code; and

(e) To be informed of their rights and the services available to them including their right to apply for a protection order.

SECTION 36. *Damages.* – Any victim of violence under this Act shall be entitled to actual, compensatory, moral and exemplary damages.

SECTION 37. *Hold Departure Order.* – The court shall expedite the process of issuance of a hold departure order in cases prosecuted under this Act.

SECTION 38. *Exemption from Payment of Docket Fee and Other Expenses.* – If the victim is an indigent or there is an immediate necessity due to imminent danger or threat of danger to act on an application for a protection order, the court shall accept the application without payment of the filing fee and other fees and of transcript of stenographic notes.

SECTION 39. *Inter-Agency Council on Violence Against Women and Their Children (IAC-VAWC).* In pursuance of the abovementioned policy, there is hereby established an Inter-Agency Council on Violence Against Women and their children, hereinafter known as the Council, which shall be composed of the following agencies:

(a) Department of Social Welfare and Development (DSWD);

(b) National Commission on the Role of Filipino Women (NCRFW);

(c) Civil Service Commission (CSC);

(d) Commission on Human rights (CHR)

(e) Council for the Welfare of Children (CWC);

(f) Department of Justice (DOJ);

(g) Department of the Interior and Local Government (DILG);

(h) Philippine National Police (PNP);

(i) Department of Health (DOH);

(j) Department of Education (DepEd);

(k) Department of Labor and Employment (DOLE); and

(l) National Bureau of Investigation (NBI).

These agencies are tasked to formulate programs and projects to eliminate VAW based on their mandates as well as develop capability programs for their employees to become more sensitive to the needs of their clients. The Council will also serve as the monitoring body as regards to VAW initiatives.

The Council members may designate their duly authorized representative who shall have a rank not lower than an assistant secretary or its equivalent. These representatives shall attend Council meetings in their behalf, and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations.

SECTION 40. *Mandatory Programs and Services for Victims.* – The DSWD, and LGUs shall provide the victims temporary shelters, provide counseling, psycho-social services and /or, recovery, rehabilitation programs and livelihood assistance.

The DOH shall provide medical assistance to victims.

SECTION 41. *Counseling and Treatment of Offenders.* – The DSWD shall provide rehabilitative counseling and treatment to perpetrators towards learning constructive ways of coping with anger and emotional outbursts and reforming their ways. When necessary, the offender shall be ordered by the Court to submit to psychiatric treatment or confinement.

SECTION 42. *Training of Persons Involved in Responding to Violence Against Women and their Children Cases.* – All agencies involved in responding to violence against women and their children cases shall be required to undergo education and training to acquaint them with:

a. the nature, extent and causes of violence against women and their children;

b. the legal rights of, and remedies available to, victims of violence against women and their children;

c. the services and facilities available to victims or survivors;

d. the legal duties imposed on police officers to make arrest and to offer protection and assistance; and

e. techniques for handling incidents of violence against women and their children that minimize the likelihood of injury to the officer and promote the safety of the victim or survivor.

The PNP, in coordination with LGUs shall establish an education and training program for police officers and barangay officials to enable them to properly handle cases of violence against women and their children.

SECTION 43. *Entitled to Leave.* – Victims under this Act shall be entitled to take a paid leave of absence up to ten (10) days in addition to other paid leaves under the Labor Code and Civil Service Rules and Regulations, extendible when the necessity arises as specified in the protection order.

Any employer who shall prejudice the right of the person under this section shall be penalized in accordance with the provisions of the Labor Code and Civil Service Rules and Regulations. Likewise, an employer who shall prejudice any person for assisting a co-employee who is a victim under this Act shall likewise be liable for discrimination.

SECTION 44. *Confidentiality.* – All records pertaining to cases of violence against women and their children including those in the barangay shall be confidential and all public officers and employees and public or private clinics to hospitals shall respect the right to privacy of the victim. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other identifying information of a victim or an immediate family member, without the latter's consent, shall be liable to the contempt power of the court.

Any person who violates this provision shall suffer the penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand pesos (P500,000.00).

SECTION 45. *Funding* – The amount necessary to implement the provisions of this Act shall be included in the annual General Appropriations Act (GAA).

The Gender and Development (GAD) Budget of the mandated agencies and LGU's shall be used to implement services for victim of violence against women and their children.

SECTION 46. *Implementing Rules and Regulations.* – Within six (6) months from the approval of this Act, the DOJ, the NCRFW, the DSWD, the DILG, the DOH, and the PNP, and three (3) representatives from NGOs to be identified by the NCRFW, shall promulgate the Implementing Rules and Regulations (IRR) of this Act.

SECTION 47. *Suppletory Application* – For purposes of this Act, the Revised Penal Code and other applicable laws, shall have suppletory application.

SECTION 48. *Separability Clause.* – If any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions shall not be affected.

SECTION 49. *Repealing Clause* – All laws, Presidential decrees, executive orders and rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 50. *Effectivity* – This Act shall take effect fifteen (15) days from the date of its complete publication in at least two (2) newspapers of general circulation.

SPL | *Related to Crimes Against Property*
Book TWO Title TEN

PD No 115 | Trust Receipts Law

PRESIDENTIAL DECREE No. 115 January 29, 1973

PROVIDING FOR THE REGULATION OF TRUST RECEIPTS TRANSACTIONS

WHEREAS, the utilization of trust receipts, as a convenient business device to assist importers and merchants solve their financing problems, had gained popular acceptance in international and domestic business practices, particularly in commercial banking transactions;

WHEREAS, there is no specific law in the Philippines that governs trust receipt transactions, especially the rights and obligations of the parties involved therein and the enforcement of the said rights in case of default or violation of the terms of the trust receipt agreement;

WHEREAS, the recommendations contained in the report on the financial system which have been accepted, with certain modifications by the monetary authorities included, among others, the enactment of a law regulating the trust receipt transactions;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, and in order to effect the desired changes and reforms in the social, economic, and political structure of our society, do hereby order and decree and make as part of the law of the land the following:

Section 1. *Short Title.* This Decree shall be known as the Trust Receipts Law.

Section 2. *Declaration of Policy.* It is hereby declared to be the policy of the state (a) to encourage and promote the use of trust receipts as an additional and convenient aid to commerce and trade; (b) to provide for the regulation of trust receipts transactions in order to assure the protection of the rights and enforcement of obligations of the parties involved therein; and (c) to declare the misuse and/or misappropriation of goods or proceeds realized from the sale of goods, documents or instruments released under trust receipts as a criminal offense punishable under Article Three hundred and fifteen of the Revised Penal Code.

Section 3. *Definition of terms.* As used in this Decree, unless the context otherwise requires, the term

(a) "Document" shall mean written or printed evidence of title to goods.

(b) "Entrustee" shall refer to the person having or taking possession of goods, documents or instruments under a trust receipt transaction, and any successor in interest of such person for the purpose or purposes specified in the trust receipt agreement.

(c) "Entruster" shall refer to the person holding title over the goods, documents, or instruments subject of a trust receipt transaction, and any successor in interest of such person.

(d) "Goods" shall include chattels and personal property other than: money, things in action, or things so affixed to land as to become a part thereof.

(e) "Instrument" means any negotiable instrument as defined in the Negotiable Instrument Law; any certificate of stock, or bond or debenture for the payment of money issued by a public or private corporation, or any certificate of deposit, participation certificate or receipt, any credit or investment instrument of a sort marketed in the ordinary course of business or finance, whereby the entrustee, after the issuance of the trust receipt, appears by virtue of possession and the face of the instrument to be the owner. "Instrument" shall not include a document as defined in this Decree.

(f) "Purchase" means taking by sale, conditional sale, lease, mortgage, or pledge, legal or equitable.

(g) "Purchaser" means any person taking by purchase.

(h) "Security Interest" means a property interest in goods, documents or instruments to secure performance of some obligations of the entrustee or of some third persons to the entruster and includes title, whether or not expressed to be absolute, whenever such title is in substance taken or retained for security only.

(i) "Person" means, as the case may be, an individual, trustee, receiver, or other fiduciary, partnership, corporation, business trust or other association, and two more persons having a joint or common interest.

(j) "Trust Receipt" shall refer to the written or printed document signed by the entrustee in favor of the entruster containing terms and conditions substantially complying with the provisions of this Decree. No further formality of execution or authentication shall be necessary to the validity of a trust receipt.

(k) "Value" means any consideration sufficient to support a simple contract.

Section 4. *What constitutes a trust receipt transaction.* A trust receipt transaction, within the meaning of this Decree, is any transaction by and between a person referred to in this Decree as the entruster, and another person referred to in this Decree as entrustee, whereby the entruster, who owns or holds absolute title or security interests over certain specified goods, documents or instruments, releases the same to the possession of the entrustee upon the latter's execution and delivery to the entruster of a signed document called a "trust receipt" wherein the entrustee binds himself to hold the designated goods, documents or instruments in trust for the entruster and to sell or otherwise dispose of the goods, documents or instruments with the obligation to turn over to the entruster the proceeds thereof to the extent of the amount owing to the entruster or as appears in the trust receipt or the goods, documents or instruments themselves if they are unsold or not otherwise disposed of, in accordance with the terms and conditions specified in the trust receipt, or for other purposes substantially equivalent to any of the following:

1. In the case of goods or documents, (a) to sell the goods or procure their sale; or (b) to manufacture or process the goods with the purpose of ultimate sale: Provided, That, in the case of goods delivered under trust receipt for the purpose of manufacturing or processing before its ultimate sale, the entruster shall retain its title over the goods whether in its original or processed form until the entrustee has complied fully with his obligation under the trust receipt; or (c) to load, unload, ship or tranship or otherwise deal with them in a manner preliminary or necessary to their sale; or

2. In the case of instruments,

a) to sell or procure their sale or exchange; or

b) to deliver them to a principal; or

c) to effect the consummation of some transactions involving delivery to a depository or register; or

d) to effect their presentation, collection or renewal

The sale of goods, documents or instruments by a person in the business of selling goods, documents or instruments for profit who, at the outset of the transaction, has, as against the buyer, general property rights in such goods, documents or instruments, or who sells the same to the buyer on credit, retaining title or other interest as security for the payment of the purchase

price, does not constitute a trust receipt transaction and is outside the purview and coverage of this Decree.

Section 5. *Form of trust receipts; contents.* A trust receipt need not be in any particular form, but every such receipt must substantially contain (a) a description of the goods, documents or instruments subject of the trust receipt; (2) the total invoice value of the goods and the amount of the draft to be paid by the entrustee; (3) an undertaking or a commitment of the entrustee (a) to hold in trust for the entruster the goods, documents or instruments therein described; (b) to dispose of them in the manner provided for in the trust receipt; and (c) to turn over the proceeds of the sale of the goods, documents or instruments to the entruster to the extent of the amount owing to the entruster or as appears in the trust receipt or to return the goods, documents or instruments in the event of their non-sale within the period specified therein.

The trust receipt may contain other terms and conditions agreed upon by the parties in addition to those hereinabove enumerated provided that such terms and conditions shall not be contrary to the provisions of this Decree, any existing laws, public policy or morals, public order or good customs.

Section 6. *Currency in which a trust receipt may be denominated.* A trust receipt may be denominated in the Philippine currency or any foreign currency acceptable and eligible as part of international reserves of the Philippines, the provisions of existing law, executive orders, rules and regulations to the contrary notwithstanding: Provided, however, That in the case of trust receipts denominated in foreign currency, payment shall be made in its equivalent in Philippine currency computed at the prevailing exchange rate on the date the proceeds of sale of the goods, documents or instruments held in trust by the entrustee are turned over to the entruster or on such other date as may be stipulated in the trust receipt or other agreements executed between the entruster and the entrustee.

Section 7. *Rights of the entruster.* The entruster shall be entitled to the proceeds from the sale of the goods, documents or instruments released under a trust receipt to the entrustee to the extent of the amount owing to the entruster or as appears in the trust receipt, or to the return of the goods, documents or instruments in case of non-sale, and to the enforcement of all other rights conferred on him in the trust receipt provided such are not contrary to the provisions of this Decree.

The entruster may cancel the trust and take possession of the goods, documents or instruments subject of the trust or of the proceeds realized therefrom at any time upon default or failure of the entrustee to comply with any of the terms and conditions of the trust receipt or any other agreement between the entruster and the entrustee, and the entruster in possession of the goods, documents or instruments may, on or after default, give notice to the entrustee of the intention to sell, and may, not less than five days after serving or sending of such notice, sell the goods, documents or instruments at public or private sale, and the entruster may, at a public sale, become a purchaser. The proceeds of any such sale, whether public or private, shall be applied (a) to the payment of the expenses thereof; (b) to the payment of the expenses of re-taking, keeping and storing the goods, documents or instruments; (c) to the satisfaction of the entrustee's indebtedness to the entruster. The entrustee shall receive any surplus but shall be liable to the entruster for any deficiency. Notice of sale shall be deemed sufficiently given if in writing, and either personally served on the entrustee or sent by post-paid ordinary mail to the entrustee's last known business address.

Section 8. *Entruster not responsible on sale by entrustee.* The entruster holding a security interest shall not, merely by virtue of such interest or having given the entrustee liberty of sale or other disposition of the goods, documents or instruments under the terms of the trust receipt transaction be responsible as principal or as vendor under any sale or contract to sell made by the entrustee.

Section 9. *Obligations of the entrustee.* The entrustee shall (1) hold the goods, documents or instruments in trust for the entruster and shall dispose of them strictly in accordance with the terms and conditions of the trust receipt; (2) receive the proceeds in trust for the entruster and turnover the same to the entruster to the extent of the amount owing to the entruster or as appears on the trust receipt; (3) insure the goods for their total value against loss from fire, theft, pilferage or other casualties; (4) keep said goods or proceeds thereof whether in money or whatever form, separate and capable of identification as property of the entruster; (5) return the goods, documents or instruments in the event of non-sale or upon demand of the entruster; and (6) observe all other terms and conditions of the trust receipt not contrary to the provisions of this Decree.

Section 10. *Liability of entrustee for loss.* The risk of loss shall be borne by the entrustee. Loss of goods, documents or instruments which are the subject of a trust receipt, pending their disposition, irrespective of whether or not it was due to the fault or negligence of the entrustee, shall not extinguish his obligation to the entruster for the value thereof.

Section 11. *Rights of purchaser for value and in good faith.* Any purchaser of goods from an entrustee with right to sell, or of documents or instruments through their customary form of transfer, who buys the goods, documents, or instruments for value and in good faith from the entrustee, acquires said goods, documents or instruments free from the entruster's security interest.

Section 12. *Validity of entruster's security interest as against creditors.* The entruster's security interest in goods, documents, or instruments pursuant to the written terms of a trust receipt shall be valid as against all creditors of the entrustee for the duration of the trust receipt agreement.

Section 13. *Penalty clause.* The failure of an entrustee to turn over the proceeds of the sale of the goods, documents or instruments covered by a trust receipt to the extent of the amount owing to the entruster or as appears in the trust receipt or to return said goods, documents or instruments if they were not sold or disposed of in accordance with the terms of the trust receipt shall constitute the crime of estafa, punishable under the provisions of Article Three hundred and fifteen, paragraph one (b) of Act Numbered Three thousand eight hundred and fifteen, as amended, otherwise known as the Revised Penal Code. If the violation or offense is committed by a corporation, partnership, association or other juridical entities, the penalty provided for in this Decree shall be imposed upon the directors, officers, employees or other officials or persons therein responsible for the offense, without prejudice to the civil liabilities arising from the criminal offense.

Section 14. *Cases not covered by this Decree.* Cases not provided for in this Decree shall be governed by the applicable provisions of existing laws.

Section 15. *Separability clause.* If any provision or section of this Decree or the application thereof to any person or circumstance is held invalid, the other provisions or sections hereof and the application of such provisions or sections to other persons or circumstances shall not be affected thereby.

Section 16. *Repealing clause.* All Acts inconsistent with this Decree are hereby repealed.

Section 17. *This Decree shall take effect immediately.*

Done in the City of Manila, this 29th day of January, in the year of Our Lord, nineteen hundred and seventy-three.

PD No 133 | Theft of Product of Labor

PRESIDENTIAL DECREE No. 133 February 20, 1973

PRESCRIBING A HEAVY PENALTY FOR THE THEFT OF ANY MATERIAL, SPARE PART, PRODUCT OR ARTICLE BY EMPLOYEES AND LABORERS

In line with the government's program of eradicating graft and corruption in society, and promote the economic and social welfare of the people, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby order and decree that any employee or laborer who shall steal any material, spare part, product or article that he is working on, using or producing shall, upon conviction, be punished with imprisonment ranging from prision correccional to prision mayor.

All laws inconsistent herewith are hereby repealed or modified accordingly, unless the same provide a heavier penalty.

This Decree is hereby made a part of the law of the land and shall take effect immediately after the publication thereof in a newspaper of general circulation.

Done in the City of Manila, this 20th day of February, in the year of Our Lord, nineteen hundred and seventy-three.

PD No 330 | Timber Smuggling or Illegal Cutting of Logs

PRESIDENTIAL DECREE No. 330

PENALIZING TIMBER SMUGGLING OR ILLEGAL CUTTING OF LOGS FROM PUBLIC FORESTS AND FOREST RESERVES AS QUALIFIED THEFT

WHEREAS, public forests and forest reserves are important natural resources of the country which must be preserved and conserved for future generations;

WHEREAS, public forest and forest reserves are the vital source of logs and other wood products so essential to the national economy as principal dollar earner of the country;

WHEREAS, it is the solemn duty of every citizen to protect public forest and forest reserves from indiscriminate logging, senseless denudation and wanton destruction to the detriment of the present and future generations;

WHEREAS, there is need to discourage further forest destruction and denudation in order to conserve the remaining public forest and forest reserves for the patrimony of the country;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081 dated September 21, 1972, and General Order No. 1 dated September 22, 1972, do hereby order and decree:

Section 1. Any person, whether natural or juridical, who directly or indirectly cuts, gathers, removes, or smuggles timber, or other forest products, either from any of the public forest, forest reserves and other kinds of public forests, whether under license or lease, or from any privately owned forest lands in violation of existing laws, rules and regulation shall be guilty of the crime of qualified theft as defined and penalized under Articles 308, 309 and 310 of the Revised Penal Code; Provided, That if the offender is a corporation, firm, partnership or association, the penalty shall be imposed upon the guilty officer or officers, as the case may be, of the corporation, firm, partnership or association, and if such guilty officer or officers are aliens, in addition to the penalty herein prescribed, he or they shall be deported without further proceedings on the part of the Commissioned of Immigration and Deportation. cd i

Section 2. All laws, rules and regulations inconsistent herewith are hereby repealed or modified accordingly.

Section 3. This decree shall take effect immediately after publication in the Official Gazette or in a newspaper of general circulation in the country.

Done in the City of Manila, this 8th day of November, in the year of Our Lord, nineteen hundred and seventy-three.

PD No 533 | Anti-Cattle Rustling Law of 1974

PRESIDENTIAL DECREE No. 533 August 8, 1974

THE ANTI-CATTLE RUSTLING LAW OF 1974

WHEREAS, large cattle are indispensable to the livelihood and economic growth of our people, particularly the agricultural workers, because such large cattle are the work animals of our farmers and the source of fresh meat and dairy products for our people, and provide raw material for our tanning and canning industries;

WHEREAS, reports from the law-enforcement agencies reveal that there is a resurgence of thievery of large cattle, commonly known as "cattle rustling", especially in the rural areas, thereby directly prejudicing the livelihood of the agricultural workers and adversely affecting our food production program for self-sufficiency in rice, corn and other staple crops, as well as in fresh meat;

WHEREAS, there is an urgent need to protect large cattle raising industry and small time large cattle owners and raisers from the nefarious activities of lawless elements in order to encourage our hardworking cattle raisers and farmers to raise more cattle and concentrate in their agricultural works, thus increasing our source of meat and dairy products as well as agricultural production and allied industries which depend on the cattle raising industry;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution and pursuant to Proclamation No. 1081, dated September 21, 1972 and No. 1104, dated January 17, 1973 and General Order No. 1 dated September 22, 1972, do hereby order and decree as part of the law of the land, the following:

Section 1. *Title.* This Decree shall be known as the "Anti-Cattle Rustling Law of 1974."

Section 2. *Definition of terms.* The following terms shall mean and be understood to be as herein defined:

a. Large cattle as herein used shall include the cow, carabao, horse, mule, ass, or other domesticated member of the bovine family.

b. Owner/raiser shall include the herdsman, caretaker, employee or tenant of any firm or entity engaged in the raising of large cattle or other persons in lawful possession of such large cattle.

c. Cattle rustling is the taking away by any means, method or scheme, without the consent of the owner/raiser, of any of the above-mentioned animals whether or not for profit or gain, or whether committed with or without violence against or intimidation of any person or force upon things. It includes the killing of large cattle, or taking its meat or hide without the consent of the owner/raiser.

Section 3. *Duty of owner/raiser to register.* The owner/raiser shall, before the large cattle belonging to him shall attain the age of six months, register the same with the office of the city/municipal treasurer where such large cattle are raised. The city/municipality concerned may impose and collect the fees authorized by existing

laws for such registration and the issuance of a certificate of ownership to the owner/raiser.

Section 4. *Duty of city/municipal treasurers and other concerned public officers and employees.* All public officials and employees concerned with the registration of large cattle are required to observe strict adherence with pertinent provisions of Chapter 22, Section 511 to 534, of the Revised Administrative Code, except insofar as they may be inconsistent with the provisions of this Decree.

Section 5. *Permit to buy and sell large cattle.* No person, partnership, association, corporation or entity shall engage in the business of buy and sell of large cattle without first securing a permit for the said purpose from the Provincial Commander of the province where it shall conduct such business and the city/municipal treasurer of the place of residence of such person, partnership, association, corporation or entity. The permit shall only be valid in such province.

Section 6. *Clearance for shipment of large cattle.* Any person, partnership, association, corporation or entity desiring to ship or transport large cattle, its hides, or meat, from one province to another shall secure a permit for such purpose from the Provincial Commander of the province where the large cattle is registered. Before issuance of the permit herein prescribed, the Provincial Commander shall require the submission of the certificate of ownership as prescribed in Section 3 hereof, a certification from the Provincial Veterinarian to the effect that such large cattle, hides or meat are free from any disease; and such other documents or records as may be necessary. Shipment of large cattle, its hides or meat from one city/municipality to another within the same province may be done upon securing permit from the city/municipal treasurer of the place of origin.

Section 7. *Presumption of cattle rustling.* Every person having in his possession, control or custody of large cattle shall, upon demand by competent authorities, exhibit the documents prescribed in the preceding sections. Failure to exhibit the required documents shall be prima facie evidence that the large cattle in his possession, control or custody are the fruits of the crime of cattle rustling.

Section 8. *Penal provisions.* Any person convicted of cattle rustling as herein defined shall, irrespective of the value of the large cattle involved, be punished by prision mayor in its maximum period to reclusion temporal in its medium period if the offense is committed without violence against or intimidation of persons or force upon things. If the offense is committed with violence against or intimidation of persons or force upon things, the penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed. If a person is seriously injured or killed as a result or on the occasion of the commission of cattle rustling, the penalty of reclusion perpetua to death shall be imposed.

When the offender is a government official or employee, he shall, in addition to the foregoing penalty, be disqualified from voting or being voted upon in any election/referendum and from holding any public office or employment.

When the offender is an alien, he shall be deported immediately upon the completion of the service of his sentence without further proceedings.

Section 9. *Rules and Regulations to be promulgated by the Chief of Constabulary.* The chief of Constabulary shall promulgate the rules and regulations for the effective implementation of this Decree.

Section 10. *Repealing clause.* The provisions of Articles 309 and 310 of Act No. 3815, otherwise known as the Revised Penal Code, as amended, all laws, decrees, orders, instructions, rules and regulations which are inconsistent with this Decree are hereby repealed or modified accordingly.

Section 11. *Effectivity.* This Decree shall take effect upon approval.

Done in the City of Manila, this 8th day of August, in the year of Our Lord, nineteen hundred and seventy-four.

PD No 534 | **Illegal Fishing**

PRESIDENTIAL DECREE No. 534 August 8, 1974

DEFINING ILLEGAL FISHING AND PRESCRIBING STIFFER PENALTIES THEREFOR

WHEREAS, the productive potentialities of the vast fishing grounds and other fishery resources in the country upon which the people depend as major and cheap source of food are being greatly reduced through the employment of various methods of illegal fishing;

WHEREAS, loss of human lives oftentimes occur and varied diseases and ailments are suffered by those who partake of fish and fishery products which have been illegally caught or gathered;

WHEREAS, in the interest and welfare of the people who depend mostly upon fish and sea or marine products for their daily-food, positive steps must be adopted by the government through interrelated programs and projects including subsidiary laws and measures towards the implementation thereof.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order to be part of the law of the land, the following:

Section 1. Definition of Terms. For purposes of this Decree, the following terms are defined:

a. Philippine Waters. include all bodies of water within Philippine Territory, such as rivers, streams, creeks, brooks, ponds, swamps, lagoons, gulfs, bays and seas and other bodies of water now existing, or which may hereafter exist in the provinces, cities, municipalities, municipal districts, and barrios; and the sea or fresh water around, between and connecting each of the islands of the Philippine Archipelago, irrespective of its depth, breadth, length and dimension, and all other waters belonging to the Philippines by historic or legal title, including the territorial sea, the seabed, the insular shelves and other submarine areas over which the Philippines has sovereignty or jurisdiction.

b. Fish and Fishery/Aquatic Products. fish includes all fishes and other aquatic animals such as crustaceans (crabs, prawns, shrimps and lobsters), mollusks (clams, mussels, scallops, oysters, snails and other shellfish). Fishery/aquatic products include all products of aquatic resources in any form.

c. Fishing with the use of Explosives. means the use of dynamite, other explosives, or chemical compound that contain combustible elements or ingredients that, upon ignition by friction, concussion, percussion, or detonation of all or parts of the compound, kill, stupefy, disable or render unconscious any fish or fishery/aquatic product. It shall also refer to the use of any other substance and/or device that causes explosion capable of producing the said harmful effects on fish or fishery/aquatic products.

d. Fishing with the use of Obnoxious or Poisonous Substance. means the use of any substance or chemical, whether in raw or processed form, harmful or harmless, which kill, stupefy, disable, or render unconscious fish or fishery/aquatic products.

e. Electro-fishing. means the use of electricity generated by dry cell batteries, electric generators or other source of electric power to kill, stupefy, disable or render unconscious fish or fishery/aquatic products. It shall include the use of rays or beams of whatever nature, form or source of power.

f. Violation of Rules and Regulations. means violations of Fisheries Administrative Orders, rules and regulations promulgated by the Secretary of National Resources.

g. Persons. include natural and juridical persons, unless the context intends otherwise.

Section 2. Prohibition. It shall be unlawful for any person to catch, take or gather or caused to be caught, taken or gathered fish or fishery/aquatic products in Philippine waters with the use of explosives, obnoxious or poisonous substances or by the use of electricity: Provided, that the Secretary of Natural Resources may, subject to such safeguards and conditions he deems necessary, allow for research, educational or scientific purposes only the use of explosives, obnoxious or poisonous substances or electricity to catch, take or gather fish or fishery/aquatic products in specified areas.

Section 3. Penalties. Violations of this Decree and the rules and regulations mentioned in paragraph (f) of Section 1 hereof shall be punished as follows:

a. by imprisonment from 10 to 12 years, if explosives are used: Provided, that if the explosion results (1) in physical injury to person, the penalty shall be imprisonment from 12 to 20 years, or (2) in the loss of human life, then the penalty shall be imprisonment from 20 years to life, or death;

0b. by imprisonment from 8 to 10 years, if obnoxious or poisonous substances are used: Provided, that if the use of such substances results (1) in physical injury to any person, the penalty shall be imprisonment from 10 to 12 years, or (2) in the loss of human life, then the penalty shall be imprisonment from 20 years of life, or death;

c. by imprisonment from 6 months to 4 years, or by a fine of from P500 to P5,000 for violation of rules and regulations mentioned in paragraph (f) of Section 1 hereof.

If the violation is committed by a partnership, association or corporation, the managing partner or director or president who ordered or allowed the violation to be committed shall be liable together with other persons who actually committed the prohibited acts.

Section 4. Dealing in illegally caught fish or fishery/aquatic products. Any person who knowingly possesses, deals in, sells, or in any manner disposes of, for profit, any fish, fishery-aquatic products which have been illegally caught, taken or gathered shall, upon conviction by a competent court, be punished by imprisonment from 2 to 6 years.

Section 5. Repealing Clause. Act No. 4003, as amended, Republic Act No. 6451, laws, decrees, orders, rules and regulations or parts thereof which are inconsistent with this Decree are hereby repealed or modified accordingly.

Section 6. Effectivity. This Decree shall take effect upon promulgation.

Done in the City of Manila, this 8th day of August, in the year of Our Lord, nineteen hundred and seventy-four.

PD No 581 | **Highgrading**

PRESIDENTIAL DECREE No. 581 November 13, 1974

PRESCRIBING A HEAVIER MINIMUM PENALTY FOR HIGHGRADING OR THEFT OF GOLD FROM A MINING CLAIM OR MINING CAMP

WHEREAS, "highgrading" or the theft of gold has become rampant in the mining areas where gold is produced because of the high price that this precious metal now commands in the free market;

WHEREAS, gold mining is one of the industries that the Government encourages because of the role that gold plays in our economy not only as an important part of our international reserves, but also as one of our principal sources of foreign exchange;

WHEREAS, the existing laws has proved inadequate in curbing highgrading because of the difficulty in apprehending highgraders and also because of the light penalties usually imposed on the accused due to the relatively low value which the Courts give to stolen gold-bearing ores or rocks;

WHEREAS, "highgrading" causes damage not only to the operator of the mining claims, but also to the Government which losses the foreign exchange and the taxes the stolen gold could have generated and, worse, it promotes black-marketing and smuggling abroad of this precious metal; and

WHEREAS, one of the principal aims of our New Society is to stamp out all forms of lawlessness to promote the social and economic well-being of our people;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree that:

Section 1. Any person who shall take gold-bearing ores or rocks from a mining claim or mining camp or shall remove, collect or gather gold-bearing ores or rocks in place or shall extract or remove the gold from such ores or rocks, or shall prepare and treat such ores or rocks to recover or extract the gold contents thereof, without the consent of the operator of the mining claim, shall be guilty of "highgrading" or theft of gold and shall suffer a penalty of prision-correccional in its minimum period, but if the accused is an employee or laborer of the operator of the mining claim, the penalty shall be prision-correccional in medium period without prejudice to the imposition of the higher penalties provided in Article 309 of the Revised Penal Code if the value of the goods stolen so warrants. The penalty next lower in degree than that prescribed hereinabove shall be imposed if the offense is frustrated, and the penalty two degrees lower if the offense is attempted.

Section 2. The unauthorized possession by any person within a mining claim or mining camp of gold-bearing ores or rocks or of gold extracted or removed from such ores or rocks, shall be prima facie evidence that they have been stolen from the operator of a mining claim.

Section 3. Any person who knowingly buys or acquires stolen gold-bearing ore or rocks or the gold extracted or removed therefrom shall be guilty of theft as an accessory and penalized with arresto mayor in its maximum period.

Section 4. All laws or regulations inconsistent herewith are hereby repealed or modified accordingly.

Section 5. This Decree shall take effect immediately.

Done in the City of Manila, this 13th day of November, in the year of Our Lord, nineteen hundred and seventy-four.

PD No 1613 | **Amending the Law on Arson**

PRESIDENTIAL DECREE No. 1613

AMENDING THE LAW ON ARSON

WHEREAS, findings of the police and intelligence agencies of the government reveal that fires and other crimes involving destruction in Metro Manila and other urban centers in the country are being perpetrated by criminal syndicates, some of which have foreign connections;

WHEREAS, the current law on arson suffers from certain inadequacies that impede the successful enforcement and prosecution of arsonists;

WHEREAS, it is imperative that the high incidence of fires and other crimes involving destruction be prevented to protect the national economy and preserve the social, economic and political stability of the country;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree as part of the law of the land, the following:

Section 1. *Arson.* Any person who burns or sets fire to the property of another shall be punished by Prision Mayor.

The same penalty shall be imposed when a person sets fire to his own property under circumstances which expose to danger the life or property of another.

Section 2. *Destructive Arson.* The penalty of Reclusion Temporal in its maximum period to Reclusion Perpetua shall be imposed if the property burned is any of the following:

1. Any ammunition factory and other establishment where explosives, inflammable or combustible materials are stored.

2. Any archive, museum, whether public or private, or any edifice devoted to culture, education or social services.

3. Any church or place of worship or other building where people usually assemble.

4. Any train, airplane or any aircraft, vessel or watercraft, or conveyance for transportation of persons or property

4. Any building where evidence is kept for use in any legislative, judicial, administrative or other official proceedings.

5. Any hospital, hotel, dormitory, lodging house, housing tenement, shopping center, public or private market, theater or movie house or any similar place or building.

6. Any building, whether used as a dwelling or not, situated in a populated or congested area.

Section 3. *Other Cases of Arson.* The penalty of Reclusion Temporal to Reclusion Perpetua shall be imposed if the property burned is any of the following:

1. Any building used as offices of the government or any of its agencies;

2. Any inhabited house or dwelling;

3. Any industrial establishment, shipyard, oil well or mine shaft, platform or tunnel;

4. Any plantation, farm, pastureland, growing crop, grain field, orchard, bamboo grove or forest;

4. Any rice mill, sugar mill, cane mill or mill central; and

5. Any railway or bus station, airport, wharf or warehouse.

Section 4. *Special Aggravating Circumstances in Arson.* The penalty in any case of arson shall be imposed in its maximum period;

1. If committed with intent to gain;

2. If committed for the benefit of another;

3. If the offender is motivated by spite or hatred towards the owner or occupant of the property burned;

4. If committed by a syndicate.

The offense is committed by a syndicate if its is planned or carried out by a group of three (3) or more persons.

Section 5. *Where Death Results from Arson.* If by reason of or on the occasion of the arson death results, the penalty of Reclusion Perpetua to death shall be imposed.

Section 6. *Prima Facie evidence of Arson.* Any of the following circumstances shall constitute prima facie evidence of arson:

1. If the fire started simultaneously in more than one part of the building or establishment.

2. If substantial amount of flammable substances or materials are stored within the building note necessary in the business of the offender nor for household us.

3. If gasoline, kerosene, petroleum or other flammable or combustible substances or materials soaked therewith or containers thereof, or any mechanical, electrical, chemical, or electronic contrivance designed to start a fire, or ashes or traces of any of the foregoing are found in the ruins or premises of the burned building or property.

4. If the building or property is insured for substantially more than its actual value at the time of the issuance of the policy.

4. If during the lifetime of the corresponding fire insurance policy more than two fires have occurred in the same or other premises owned or under the control of the offender and/or insured.

5. If shortly before the fire, a substantial portion of the effects insured and stored in a building or property had been withdrawn from the premises except in the ordinary course of business.

6. If a demand for money or other valuable consideration was made before the fire in exchange for the desistance of the offender or for the safety of the person or property of the victim.

Section 7. *Conspiracy to commit Arson.* Conspiracy to commit arson shall be punished by Prision Mayor in its minimum period.

Section 8. *Confiscation of Object of Arson.* The building which is the object of arson including the land on which it is situated shall be confiscated and escheated to the State, unless the owner thereof can prove that he has no participation in nor knowledge of such arson despite the exercise of due diligence on his part.

Section 9. *Repealing Clause.* The provisions of Articles 320 to 326-B of the Revised Penal Code and all laws, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Decree are hereby repealed or amended accordingly.

Section 10. *Effectivity.* This Decree shall take effect immediately upon publication thereof at least once in a newspaper of general circulation.

Done in the City of Manila, this 7th day of March, in the year of Our Lord, nineteen hundred and seventy-nine.

PD No 1689 | **Qualified Estafa**

PRESIDENTIAL DECREE No. 1689 April 6, 1980

INCREASING THE PENALTY FOR CERTAIN FORMS OF SWINDLING OR ESTAFA

WHEREAS, there is an upsurge in the commission of swindling and other forms of frauds in rural banks, cooperatives, "samahang nayon (s)", and farmers' associations or corporations/associations operating on funds solicited from the general public;

WHEREAS, such defraudation or misappropriation of funds contributed by stockholders or members of such rural banks, cooperatives, "samahang nayon(s)", or farmers' associations, or of funds solicited by corporations/associations from the general public, erodes the confidence of the public in the banking and cooperative system, contravenes the public interest, and constitutes economic sabotage that threatens the stability of the nation;

WHEREAS, it is imperative that the resurgence of said crimes be checked, or at least minimized, by imposing capital punishment on certain forms of swindling and other frauds involving rural banks, cooperatives, "samahang nayon(s)", farmers' associations or corporations/associations operating on funds solicited from the general public;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order as follows:

Section 1. Any person or persons who shall commit estafa or other forms of swindling as defined in Article 315 and 316 of the Revised Penal Code, as amended, shall be punished by life imprisonment to death if the swindling (estafa) is committed by a syndicate consisting of five or more persons formed with the intention of carrying out the unlawful or illegal act, transaction, enterprise or scheme, and the defraudation results in the misappropriation of money contributed by stockholders, or members of rural banks, cooperative, "samahang nayon(s)", or farmers association, or of funds solicited by corporations/associations from the general public.

When not committed by a syndicate as above defined, the penalty imposable shall be reclusion temporal to reclusion perpetua if the amount of the fraud exceeds 100,000 pesos.

Section 2. This decree shall take effect immediately.

DONE in the City of Manila, this 6th day of April, in the year of Our Lord, nineteen hundred and eighty.

BP Blg 22 | **Bouncing Checks Law**

BATAS PAMBANSA BLG. 22

AN ACT PENALIZING THE MAKING OR DRAWING AND ISSUANCE OF A CHECK WITHOUT SUFFICIENT FUNDS OR CREDIT AND FOR OTHER PURPOSES.

Section 1. *Checks without sufficient funds.* - Any person who makes or draws and issues any check to apply on account or for value, knowing at the time of issue that he does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment, which check is subsequently dishonored by the drawee bank for insufficiency of funds or credit or would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment, shall be punished by imprisonment of not less than thirty days but not more than one (1) year or by a fine of not less than but not more than double the amount of the check which fine shall in no case exceed Two Hundred Thousand Pesos, or both such fine and imprisonment at the discretion of the court.

The same penalty shall be imposed upon any person who, having sufficient funds in or credit with the drawee bank when he makes or draws and issues a check, shall fail to keep sufficient funds or to maintain a credit to cover the full amount of the check if presented within a period of ninety (90) days from the date appearing thereon, for which reason it is dishonored by the drawee bank.

Where the check is drawn by a corporation, company or entity, the person or persons who actually signed the check in behalf of such drawer shall be liable under this Act.

Section 2. *Evidence of knowledge of insufficient funds.* - The making, drawing and issuance of a check payment of which is refused by the drawee because of insufficient funds in or credit with such bank, when presented within ninety (90) days from the date of the check, shall be prima facie evidence of knowledge of such insufficiency of funds or credit unless such maker or drawer pays the holder thereof the amount due thereon, or makes arrangements for payment in full by the drawee of such check within (5) banking days after receiving notice that such check has not been paid by the drawee.

Section 3. *Duty of drawee; rules of evidence.* - It shall be the duty of the drawee of any check, when refusing to pay the same to the holder thereof upon presentment, to cause to be written, printed, or stamped in plain language thereon, or attached thereto, the reason for drawee's dishonor or refusal to pay the same: Provided, That where there are no sufficient funds in or credit with such drawee bank, such fact shall always be explicitly stated in the notice of dishonor or refusal. In all prosecutions under this Act, the introduction in evidence of any unpaid and dishonored check, having the drawee's refusal to pay stamped or written thereon or attached thereto, with the reason therefor as aforesaid, shall be prima facie evidence of the making or issuance of said check, and the due presentment to the drawee for payment and the dishonor thereof, and that the same was properly dishonored for the reason written, stamped or attached by the drawee on such dishonored check.

Notwithstanding receipt of an order to stop payment, the drawee shall state in the notice that there were no sufficient funds in or credit with such bank for the payment in full of such check, if such be the fact.

Section 4. *Credit construed.* - The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank for the payment of such check.

Section 5. *Liability under the Revised Penal Code.* - Prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Revised Penal Code.

Section 6. *Separability clause.* - If any separable provision of this Act be declared unconstitutional, the remaining provisions shall continue to be in force.

Section 7. *Effectivity.* - This Act shall take effect fifteen days after publication in the Official Gazette.

Approved: April 3, 1979.

PD No 705 | **Forestry Code**

CHAPTER IV CRIMINAL OFFENSES AND PENALTIES

Section 68. *Cutting, gathering and/or collecting timber or other products without license.* Any person who shall cut, gather, collect, or remove timber or other forest products from any forest land, or timber from alienable and disposable public lands, or from private lands, without any authority under a license agreement, lease, license or permit, shall be guilty of qualified theft as defined and punished under Articles 309 and 310 of the Revised Penal Code; Provided, That in the case of partnership, association or corporation, the officers who ordered the cutting, gathering or collecting shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.

The Court shall further order the confiscation in favor of the government of the timber or forest products to cut, gathered, collected or removed, and the machinery, equipment, implements and tools used therein, and the forfeiture of his improvements in the area.

The same penalty plus cancellation of his license agreement, lease, license or permit and perpetual disqualification from acquiring any such privilege shall be imposed upon any licensee, lessee, or permittee who cuts timber from the licensed or leased area of another, without prejudice to whatever civil action the latter may bring against the offender.

Section 69. *Unlawful occupation or destruction of forest lands.* Any person who enters and occupies or possesses, or makes kaingin for his own private use or for others any forest land without authority under a license agreement, lease, license or permit, or in any manner destroys such forest land or part thereof, or causes any damage to the timber stand and other products and forest growths found therein, or who assists, aids or abets any other person to do so, or sets a fire, or negligently permits a fire to be set in any forest land shall, upon conviction, be fined in an amount of not less than five hundred pesos (P500.00) nor more than twenty thousand pesos (P20,000.00) and imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment of ten (10) times the rental fees and other charges which would have been accrued had the occupation and use of the land been authorized under a license agreement, lease, license or permit: Provided, That in the case of an offender found guilty of making kaingin, the penalty shall be imprisoned for not less than two (2) nor more than (4) years and a fine equal to eight (8) times the regular forest charges due on the forest products destroyed, without prejudice to the payment of the full cost of restoration of the occupied area as determined by the Bureau.

The Court shall further order the eviction of the offender from the land and the forfeiture to the Government of all improvements made and all vehicles, domestic animals

and equipment of any kind used in the commission of the offense. If not suitable for use by the Bureau, said vehicles shall be sold at public auction, the proceeds of which shall accrue to the Development Fund of the Bureau.

In case the offender is a government official or employee, he shall, in addition to the above penalties, be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position.

Section 70. *Pasturing Livestock*. Imprisonment for not less than six (6) months nor more than two (2) years and a fine equal to ten (10) times the regular rentals due, in addition to the confiscation of such livestock and all improvement introduced in the area in favor of the government, shall be imposed upon any person, who shall, without authority under a lease or permit, graze or cause to graze livestock in forest lands, grazing lands and alienable and disposable lands which have not as yet been disposed of in accordance with the Public Land Act; Provided, That in case the offender is a corporation, partnership or association, the officers and directors thereof shall be liable.

Section 71. *Illegal occupation of national parks system and recreation areas and vandalism therein.* Any person who shall, without permit, occupy for any length of time any portion of the national parks system or shall, in any manner, cut, destroy, damage or remove timber or any species of vegetation or forest cover and other natural resources found therein, or shall mutilate, deface or destroy objects of natural beauty or of scenic value within areas in the national parks system, shall be fined not less than two hundred (P200.00) pesos or more than five hundred (P500.00) pesos exclusive of the value of the thing damaged; Provided, That if the area requires rehabilitation or restoration as determined by the Director, the offender shall also be required to restore or compensate for the restoration of the damage; Provided, Further, That any person who, without proper permit shall hunt, capture or kill any kind of bird, fish or wild animal life within any area in the national parks system shall be subject to the same penalty; Provided, Finally, That the Court shall order eviction of the offender from the land and the forfeiture in favor of the Government of all timber or any species of vegetation and other natural resources collected or removed, and any construction or improvement made thereon by the offender. If the offender is an association or corporation, the president or manager shall be directly responsible and liable for the act of his employees or laborers.

In the event that an official of a city or municipal government is primarily responsible for detecting and convicting the violator of the provisions of this Section, fifty per centum (50%) of the fine collected shall accrue to such municipality or city for the development of local parks.

Section 72. *Destruction of wildlife resources*. Any person violating the provisions of Section 55 of this Code, or the regulations promulgated thereunder, shall be fined not less than one hundred (P100.00) pesos for each such violation and in addition shall be denied a permit for a period of three (3) years from the date of the violation.

Section 73. *Survey by unauthorized person*. Imprisonment for not less than two (2) nor more than four (4) years, in addition to the confiscation of the implements used in the violation of this section including the cancellation of the license, if any, shall be imposed upon any person who shall, without permit to survey from the Director, enter any forest lands, whether covered by a license agreement, lease, license, or permit, or not, and conduct or undertake a survey for whatever purpose.

Section 74. *Misclassification and survey by government official or employee*. Any public officer or employee who knowingly surveys, classifies, or recommends the release of forest lands as alienable and disposable lands contrary to the criteria and standards established in this Code, or the rules and regulations promulgated hereunder, shall, after an appropriate administrative proceeding, be dismissed from the service with prejudice to re-employment, and upon conviction by a court of competent jurisdiction, suffer an imprisonment of not less than one (1) year and a fine of not less than one thousand, (P1,000.00) pesos. The survey, classification or release of forest lands shall be null and void.

Section 75. *Tax declaration on real property*. Imprisonment for a period of not less than two (2) nor more than four (4) years and perpetual disqualification from holding an elective or appointive office, shall be imposed upon any public officer or employee who shall issue a tax declaration on real property without a certification from the Director of Forest Development and the Director of Lands or their duly designated representatives that the area declared for taxation is alienable and disposable lands, unless the property is titled or has been occupied and possessed by members of the national cultural minorities prior to July 4, 1955.

Section 76. *Coercion and influence*. Any person who coerces, influences, abets or persuades the public officer or employee referred to in the two preceding sections to commit any of the acts mentioned therein shall suffer imprisonment of not less than one (1) year and pay a fine of five hundred (P500.00) pesos for every hectare or a fraction thereof so improperly surveyed, classified or released.

Section 77. *Unlawful possession of implements and devices used by forest officers*. Imprisonment for a period of not less than (2) nor more than four (4) years and a fine of not less than one thousand pesos (P1,000.00), nor more than ten thousand (P10,000.00) pesos in addition to the confiscation of such implements and devices, and the automatic cancellation of the license agreement, lease, license or permit, if the offender is a holder thereof, shall be imposed upon any person who shall, without authority from the Director or his authorized representative, make, manufacture, or has in his possession any government marking, hatchet or other marking implement, or any marker, poster, or other devices officially used by officers of the Bureau for the marking or identification of timber or other products, or any duplicate, counterfeit, or imitation thereof, or make or apply a government mark on timber or any other forest products by means of any authentic or counterfeit device, or alter, deface, or remove government marks or signs, from trees, logs, stumps, firewoods or other forest products, or destroy, deface, remove or disfigure any such mark, sign, poster or warning notices set by the Bureau to designate the boundaries of cutting areas, municipal or city forest or pasture, classified timber land, forest reserve, and areas under the national park system or to make any false mark or imitation of any mark or sign herein indicated; Provided, That if the offender is a corporation, partnership or association, the officers and directors thereof shall be liable.

Section 78. *Payment, collection and remittance of forest charges.* Any person who fails to pay the amount due and payable under the provisions of this Code, the National Internal Revenue Code, or the rules and regulations promulgated thereunder, shall be liable to the payment of a surcharge of twenty-five per centum (25%) of the amount due and payable.

Any person who fails or refuses to remit to the proper authorities said forest charges collectible pursuant to the provisions of this Code or the National Internal Revenue Code, or who delays, obstructs or prevents the same, or who orders, causes or effects the transfer or diversion of the funds for purposes other than those specified in this Code, for each such offense shall, upon conviction, be punished by a fine of not exceeding one hundred thousand pesos (P100,000.00) and/or imprisonment for a period of not exceeding six (6) years in the discretion of the Court. If the offender is a government official or employee, he shall, in addition, be dismissed from the service with prejudice to reinstatement and with

disqualification from holding any elective or appointive office.

If the offender is a corporation, partnership or association, the officers and directors thereof shall be liable.

Section 79. *Sale of wood products.* No person shall sell or offer for sale any log, lumber, plywood or other manufactured wood products in the international or domestic market unless he complies with grading rules and established or to be established by the Government.

Failure to adhere to the established grading rules and standards, or any act of falsification of the volume of logs, lumber, or other forest products shall be a sufficient cause for the suspension of the export, sawmill, or other license or permit authorizing the manufacture or sale of such products for a period of not less than two (2) years.

A duly accredited representative of the Bureau shall certify to the compliance by the licensees with grading rules.

Every dealer in lumber and other building material covered by this Code shall issue an invoice for each sale of such material and such invoice shall state that the kind, standard and size of material sold to each purchaser in exactly the same as described in the invoice. Any violation of this Section shall be sufficient ground for the suspension of the dealer's license for a period of not less than two (2) years and, in addition thereto, the dealer shall be punished for each such offense by a fine of not less than two hundred pesos (P200.00) or the total value of the invoice, whichever is greater.

Section 80. *Arrest; Institution of criminal actions.* A forest officer or employee of the Bureau shall arrest even without warrant any person who has committed or is committing in his presence any of the offenses defined in this Chapter. He shall also seize and confiscate, in favor of the Government, the tools and equipment used in committing the offense, and the forest products cut, gathered or taken by the offender in the process of committing the offense. The arresting forest officer or employee shall thereafter deliver within six (6) hours from the time of arrest and seizure, the offender and the confiscated forest products, tools and equipment to, and file the proper complaint with, the appropriate official designated by law to conduct preliminary investigations and file informations in court.

If the arrest and seizure are made in the forests, far from the authorities designated by law to conduct preliminary investigations, the delivery to, and filing of the complaint with, the latter shall be done within a reasonable time sufficient for ordinary travel from the place of arrest to the place of delivery. The seized products, materials and equipment shall be immediately disposed of in accordance with forestry administrative orders promulgated by the Department Head.

The Department Head may deputize any member or unit of the Philippine Constabulary, police agency, barangay or barrio official, or any qualified person to protect the forest and exercise the power or authority provided for in the preceding paragraph.

Reports and complaints regarding the commission of any of the offenses defined in this Chapter, not committed in the presence of any forest officer or employee, or any of the deputized officers or officials, shall immediately be investigated by the forest officer assigned in the area where the offense was allegedly committed, who shall thereupon receive the evidence supporting the report or complaint.

If there is prima facie evidence to support the complaint or report, the investigating forest officer shall file the necessary complaint with the appropriate official authorized by law to conduct a preliminary investigation of criminal cases and file an information in Court.

RA No 8550 | **Philippine Fisheries Code of 1998**

CHAPTER VI Prohibitions and Penalties

Section 86. ***Unauthorized Fishing or Engaging in Other Unauthorized Fisheries Activities.*** - No person shall exploit, occupy, produce, breed, culture, capture or gather fish, fry or fingerlings of any fishery species or fishery products, or engage in any fishery activity in Philippine waters without a license, lease or permit.

Discovery of any person in an area where he has no permit or registration papers for a fishing vessel shall constitute a prima facie presumption that the person and/or vessel is engaged in unauthorized fishing: Provided, That fishing for daily food sustenance or for leisure which is not for commercial, occupation or livelihood purposes may be allowed.

It shall be unlawful for any commercial fishing vessel to fish in bays and in such other fishery management areas which may hereinafter be declared as over-exploited.

Any commercial fishing boat captain or the three (3) highest officers of the boat who commit any of the above prohibited acts upon conviction shall be punished by a fine equivalent to the value of catch or Ten thousand pesos (P10,000.00) whichever is higher, and imprisonment of six (6) months, confiscation of catch and fishing gears, and automatic revocation of license.

It shall be unlawful for any person not listed in the registry of municipal fisherfolk to engage in any commercial fishing activity in municipal waters. Any municipal fisherfolk who commits such violation shall be punished by confiscation of catch and a fine of Five hundred pesos (500.00).

Section 87. ***Poaching in Philippine Waters.*** - It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters.

The entry of any foreign fishing vessel in Philippine waters shall constitute a prima facie evidence that the vessel is engaged in fishing in Philippine waters.

Violation of the above shall be punished by a fine of One hundred thousand U.S. Dollars (US$100,000.00), in addition to the confiscation of its catch, fishing equipment and fishing vessel: Provided, That the Department is empowered to impose an administrative fine of not less than Fifty thousand U.S. Dollars (US$50,000.00) but not more than Two hundred thousand U.S. Dollars (US$200,000.00) or its equivalent in the Philippine Currency.

Section 88. ***Fishing Through Explosives, Noxious or Poisonous Substance, and/or Electricity.*** -

(1) It shall be unlawful for any person to catch, take or gather or cause to be caught, taken or gathered, fish or any fishery species in Philippine waters with the use of electricity, explosives, noxious or poisonous substance such as sodium cyanide in the Philippine fishery areas, which will kill, stupefy, disable or render unconscious fish or fishery species: Provided, That the Department, subject to such safeguards and conditions deemed necessary and endorsement from the concerned LGUs, may allow, for research, educational or scientific purposes only, the use of electricity, poisonous or noxious substances to catch, take or gather fish or fishery species: Provided, further, That the use of poisonous or noxious substances to eradicate predators in fishponds in accordance with accepted scientific practices and without causing adverse environmental impact in neighboring waters and grounds shall not be construed as illegal fishing.

It will likewise be unlawful for any person, corporation or entity to possess, deal in, sell or in any manner dispose of, any fish or fishery species which have been illegally caught, taken or gathered.

The discovery of dynamite, other explosives and chemical compounds which contain combustible elements, or noxious or poisonous substances, or equipment or device for electro-fishing in any fishing vessel or in the possession of any fisherfolk, operator, fishing boat official or fishworker shall constitute prima facie evidence, that the same was used for fishing in violation of this Code. The discovery in any fishing vessel of fish caught or killed with the use of explosive, noxious or poisonous substances or by electricity shall constitute prima facie evidence that the fisherfolk, operator, boat official or fishworker is fishing with the use thereof.

(2) Mere possession of explosive, noxious or poisonous substances or electrofishing devices for illegal fishing shall be punishable by imprisonment ranging from six (6) months to two (2) years.

(3) Actual use of explosives, noxious or poisonous substances or electrofishing devices for illegal fishing shall be punishable by imprisonment ranging from five (5) years to ten (10) years without prejudice to the filing of separate criminal cases when the use of the same result to physical injury or loss of human life.

(4) Dealing in, selling, or in any manner disposing of, for profit, illegally caught/gathered fisheries species shall be punished by imprisonment ranging from six (6) months to two (2) years.

(5) In all cases enumerated above, the explosives, noxious or poisonous substances and/or electrical devices, as well as the fishing vessels, fishing equipment and catch shall be forfeited.

Section 89. ***Use of Fine Mesh Net.*** - It shall be unlawful to engage in fishing using nets with mesh smaller than that which may be fixed by the Department: Provided, That the prohibition on the use of fine mesh net shall not apply to the gathering of fry, glass eels, elvers, tabios, and alamang and such species which by their nature are small but already mature to be identified in the implementing rules and regulations by the Department.

Violation of the above shall subject the offender to a fine from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) or imprisonment from six (6) months to two (2) years or both such fine and imprisonment at the discretion of the court: Provided, That if the offense is committed by a commercial fishing vessel, the boat captain and the master fisherman shall also be subject to the penalties provided herein: Provided, further, That the owner/operator of the commercial fishing vessel who violates this provision shall be subjected to the same penalties provided herein: Provided, finally, That the Department is hereby empowered to impose upon the offender an administrative fine and/or cancel his permit or license or both.

Section 90. ***Use of Active Gear in the Municipal Waters and Bays and Other Fishery Management Areas.*** - It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active fishing gears as defined in this Code.

Violators of the above prohibitions shall suffer the following penalties:

(1) The boat captain and master fisherman of the vessels who participated in the violation shall suffer the penalty of imprisonment from two (2) years to six (6) years;

(2) The owner/operator of the vessel shall be fined from Two thousand pesos (P2,000.00) to Twenty thousand pesos (20,000.00) upon the discretion of the court.

If the owner/operator is a corporation, the penalty shall be imposed on the chief executive officer of the Corporation.

If the owner/operator is a partnership the penalty shall be imposed on the managing partner.

(3) The catch shall be confiscated and forfeited.

Section 91. ***Ban on Coral Exploitation and Exportation.*** - It shall be unlawful for any person or corporation to gather, possess, sell or export ordinary precious and semi-precious corals, whether raw or in processed form, except for scientific or research purposes.

Violations of this provision shall be punished by imprisonment from six (6) months to two (2) years and a fine from Two thousand pesos (P2,000.00) to Twenty thousand pesos (20,000.00), or both such fine and imprisonment, at the discretion of the court, and forfeiture of the subject corals, including the vessel and its proper disposition.

The confiscated corals shall either be returned to the sea or donated to schools and museums for educational or scientific purposes or disposed through other means.

Section 92. ***Ban on Muro-Ami Other Methods and Gear Destructive to Coral Reefs and Other Marine Habitat.***- It shall be unlawful for any person, natural or juridical, to fish with gear method that destroys coral reefs, seagrass beds, and other fishery marine life habitat as may be determined by the Department. "Muro-Ami" and any of its variation, and such similar gear and methods that require diving, other physical or mechanical acts to pound the coral reefs and other habitat to entrap, gather or catch fish and other fishery species are also prohibited.

The operator, boat captain, master fisherman, and recruiter or organizer of fishworkers who violate this provision shall suffer a penalty of two (2) years to ten (10) years imprisonment and a fine of not less than One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) or both such fine and imprisonment, at the discretion of the court. The catch and gear used shall be confiscated.

It shall likewise be unlawful for any person or corporation to gather, sell or export white sand, silica, pebbles and any other substances which make up any marine habitat.

The person or corporation who violates this provision shall suffer a penalty of two (2) years to ten (10) years imprisonment and a fine of not less than One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) or both such fine and imprisonment, at the discretion of the court. The substance taken from its marine habitat shall be confiscated.

Section 93. ***Illegal Use of Superlights.*** - It shall be unlawful to engage in fishing with the use of superlights in municipal waters or in violation of the rules and regulations which may be promulgated by the Department on the use of superlights outside municipal waters.

Violations of this provision shall be punished by imprisonment from six (6) months to two (2) years or a fine of Five thousand pesos (P5,000.00) per superlight, or both such fine and imprisonment at the discretion of the courts. The superlight, fishing gears and vessel shall be confiscated.

Section 94. ***Conversion of Mangroves.*** - It shall be unlawful for any person to convert mangroves into fishponds or for any other purposes.

Violation of the provision of this section shall be punished by imprisonment of six (6) years and one (1) day to twelve (12) years and/or a fine of Eighty thousand pesos (P80,000.00): Provided, That if the area requires rehabilitation or restoration as determined by the court, the offender should also be required to restore or compensate for the restoration of the damage.

Section 95. ***Fishing in Overfished Area and During Closed Season.*** - It shall be unlawful to fish in overfished area and during closed season.

Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or fine of Six thousand pesos (P6,000.00) and by forfeiture of the catch and cancellation of fishing permit or license.

Section 96. ***Fishing in Fishery Reserves, Refuge and Sanctuaries.*** - It shall be unlawful to fish in fishery areas declared by the Department as fishery reserves, refuge and sanctuaries.

Violation of the provision of this section shall be punished by imprisonment of two (2) years to six (6) years and/or fine of Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) and by forfeiture of the catch and the cancellation of fishing permit or license.

Section 97. *Fishing Or Taking of Rare, Threatened or Endangered Species.* - It shall be unlawful to fish or take rare, threatened or endangered species as listed in the CITES and as determined by the Department.

Violation of the provision of this section shall be punished by imprisonment of twelve (12) years to twenty (20) years and/or a fine of One hundred and twenty thousand pesos (P120,000.00) and forfeiture of the catch, and the cancellation of fishing permit.

Section 98. *Capture of Sabalo and Other Breeders/Spawners.* - It shall be unlawful for any person to catch, gather, capture or possess mature milkfish or "sabalo" and such other breeders or spawners of other fishery species as may be determined by the Department: Provided, That catching of "sabalo" and other breeders/spawners for local breeding purposes or scientific or research purposes may be allowed subject to guidelines to be promulgated by the Department.

Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to eight (8) years and/or a fine of Eighty thousand pesos (P80,000.00) and forfeiture of the catch, and fishing equipment used and revocation of license.

Section 99. *Exportation of Breeders, Spawners, Eggs or Fry.* - Exportation of breeders, spawners, eggs or fry as prohibited in this Code shall be punished by imprisonment of eight (8) years, confiscation of the same or a fine equivalent to double the value of the same, and revocation of the fishing and/or export license/permit.

Section 100. *Importation or Exportation of Fish or Fishery Species.* - Any importation or exportation of fish or fisheries species in violation of this Code shall be punished by eight (8) years of imprisonment, a fine of Eighty thousand pesos (P80,000.00) and destruction of live fishery species or forfeiture of non-live fishery species in favor of the department for its proper disposition: Provided, That violator of this provision shall be banned from being members or stockholders of companies currently engaged in fisheries or companies to be created in the future, the guidelines for which shall be promulgated by the Department.

Section 101. *Violation of Catch Ceilings.* - It shall be unlawful for any person to fish in violation of catch ceilings as determined by the Department. Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or a fine of Fifty thousand pesos (P50,000.00) and forfeiture of the catch, and fishing equipment used and revocation of license.

Section 102. *Aquatic Pollution.* - Aquatic pollution, as defined in this Code shall be unlawful.

Violation of the provision of this section shall be punished by imprisonment of six (6) years and one (1) day to twelve (12) years and/or a fine of Eighty thousand pesos (P80,000.00) plus an additional fine of Eight thousand pesos (P8,000.00) per day until such violation ceases and the fines paid.

Section 103. *Other Violations.* - The following fisheries activities shall also be considered as a violation of this Code:

(a) Failure to Comply with Minimum Safety Standards. - The owner and captain of a commercial fishing vessel engaged in fishing who, upon demand by proper authorities, fails to exhibit or show proof of compliance with the safety standards provided in this Code, shall be immediately prevented from continuing with his fishing activity and escorted to the nearest port or landing point. The license to operate the commercial fishing vessel shall be suspended until the safety standard has been complied with.

(b) Failure to Conduct a Yearly Report on all Fishponds, Fish Pens and Fish Cages. - The FLA of the holder who fails to render a yearly report shall be immediately cancelled: Provided, That if the offender be the owner of the fishpond, fish pen or fish cage, he shall be subjected to the following penalties: (1) first offense, a fine of Five hundred pesos (P500.00) per unreported hectare; (2) subsequent offenses, a fine of One thousand pesos (1,000.00) per unreported hectare.

(c) Gathering and Marketing of Shell Fishes. - It shall be unlawful for any person to take, sell, transfer, or have in possession for any purpose any shellfish which is sexually mature or below the minimum size or above the maximum quantities prescribed for the particular species.

(d) Obstruction to Navigation or Flow and Ebb of Tide in any Stream, River, Lake or Bay. - It shall be unlawful for any person who causes obstruction to navigation or flow or ebb of tide.

(e) Construction and Operation of Fish Corrals/Traps, Fish Pens and Fish Cages. - It shall be unlawful to construct and operate fish corrals/traps, fish pens and fish cages without a license/permit.

Subject to the provision of subparagraph (b) of this section, violation of the above-enumerated prohibited acts shall subject the offender to a fine ranging from Two thousand pesos (P2,000.00) to Ten thousand pesos (P10,000.00) or imprisonment from one (1) month and one (1) day to six (6) months, or both such fine and imprisonment, upon the discretion of the court: Provided, That the Secretary is hereby empowered to impose upon the offender an administrative fine of not more than Ten thousand pesos (P10,000.00) or to cancel his permit or license, or to impose such fine and to cancel his permit or license, in the discretion of the Secretary: Provided, further, That the Secretary, or his duly authorized representative, and law enforcement agents are hereby empowered to impound with the assistance of the Philippine Coast Guard, PNP-Maritime Command: Provided, finally, That any person who unlawfully obstructs or delays the inspection and/or movement of fish and fishery/aquatic products when such inspection and/or movement is authorized under this Code, shall be subject to a fine of not more than Ten thousand pesos (P10,000.00) or imprisonment of not more than two (2) years, or both such fine and imprisonment, upon the discretion of the court.

Every penalty imposed for the commission of an offense shall carry with it the forfeiture of the proceeds of such offense and the instruments or tools with which it was committed.

Such proceeds and instruments or tools shall be confiscated and forfeited in favor of the Government, unless they be the property of a third person not liable for the offense, but those articles which are not subject of lawful commerce shall be destroyed.

Section 104. *Commercial Fishing Vessel Operators Employing Unlicensed Fisherfolk or Fishworker or Crew.*- The owner/operator of a commercial fishing vessel employing unlicensed fisherfolk or fishworker shall be fined Five hundred pesos (P500.00) each for every month that the same has been employed and/or One thousand pesos (P1,000.00) for every month for each unlicensed crew member who has been employed.

Section 105. *Obstruction of Defined Migration Paths.* - Obstruction of any defined migration paths of anadromous, catadromous and other migratory species, in areas including, but not limited to river mouths and estuaries within a distance determined by the concerned FARMCs shall be punished by imprisonment of seven (7) years to twelve (12) years or a fine from Fifty thousand pesos (P50,000.00) to One hundred thousand pesos (P100,000.00)or both imprisonment and fine at the discretion of the court, and cancellation of permit/license,

if any, and dismantling of obstruction shall be at his own expense and confiscation of same.

Section 106. *Obstruction to Fishery Law Enforcement Officer.* - The boat owner, master or operator or any person acting on his behalf of any fishing vessel who evades, obstructs or hinders any fishery law enforcement officer of the Department to perform his duty, shall be fined Ten thousand pesos (P10,000.00). In addition, the registration, permit and/or license of the vessel including the license of the master fisherman shall be canceled.

Section 107. *Promulgation of Administrative Orders.* - For purposes of fishery regulation or other fishery adjustments, the Department in consultation with the LGUs and local FARMCs, shall issue Fishery Administrative Orders or regulations for the conservation, preservation, management and sustainable development of fishery and aquatic resources.

RA No 10883 | New Anti-Carnapping Act of 2016

July 17, 2016 *

REPUBLIC ACT NO. 10883

AN ACT PROVIDING FOR A NEW ANTI-CARNAPPING LAW OF THE PHILIPPINES

SECTION 1. *Short Title*. — This Act shall be known as the "New Anti-Carnapping Act of 2016".

SECTION 2. *Definition of Terms*. — As used in this Act:

(a) *Body building* refers to a job undertaken on a motor vehicle in order to replace its entire body with a new body;

(b) *Defacing* or *tampering with a serial number* refers to the altering, changing, erasing, replacing or scratching of the original factory inscribed serial number on the motor vehicle engine, engine block or chassis of any motor vehicle.

Whenever any motor vehicle is found to have a serial number on its engine, engine block or chassis which is different from that which is listed in the records of the Bureau of Customs for motor vehicle imported into the Philippines, that motor vehicle shall be considered to have a defaced or tampered serial number;

(c) *Dismantling* refers to the tearing apart, piece-by-piece or part-by-part, of a motor vehicle;

(d) *Identity transfer* refers to the act of transferring the engine number, chassis number, body tag number, plate number, and any other identifying marks of a motor vehicle declared as "total wreck" or is beyond economic repair by concerned car insurance companies and/or law enforcement agencies after its involvement in a vehicular accident or other incident and registers the same into another factory-made body or vehicle unit, of the same classification, type, make or model;

(e) *Motor vehicle* refers to any vehicle propelled by any power other than muscular power using the public highways, except road rollers, trolley cars, street sweepers, sprinklers, lawn mowers, bulldozers, graders, forklifts, amphibian trucks, and cranes if not used on public highways; vehicles which run only on rails or tracks; and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended to be propelled by attachment to a motor vehicle, shall be classified as a separate motor vehicle with no power rating;

(f) *Overhauling* refers to the cleaning or repairing of the whole engine of a motor vehicle by separating the motor engine and its parts from the body of the motor vehicle;

(g) *Repainting* refers to changing the color of a motor vehicle by means of painting. There is painting whenever the new color of a motor vehicle is different from its color registered in the Land Transportation Office (LTO);

(h) *Remodeling* refers to the introduction of some changes in the shape or form of the body of the motor vehicle;

(i) *Second hand spare parts* refer to the parts taken from a carnapped vehicle used in assembling another vehicle;

(j) *Total wreck* refers to the state or status of a motor vehicle after a vehicular accident or other incident, so that it is rendered inoperational and beyond economic repair due to the extent of damage in its body, chassis and engine; and

(k) *Unlawful transfer or use of vehicle plates* refers to the use or transfer of a vehicle plate issued by the LTO to a certain vehicle to another vehicle. It is presumed illegally transferred when the motor vehicle plate does not correspond with that as appearing in the certificate of registration of the motor vehicle to which it was issued.

SECTION 3. *Carnapping; Penalties*. — Carnapping is the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons, or by using force upon things.

Any person who is found guilty of carnapping shall, regardless of the value of the motor vehicle taken, be punished by imprisonment for not less than twenty (20) years and one (1) day but not more than thirty (30) years, when the carnapping is committed without violence against or intimidation of persons, or force upon things; and by imprisonment for not less than thirty (30) years and one (1) day but not more than forty (40) years, when the carnapping is committed by means of violence against or intimidation of persons, or force upon things; and the penalty of life imprisonment shall be imposed when the owner, driver, or occupant of the carnapped motor vehicle is killed or raped in the commission of the carnapping.

Any person charged with carnapping or when the crime of carnapping is committed by criminal groups, gangs or syndicates or by means of violence or intimidation of any person or persons or forced upon things; or when the owner, driver, passenger or occupant of the carnapped vehicle is killed or raped in the course of the carnapping shall be denied bail when the evidence of guilt is strong.

SECTION 4. *Concealment of Carnapping*. — Any person who conceals carnapping shall be punished with imprisonment of six (6) years up to twelve (12) years and a fine equal to the amount of the acquisition cost of the motor vehicle, motor vehicle engine, or any other part involved in the violation: *Provided,* That if the person violating any provision of this Act is a juridical person, the penalty herein provided shall be imposed on its president, secretary, and/or members of the board of directors or any of its officers and employees who may have directly participated in the violation.

Any public official or employee who directly commits the unlawful acts defined in this Act or is guilty of gross negligence of duty or connives with or permits the commission of any of the said unlawful acts shall, in addition to the penalty prescribed in the preceding paragraph, be dismissed from the service, and his/her benefits forfeited and shall be permanently disqualified from holding public office.

SECTION 5. *Original Registration of Motor Vehicles*. — Any person seeking the original registration of a motor vehicle, whether that motor vehicle is newly assembled or rebuilt or acquired from a registered owner, shall, within one (1) week after the completion of the assembly or rebuilding job or the acquisition thereof from the registered owner, apply to the Philippine National Police (PNP) for the clearance of the motor vehicle for registration with the LTO. The PNP shall, upon receipt of the application, verify if the motor vehicle or its

numbered parts are in the list of carnapped motor vehicles or stolen motor vehicle parts. If the motor vehicle or any of its numbered parts is not in the list, the PNP shall forthwith issue a certificate of clearance. Upon presentation of the certificate of clearance from the PNP and after verification of the registration of the motor vehicle engine, engine block and chassis in the permanent registry of motor vehicle engine, engine block and chassis, the LTO shall register the motor vehicle in accordance with existing laws, rules and regulations within twenty (20) working days.

SECTION 6. *Registration of Motor Vehicle, Motor Vehicle Engine, Engine Block and Chassis*. — Within one (1) year upon approval of this Act, every owner or possessor of unregistered motor vehicle or parts thereof in knock down condition shall register before the LTO the motor vehicle engine, engine block and chassis in the name of the possessor or in the name of the real owner who shall be readily available to answer any claim over the registered motor vehicle engine, engine block and chassis. Thereafter, all motor vehicle engines, engine blocks and chassis not registered with the LTO shall be considered as a carnapped vehicle, an untaxed importation or coming from illegal source and shall be confiscated in favor of the government.

SECTION 7. *Permanent Registry of Motor Vehicle, Motor Vehicle Engines, Engine Blocks and Chassis*. — The LTO shall keep a permanent registry of motor vehicle, motor vehicle engines, engine blocks and chassis of all motor vehicles, specifying therein their type, make, serial numbers and stating therein the names and addresses of their present and previous owners. Copies of the registry and of all entries made thereon shall be furnished the PNP and all LTO regional, provincial and city branch offices: *Provided,* That all LTO regional, provincial and city offices are likewise obliged to furnish copies of all registrations of motor vehicles to the main office and to the PNP: *Provided, further*, That the original copy of the certificate of registration shall be given to the registered owner, the second copy shall be retained with the LTO and the third copy shall be submitted to the PNP. Moreover, it shall be unlawful for any person or employee who willfully encodes in the registry of motor vehicles a non-existing vehicle or without history, new identity of already existing vehicle or double/multiple registration ("KAMBAL") of vehicle.

SECTION 8. *Registration of Sale, Transfer, Conveyance of a Motor Vehicle, Substitution or Replacement of a Motor Vehicle Engine, Engine Block or Chassis*. — Every sale, transfer, conveyance of a motor vehicle, substitution or replacement of a motor vehicle engine, engine block or chassis of a motor vehicle shall be registered with the LTO within twenty (20) working days upon purchase/acquisition of a motor vehicle and substitution or replacement of a motor vehicle engine, engine block or chassis. A motor vehicle, motor vehicle engine, engine block or chassis not registered with the LTO shall be presumed as a carnapped vehicle, an untaxed imported vehicle, or a vehicle proceeding from illegal sources unless proven otherwise and shall be confiscated in favor of the government.

SECTION 9. *Duty of Collector of Customs to Report*. — Within seven (7) days after the arrival of an imported vehicle, motor vehicle engine, engine block, chassis or body, the Collector of Customs of a principal port of entry where the imported vehicle or parts enumerated above are unloaded shall report the shipment to the LTO, specifying the make, type and serial numbers, if any, of the motor vehicle, motor vehicle engine, engine block, chassis or body, and stating the names and addresses of the owner or consignee thereof. If the motor vehicle, motor vehicle engine, engine block, chassis or body does not bear any serial number, the Collector of Customs concerned shall hold the motor vehicle, motor vehicle engine, engine block, chassis or body until it is numbered by the LTO: *Provided,* That a PNP clearance shall be required prior to engraving the engine or chassis number.

SECTION 10. *Duty of Importers, Distributors and Sellers of Motor Vehicles to Keep Record of Stocks*. — Any person engaged in the importation, distribution, and buying and selling of motor vehicles, motor vehicle engines, engine blocks, chassis or body shall keep a permanent record of one's stocks, stating therein their type, make and serial numbers, and the names and addresses of the persons from whom they were acquired and the names and addresses of the persons to whom they are sold, and shall render accurately a monthly report of his/her transactions in motor vehicles to the LTO.

SECTION 11. *Duty of Manufacturers of Engine Blocks, Chassis or Body to Cause the Numbering of Engine Blocks, Chassis or Body Manufactured*. — Any person engaged in the manufacture of engine blocks, chassis or body shall cause the numbering of every engine block, chassis or body manufactured in a convenient and conspicuous part thereof which the LTO may direct for the purpose of uniformity and identification of the factory and shall submit to the LTO a monthly report of the manufacture and sale of engine blocks, chassis or body.

SECTION 12. *Clearance and Permit Required for Assembly or Rebuilding of Motor Vehicles*. — Any person who shall undertake to assemble or rebuild or cause the assembly or rebuilding of a motor vehicle shall first secure a certificate of clearance from the PNP: *Provided,* That no such permit shall be issued unless the applicant shall present a statement under oath containing the type, make and serial numbers of the engine, chassis and body, if any, and the complete list of the spare parts of the motor vehicle to be assembled or rebuilt together with the names and addresses of the sources thereof.

In the case of motor vehicle engines to be mounted on motor boats, motor *bancas*, water crafts and other light water vessels, the applicant shall secure a permit from the PNP, which office shall in turn furnish the LTO pertinent data concerning the motor vehicle engines including their type, make and serial numbers.

SECTION 13. *Clearance Required for Shipment of Motor Vehicles, Motor Vehicle Engines, Engine Blocks, Chassis or Body*. — The Philippine Ports Authority (PPA) shall submit a report to the PNP within seven (7) days upon boarding all motor vehicles being boarded the "RORO", ferry, boat, vessel or ship for interisland and international shipment. The PPA shall not allow the loading of motor vehicles in all interisland and international shipping vessels without a motor vehicle clearance from the PNP, except cargo trucks and other trucks carrying goods, Land Transportation Franchising and Regulatory Board (LTFRB)-accredited public utility vehicles (PUV) and other motor vehicles carrying foodstuff and dry goods.

SECTION 14. *Defacing or Tampering with Serial Numbers of Motor Vehicle Engines, Engine Blocks and Chassis*. — It shall be unlawful for any person to deface or otherwise tamper with the original or registered serial number of motor vehicle engines, engine blocks and chassis.

SECTION 15. *Identity Transfer*. — It shall be unlawful for any person, office or entity to cause and/or allow the sale, registration, and/or transfer into another name, the chassis number, engine number and plate number of a motor vehicle declared as "total wreck" or beyond economic repair by concerned insurance company, and/or law enforcement agencies, due to its involvement in a vehicular accident or for some other causes. The LTO shall cancel the registration of total wreck vehicle as reported by the PNP and/or as declared by the Insurance Commission.

SECTION 16. *Transfer of Vehicle Plate*. — It shall be unlawful for any person, office or entity to transfer or use a vehicle plate from one vehicle to another without securing the proper authority from the LTO.

SECTION 17. *Sale of Second Hand Spare Parts*. — It shall be unlawful for any person, office or entity to buy and/or

sell any second hand spare parts taken from a carnapped vehicle.

SECTION 18. *Foreign Nationals*. — Foreign nationals convicted under the provisions of this Act shall be deported immediately after service of sentence without further proceedings by the Bureau of Immigration.

SECTION 19. *Reward*. — Any person who voluntarily gives information leading to the recovery of carnapped vehicles and for the apprehension of the persons charged with carnapping shall be given monetary reward as the PNP may determine. The PNP shall include in their annual budget the amount necessary to carry out the purposes of this section. Any information given by informers shall be treated as confidential matter.

SECTION 20. *Implementing Rules and Regulations*. — The PNP together with the Department of Transportation and Communications, LTO, Philippine Coast Guard, Maritime Industry Authority, Bureau of Customs and relevant motorists and automotive sectors shall, within sixty (60) days from the effectivity of this Act, after unanimous approval, promulgate the necessary implementing rules and regulations to effectively carry out the provisions of this Act, including the setting up of a coordinated online access and the effective clearance system mentioned in Section 12 of this Act to expedite motor vehicle data and details verification.

SECTION 21. *Separability Clause*. — If any provision of this Act is declared invalid, the remainder of this Act or any provision not affected thereby shall remain in full force and effect.

SECTION 22. *Repealing Clause*. — Republic Act No. 6539, otherwise known as the "Anti-Carnapping Act of 1972", is hereby repealed. All laws, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby amended or repealed accordingly.

SECTION 23. *Effectivity*. — This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) newspapers of general circulation, whichever comes earlier.

Approved:

* Lapsed into law on July 17, 2016 without the signature of the President in accordance with Article VI, Section 27 (1) of the Constitution.

Published in The Philippine Star on August 1, 2016.

(New Anti-Carnapping Act of 2016, Republic Act No. 10883, [July 17, 2016])

SPL | *Related to Crimes Against Chastity*

Book TWO Title ELEVEN

RA No 7877 | **Anti-Sexual Harassment Act of 1995**

REPUBLIC ACT No. 7877

AN ACT DECLARING SEXUAL HARASSMENT UNLAWFUL IN THE EMPLOYMENT, EDUCATION OR TRAINING ENVIRONMENT, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Title*. - This Act shall be known as the "Anti-Sexual Harassment Act of 1995."

Section 2. *Declaration of Policy*. - The State shall value the dignity of every individual, enhance the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education. Towards this end, all forms of sexual harassment in the employment, education or training environment are hereby declared unlawful.

Section 3. *Work, Education or Training -Related, Sexual Harassment Defined*. - Work, education or training-related sexual harassment is committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act.

(a) In a work-related or employment environment, sexual harassment is committed when:

(1) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms of conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;

(2) The above acts would impair the employee's rights or privileges under existing labor laws; or

(3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

(b) In an education or training environment, sexual harassment is committed:

(1) Against one who is under the care, custody or supervision of the offender;

(2) Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;

(3) When the sexual favor is made a condition to the giving of a passing grade, or the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or consideration; or

(4) When the sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.

Any person who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall also be held liable under this Act.

Section 4. Duty of the Employer or Head of Office in a Work-related, Education or Training Environment. - It shall be the duty of the employer or the head of the work-related, educational or training environment or institution, to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment. Towards this end, the employer or head of office shall:

(a) Promulgate appropriate rules and regulations in consultation with and jointly approved by the employees or students or trainees, through their duly designated representatives, prescribing the procedure for the investigation of sexual harassment cases and the administrative sanctions therefor.

Administrative sanctions shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment.

The said rules and regulations issued pursuant to this subsection (a) shall include, among others, guidelines on proper decorum in the workplace and educational or training institutions.

(b) Create a committee on decorum and investigation of cases on sexual harassment. The committee shall conduct meetings, as the case may be, with officers and employees, teachers, instructors, professors, coaches, trainors, and students or trainees to increase understanding and prevent incidents of sexual harassment. It shall also conduct the investigation of alleged cases constituting sexual harassment.

In the case of a work-related environment, the committee shall be composed of at least one (1) representative each from the management, the union, if any, the employees from the supervisory rank, and from the rank and file employees.

In the case of the educational or training institution, the committee shall be composed of at least one (1) representative from the administration, the trainors, instructors, professors or coaches and students or trainees, as the case may be.

The employer or head of office, educational or training institution shall disseminate or post a copy of this Act for the information of all concerned.

Section 5. *Liability of the Employer, Head of Office, Educational or Training Institution.* - The employer or head of office, educational or training institution shall be solidarily liable for damages arising from the acts of sexual harassment committed in the employment, education

or training environment if the employer or head of office, educational or training institution is informed of such acts by the offended party and no immediate action is taken.

Section 6. *Independent Action for Damages.* - Nothing in this Act shall preclude the victim of work, education or training-related sexual harassment from instituting a separate and independent action for damages and other affirmative relief.

Section 7. *Penalties.* - Any person who violates the provisions of this Act shall, upon conviction, be penalized by imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than Ten thousand pesos (P10,000) nor more than Twenty thousand pesos (P20,000), or both such fine and imprisonment at the discretion of the court.

Any action arising from the violation of the provisions of this Act shall prescribe in three (3) years.

Section 8. *Separability Clause.* - If any portion or provision of this Act is declared void or unconstitutional, the remaining portions or provisions hereof shall not be affected by such declaration.

Section 9. *Repealing Clause.* - All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 10. *Effectivity Clause.*- This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspapers of general circulation.

SPL | *Related to Crimes Against Honor*
Book TWO Title THIRTEEN

RA No 4200 | **Anti-Wiretapping Act**

REPUBLIC ACT No. 4200

AN ACT TO PROHIBIT AND PENALIZE WIRETAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES.

Section 1. It shall be unlawful for any person, not being authorized by all the parties to any private communication or spoken word, to tap any wire or cable, or by using any other device or arrangement, to secretly overhear, intercept, or record such communication or spoken word by using a device commonly known as a dictaphone or dictagraph or dictaphone or walkie-talkie or tape recorder, or however otherwise described:

It shall also be unlawful for any person, be he a participant or not in the act or acts penalized in the next preceding sentence, to knowingly possess any tape record, wire record, disc record, or any other such record, or copies thereof, of any communication or spoken word secured either before or after the effective date of this Act in the manner prohibited by this law; or to replay the same for any other person or persons; or to communicate the contents thereof, either verbally or in writing, or to furnish transcriptions thereof, whether complete or partial, to any other person: *Provided*, That the use of such record or any copies thereof as evidence in any civil, criminal investigation or trial of offenses mentioned in section 3 hereof, shall not be covered by this prohibition.

Section 2. Any person who willfully or knowingly does or who shall aid, permit, or cause to be done any of the acts declared to be unlawful in the preceding section or who violates the provisions of the following section or of any order issued thereunder, or aids, permits, or causes such violation shall, upon conviction thereof, be punished by imprisonment for not less than six months or more than six years and with the accessory penalty of perpetual absolute disqualification from public office if the offender be a public official at the time of the commission of the offense, and, if the offender is an alien he shall be subject to deportation proceedings.

Section 3. Nothing contained in this Act, however, shall render it unlawful or punishable for any peace officer, who is authorized by a written order of the Court, to execute any of the acts declared to be unlawful in the two preceding sections in cases involving the crimes of treason, espionage, provoking war and disloyalty in case of war, piracy, mutiny in the high seas, rebellion, conspiracy and proposal to commit rebellion, inciting to rebellion, sedition, conspiracy to commit sedition, inciting to sedition, kidnapping as defined by the Revised Penal Code, and violations of Commonwealth Act No. 616, punishing espionage and other offenses against national security: *Provided*, That such written order shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and a showing: (1) that there are reasonable grounds to believe that any of the crimes enumerated hereinabove has been committed or is being committed or is about to be committed: *Provided, however*, That in cases involving the offenses of rebellion, conspiracy and proposal to commit rebellion, inciting to rebellion, sedition, conspiracy to commit sedition, and inciting to sedition, such authority shall be granted only upon prior proof that a rebellion or acts of sedition, as the case may be, have actually been or are being committed; (2) that there are reasonable grounds to believe that evidence will be obtained essential to the conviction of any person for, or to the solution of, or to the prevention of, any of such crimes; and (3) that there are no other means readily available for obtaining such evidence.

The order granted or issued shall specify: (1) the identity of the person or persons whose communications, conversations, discussions, or spoken words are to be overheard, intercepted, or recorded and, in the case of telegraphic or telephonic communications, the telegraph line or the telephone number involved and its location; (2) the identity of the peace officer authorized to overhear, intercept, or record the communications, conversations, discussions, or spoken words; (3) the offense or offenses committed or sought to be prevented; and (4) the period of the authorization. The authorization shall be effective for the period specified in the order which shall not exceed sixty (60) days from the date of issuance of the order, unless extended or renewed by the court upon being satisfied that such extension or renewal is in the public interest.

All recordings made under court authorization shall, within forty-eight hours after the expiration of the period fixed in the order, be deposited with the court in a sealed envelope or sealed package, and shall be accompanied by an affidavit of the peace officer granted such authority stating the number of recordings made, the dates and times covered by each recording, the number of tapes, discs, or records included in the deposit, and certifying that no duplicates or copies of the whole or any part thereof have been made, or if made, that all such duplicates or copies are included in the envelope or package deposited with the court. The envelope or package so deposited shall not be opened, or the recordings replayed, or used in evidence, or their contents revealed, except upon order of the court, which shall not be granted except upon motion, with due notice and opportunity to be heard to the person or persons whose conversation or communications have been recorded.

The court referred to in this section shall be understood to mean the Court of First Instance within whose territorial jurisdiction the acts for which authority is applied for are to be executed.

Section 4. Any communication or spoken word, or the existence, contents, substance, purport, effect, or meaning of the same or any part thereof, or any information therein contained obtained or secured by any person in violation of the preceding sections of this Act shall not be admissible in evidence in any judicial, quasi-judicial, legislative or administrative hearing or investigation.

Section 5. All laws inconsistent with the provisions of this Act are hereby repealed or accordingly amended.

Section 6. This Act shall take effect upon its approval.

Approved: June 19, 1965

RA No 10175 | Cybercrime Prevention Act of 2012

REPUBLIC ACT NO. 10175

AN ACT DEFINING CYBERCRIME, PROVIDING FOR THE PREVENTION, INVESTIGATION, SUPPRESSION AND THE IMPOSITION OF PENALTIES THEREFOR AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I PRELIMINARY PROVISIONS

Section 1. *Title.* — This Act shall be known as the ***"Cybercrime Prevention Act of 2012".***

Section 2. *Declaration of Policy.* — The State recognizes the vital role of information and communications industries such as content production, telecommunications, broadcasting electronic commerce, and data processing, in the nation's overall social and economic development. The State also recognizes the importance of providing an environment conducive to the development, acceleration, and rational application and exploitation of information and communications technology (ICT) to attain free, easy, and intelligible access to exchange and/or delivery of information; and the need to protect and safeguard the integrity of computer, computer and communications systems, networks, and databases, and the confidentiality, integrity, and availability of information and data stored therein, from all forms of misuse, abuse, and illegal access by making punishable under the law such conduct or conducts. In this light, the State shall adopt sufficient powers to effectively prevent and combat such offenses by facilitating their detection, investigation, and prosecution at both the domestic and international levels, and by providing arrangements for fast and reliable international cooperation.

Section 3. *Definition of Terms.* — For purposes of this Act, the following terms are hereby defined as follows:

(a) *Access* refers to the instruction, communication with, storing data in, retrieving data from, or otherwise making use of any resources of a computer system or communication network.

(b) *Alteration* refers to the modification or change, in form or substance, of an existing computer data or program.

(c) *Communication* refers to the transmission of information through ICT media, including voice, video and other forms of data.

(d) *Computer* refers to an electronic, magnetic, optical, electrochemical, or other data processing or communications device, or grouping of such devices, capable of performing logical, arithmetic, routing, or storage functions and which includes any storage facility or equipment or communications facility or equipment directly related to or operating in conjunction with such device. It covers any type of computer device including devices with data processing capabilities like mobile phones, smart phones, computer networks and other devices connected to the internet.

(e) *Computer data* refers to any representation of facts, information, or concepts in a form suitable for processing in a computer system including a program suitable to cause a computer system to perform a function and includes electronic documents and/or electronic data messages whether stored in local computer systems or online.

(f) *Computer program* refers to a set of instructions executed by the computer to achieve intended results.

(g) *Computer system* refers to any device or group of interconnected or related devices, one or more of which, pursuant to a program, performs automated processing of data. It covers any type of device with data processing capabilities including, but not limited to, computers and mobile phones. The device consisting of hardware and software may include input, output and storage components which may stand alone or be connected in a network or other similar devices. It also includes computer data storage devices or media.

(h) *Without right* refers to either: (i) conduct undertaken without or in excess of authority; or (ii) conduct not covered by established legal defenses, excuses, court orders, justifications, or relevant principles under the law.

(i) *Cyber* refers to a computer or a computer network, the electronic medium in which online communication takes place.

(j) *Critical infrastructure* refers to the computer systems, and/or networks, whether physical or virtual, and/or the computer programs, computer data and/or traffic data so vital to this country that the incapacity or destruction of or interference with such system and assets would have a debilitating impact on security, national or economic security, national public health and safety, or any combination of those matters.

(k) *Cybersecurity* refers to the collection of tools, policies, risk management approaches, actions, training, best practices, assurance and technologies that can be used to protect the cyber environment and organization and user's assets.

(l) *Database* refers to a representation of information, knowledge, facts, concepts, or instructions which are being prepared, processed or stored or have been prepared, processed or stored in a formalized manner and which are intended for use in a computer system.

(m) *Interception* refers to listening to, recording, monitoring or surveillance of the content of communications, including procuring of the content of data, either directly, through access and use of a computer system or indirectly, through the use of electronic eavesdropping or tapping devices, at the same time that the communication is occurring.

(n) *Service provider* refers to:

(1) Any public or private entity that provides to users of its service the ability to communicate by means of a computer system; and

(2) Any other entity that processes or stores computer data on behalf of such communication service or users of such service.

(o) *Subscriber's information* refers to any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which identity can be established:

(1) The type of communication service used, the technical provisions taken thereto and the period of service;

(2) The subscriber's identity, postal or geographic address, telephone and other access numbers, any assigned network address, billing and payment information, available on the basis of the service agreement or arrangement; and

(3) Any other available information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.

(p) *Traffic data* or non-content data refers to any computer data other than the content of the communication including, but not limited to, the communication's origin, destination, route, time, date, size, duration, or type of underlying service.

CHAPTER II PUNISHABLE ACTS

Section 4. *Cybercrime Offenses.*[9] — The following acts constitute the offense of cybercrime punishable under this Act:

(a) Offenses against the confidentiality, integrity and availability of computer data and systems:

(1) Illegal Access. – The access to the whole or any part of a computer system without right.

(2) Illegal Interception. – The interception made by technical means without right of any non-public transmission of computer data to, from, or within a computer system including electromagnetic emissions from a computer system carrying such computer data.

(3) Data Interference. — The intentional or reckless alteration, damaging, deletion or deterioration of computer data, electronic document, or electronic data message, without right, including the introduction or transmission of viruses.

(4) System Interference. — The intentional alteration or reckless hindering or interference with the functioning of a computer or computer network by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data or program, electronic document, or electronic data message, without right or authority, including the introduction or transmission of viruses.

(5) Misuse of Devices.

(i) The use, production, sale, procurement, importation, distribution, or otherwise making available, without right, of:

(aa) A device, including a computer program, designed or adapted primarily for the purpose of committing any of the offenses under this Act; or

(bb) A computer password, access code, or similar data by which the whole or any part of a computer system is capable of being accessed with intent that it be used for the purpose of committing any of the offenses under this Act.

(ii) The possession of an item referred to in paragraphs 5(i)(aa) or (bb) above with intent to use said devices for the purpose of committing any of the offenses under this section.

(6) Cyber-squatting. – The acquisition of a domain name over the internet in bad faith to profit, mislead, destroy reputation, and deprive others from registering the same, if such a domain name is:

(i) Similar, identical, or confusingly similar to an existing trademark registered with the appropriate government agency at the time of the domain name registration:

(ii) Identical or in any way similar with the name of a person other than the registrant, in case of a personal name; and

(iii) Acquired without right or with intellectual property interests in it.

(b) Computer-related Offenses:

(1) Computer-related Forgery. —

(i) The input, alteration, or deletion of any computer data without right resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible; or

(ii) The act of knowingly using computer data which is the product of computer-related forgery as defined herein, for the purpose of perpetuating a fraudulent or dishonest design.

(2) Computer-related Fraud. — The unauthorized input, alteration, or deletion of computer data or program or interference in the functioning of a computer system, causing damage thereby with fraudulent intent: *Provided,* That if no

damage has yet been caused, the penalty imposable shall be one (1) degree lower.

(3) Computer-related Identity Theft. – The intentional acquisition, use, misuse, transfer, possession, alteration or deletion of identifying information belonging to another, whether natural or juridical, without right: *Provided,* That if no damage has yet been caused, the penalty imposable shall be one (1) degree lower.

(c) Content-related Offenses:

(1) Cybersex. — The willful engagement, maintenance, control, or operation, directly or indirectly, of any lascivious exhibition of sexual organs or sexual activity, with the aid of a computer system, for favor or consideration.

(2) Child Pornography. — The unlawful or prohibited acts defined and punishable by Republic Act No. 9775 or the Anti-Child Pornography Act of 2009, committed through a computer system: Provided, That the penalty to be imposed shall be (1) one degree higher than that provided for in Republic Act No. 9775.

~~(3) Unsolicited Commercial Communications.~~[10] ~~— The transmission of commercial electronic communication with the use of computer system which seek to advertise, sell, or offer for sale products and services are prohibited unless:~~

~~(i) There is prior affirmative consent from the recipient; or~~

~~(ii) The primary intent of the communication is for service and/or administrative announcements from the sender to its existing users, subscribers or customers; or~~

~~(iii) The following conditions are present:~~

~~(aa) The commercial electronic communication contains a simple, valid, and reliable way for the recipient to reject.~~

[9] Disini vs. Secretary of Justice. G.R. No. 203335, February 11, 2014**.** Interference, Section 4(a)(5) on Misuse of Devices, Section 4(a)(6) on Cyber-squatting, Section 4(b)(1) on Computer-related Forgery, Section 4(b)(2) on Computer-related Fraud, Section 4(b)(3) on Computer-related Identity Theft, and Section 4(c)(1) on Cybersex; but VOID and UNCONSTITUTIONAL with respect to Sections 4(c)(2) on Child Pornography, 4(c)(3) on Unsolicited Commercial Communications, and 4(c)(4) on online Libel

[10] ***Supra***. Unconstitutional

~~receipt of further commercial electronic messages (opt-out) from the same source;~~

~~(bb) The commercial electronic communication does not purposely disguise the source of the electronic message; and~~

~~(cc) The commercial electronic communication does not purposely include misleading information in any part of the message in order to induce the recipients to read the message.~~

(4) Libel. [11]— The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future.

Section 5. *Other Offenses.* [12]— The following acts shall also constitute an offense:

(a) Aiding or Abetting in the Commission of Cybercrime. – Any person who willfully abets or aids in the commission of any of the offenses enumerated in this Act shall be held liable.

(b) Attempt in the Commission of Cybercrime. — Any person who willfully attempts to commit any of the offenses enumerated in this Act shall be held liable.

Section 6. All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided,* That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.

Section 7. *Liability under Other Laws.* — A prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Revised Penal Code, as amended, or special laws.

CHAPTER III PENALTIES

Section 8. *Penalties.* — Any person found guilty of any of the punishable acts enumerated in Sections 4(a) and 4(b) of this Act shall be punished with imprisonment of *prision mayor* or a fine of at least Two hundred thousand pesos (PhP200,000.00) up to a maximum amount commensurate to the damage incurred or both.

Any person found guilty of the punishable act under Section 4(a)(5) shall be punished with imprisonment of prision mayor or a fine of not more than Five hundred thousand pesos (PhP500,000.00) or both.

If punishable acts in Section 4(a) are committed against critical infrastructure, the penalty of *reclusion temporal* or a fine of at least Five hundred thousand pesos (PhP500,000.00) up to maximum amount commensurate to the damage incurred or both, shall be imposed.

Any person found guilty of any of the punishable acts enumerated in Section 4(c)(1) of this Act shall be punished with imprisonment of *prision mayor* or a fine of at least Two hundred thousand pesos (PhP200,000.00) but not exceeding One million pesos (PhPl,000,000.00) or both.

Any person found guilty of any of the punishable acts enumerated in Section 4(c)(2) of this Act shall be punished with the penalties as enumerated in Republic Act No. 9775 or the "Anti-Child Pornography Act of 2009": *Provided,*That the penalty to be imposed shall be one (1) degree higher than that provided for in Republic Act No. 9775, if committed through a computer system.

Any person found guilty of any of the punishable acts enumerated in Section 4(c)(3) shall be punished with imprisonment of *arresto mayor* or a fine of at least Fifty thousand pesos (PhP50,000.00) but not exceeding Two hundred fifty thousand pesos (PhP250,000.00) or both.

Any person found guilty of any of the punishable acts enumerated in Section 5 shall be punished with imprisonment one (1) degree lower than that of the prescribed penalty for the offense or a fine of at least One hundred thousand pesos (PhPl00,000.00) but not exceeding Five hundred thousand pesos (PhP500,000.00) or both.

Section 9. *Corporate Liability.* — When any of the punishable acts herein defined are knowingly committed on behalf of or for the benefit of a juridical person, by a natural person acting either individually or as part of an organ of the juridical person, who has a leading position within, based on: (a) a power of representation of the juridical person provided the act committed falls within the scope of such authority; (b) an authority to take decisions on behalf of the juridical person: *Provided,* That the act committed falls within the scope of such authority; or (c) an authority to exercise control within the juridical person, the juridical person shall be held liable for a fine equivalent to at least double the fines imposable in Section 7 up to a maximum of Ten million pesos (PhP10,000,000.00).

If the commission of any of the punishable acts herein defined was made possible due to the lack of supervision or control by a natural person referred to and described in the preceding paragraph, for the benefit of that juridical person by a natural person acting under its authority, the juridical person shall be held liable for a fine equivalent to at least double the fines imposable in Section 7 up to a maximum of Five million pesos (PhP5,000,000.00).

The liability imposed on the juridical person shall be without prejudice to the criminal liability of the natural person who has committed the offense.

CHAPTER IV ENFORCEMENT AND IMPLEMENTATION

Section 10. *Law Enforcement Authorities.* — The National Bureau of Investigation (NBI) and the Philippine National Police (PNP) shall be responsible for the efficient and effective law enforcement of the provisions of this Act. The NBI and the PNP shall organize a cybercrime unit or center manned by special investigators to exclusively handle cases involving violations of this Act.

Section 11. *Duties of Law Enforcement Authorities.* — To ensure that the technical nature of cybercrime and its prevention is given focus and considering the procedures involved for international cooperation, law enforcement authorities specifically the computer or technology crime divisions or units responsible for the investigation of cybercrimes are required to submit timely and regular reports including pre-operation, post-operation and investigation results and such other documents as may be required to the Department of Justice (DOJ) for review and monitoring.

~~**Section 12.** *Real-Time Collection of Traffic Data.* [13]— Law enforcement authorities, with due cause, shall be authorized to collect or record by technical or electronic means traffic data in real-time associated with specified communications transmitted by means of a computer system.~~

~~Traffic data refer only to the communication's origin, destination, route, time, date, size, duration, or type of underlying service, but not content, nor identities.~~

~~All other data to be collected or seized or disclosed will require a court warrant.~~

[11] ***Supra.*** Section 4(c)(4) that penalizes online libel as VALID and CONSTITUTIONAL with respect to the original author of the post; but VOID and UNCONSTITUTIONAL with respect to others who simply receive the post and react to it; and

[12] **Supra.** Section 5 that penalizes aiding or abetting and attempt in the commission of cybercrimes as VALID and CONSTITUTIONAL only in relation to Section 4(a)(1) on Illegal Access, Section 4(a)(2) on Illegal Interception, Section 4(a)(3) on Data Interference, Section 4(a)(4) on System

[13] ***Supra.*** Unconstitutional.

~~Service providers are required to cooperate and assist law enforcement authorities in the collection or recording of the above-stated information.~~

~~The court warrant required under this section shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and the showing: (1) that there are reasonable grounds to believe that any of the crimes enumerated hereinabove has been committed, or is being committed, or is about to be committed; (2) that there are reasonable grounds to believe that evidence that will be obtained is essential to the conviction of any person for, or to the solution of, or to the prevention of, any such crimes; and (3) that there are no other means readily available for obtaining such evidence.~~

Section 13. *Preservation of Computer Data.* — The integrity of traffic data and subscriber information relating to communication services provided by a service provider shall be preserved for a minimum period of six (6) months from the date of the transaction. Content data shall be similarly preserved for six (6) months from the date of receipt of the order from law enforcement authorities requiring its preservation.

Law enforcement authorities may order a one-time extension for another six (6) months: *Provided,* That once computer data preserved, transmitted or stored by a service provider is used as evidence in a case, the mere furnishing to such service provider of the transmittal document to the Office of the Prosecutor shall be deemed a notification to preserve the computer data until the termination of the case.

The service provider ordered to preserve computer data shall keep confidential the order and its compliance.

Section 14. *Disclosure of Computer Data.* — Law enforcement authorities, upon securing a court warrant, shall issue an order requiring any person or service provider to disclose or submit subscriber's information, traffic data or relevant data in his/its possession or control within seventy-two (72) hours from receipt of the order in relation to a valid complaint officially docketed and assigned for investigation and the disclosure is necessary and relevant for the purpose of investigation.

Section 15. *Search, Seizure and Examination of Computer Data.* — Where a search and seizure warrant is properly issued, the law enforcement authorities shall likewise have the following powers and duties.

Within the time period specified in the warrant, to conduct interception, as defined in this Act, and:

(a) To secure a computer system or a computer data storage medium;

(b) To make and retain a copy of those computer data secured;

(c) To maintain the integrity of the relevant stored computer data;

(d) To conduct forensic analysis or examination of the computer data storage medium; and

(e) To render inaccessible or remove those computer data in the accessed computer or computer and communications network.

Pursuant thereof, the law enforcement authorities may order any person who has knowledge about the functioning of the computer system and the measures to protect and preserve the computer data therein to provide, as is reasonable, the necessary information, to enable the undertaking of the search, seizure and examination.

Law enforcement authorities may request for an extension of time to complete the examination of the computer data storage medium and to make a return thereon but in no case for a period longer than thirty (30) days from date of approval by the court.

Section 16. *Custody of Computer Data.* — All computer data, including content and traffic data, examined under a proper warrant shall, within forty-eight (48) hours after the expiration of the period fixed therein, be deposited with the court in a sealed package, and shall be accompanied by an affidavit of the law enforcement authority executing it stating the dates and times covered by the examination, and the law enforcement authority who may access the deposit, among other relevant data. The law enforcement authority shall also certify that no duplicates or copies of the whole or any part thereof have been made, or if made, that all such duplicates or copies are included in the package deposited with the court. The package so deposited shall not be opened, or the recordings replayed, or used in evidence, or then contents revealed, except upon order of the court, which shall not be granted except upon motion, with due notice and opportunity to be heard to the person or persons whose conversation or communications have been recorded.

Section 17. *Destruction of Computer Data.* — Upon expiration of the periods as provided in Sections 13 and 15, service providers and law enforcement authorities, as the case may be, shall immediately and completely destroy the computer data subject of a preservation and examination.

Section 18. *Exclusionary Rule.* — Any evidence procured without a valid warrant or beyond the authority of the same shall be inadmissible for any proceeding before any court or tribunal.

~~**Section 19.** *Restricting or Blocking Access to Computer Data.*[14] — When a computer data is prima facie found to be in violation of the provisions of this Act, the DOJ shall issue an order to restrict or block access to such computer data.~~

Section 20. *Noncompliance.* — Failure to comply with the provisions of Chapter IV hereof specifically the orders from law enforcement authorities shall be punished as a violation of Presidential Decree No. 1829 with imprisonment of prision correccional in its maximum period or a fine of One hundred thousand pesos (Php100,000.00) or both, for each and every noncompliance with an order issued by law enforcement authorities.

CHAPTER V JURISDICTION

Section 21. *Jurisdiction.* — The Regional Trial Court shall have jurisdiction over any violation of the provisions of this Act. including any violation committed by a Filipino national regardless of the place of commission. Jurisdiction shall lie if any of the elements was committed within the Philippines or committed with the use of any computer system wholly or partly situated in the country, or when by such commission any damage is caused to a natural or juridical person who, at the time the offense was committed, was in the Philippines.

There shall be designated special cybercrime courts manned by specially trained judges to handle cybercrime cases.

CHAPTER VI INTERNATIONAL COOPERATION

Section 22. *General Principles Relating to International Cooperation.* — All relevant international instruments on international cooperation in criminal matters, arrangements agreed on the basis of uniform or reciprocal legislation, and domestic laws, to the widest extent possible for the purposes of investigations or proceedings concerning criminal offenses related to computer systems and data, or for the collection of evidence in electronic form of a criminal, offense shall be given full force and effect.

[14] ***Supra at 1.*** Unconstitutional.

CHAPTER VII COMPETENT AUTHORITIES

Section 23. *Department of Justice (DOJ).* — There is hereby created an Office of Cybercrime within the DOJ designated as the central authority in all matters related to international mutual assistance and extradition.

Section 24. *Cybercrime Investigation and Coordinating Center.* — There is hereby created, within thirty (30) days from the effectivity of this Act, an inter-agency body to be known as the Cybercrime Investigation and Coordinating Center (CICC), under the administrative supervision of the Office of the President, for policy coordination among concerned agencies and for the formulation and enforcement of the national cybersecurity plan.

Section 25. *Composition.* — The CICC shall be headed by the Executive Director of the Information and Communications Technology Office under the Department of Science and Technology (ICTO-DOST) as Chairperson with the Director of the NBI as Vice Chairperson; the Chief of the PNP; Head of the DOJ Office of Cybercrime; and one (1) representative from the private sector and academe, as members. The CICC shall be manned by a secretariat of selected existing personnel and representatives from the different participating agencies.

Section 26. *Powers and Functions.* — The CICC shall have the following powers and functions:

(a) To formulate a national cybersecurity plan and extend immediate assistance for the suppression of real-time commission of cybercrime offenses through a computer emergency response team (CERT);

(b) To coordinate the preparation of appropriate and effective measures to prevent and suppress cybercrime activities as provided for in this Act;

(c) To monitor cybercrime cases being bandied by participating law enforcement and prosecution agencies;

(d) To facilitate international cooperation on intelligence, investigations, training and capacity building related to cybercrime prevention, suppression and prosecution;

(e) To coordinate the support and participation of the business sector, local government units and nongovernment organizations in cybercrime prevention programs and other related projects;

(f) To recommend the enactment of appropriate laws, issuances, measures and policies;

(g) To call upon any government agency to render assistance in the accomplishment of the CICC's mandated tasks and functions; and

(h) To perform all other matters related to cybercrime prevention and suppression, including capacity building and such other functions and duties as may be necessary for the proper implementation of this Act.

CHAPTER VIII FINAL PROVISIONS

Section 27. *Appropriations.* — The amount of Fifty million pesos (PhP50,000,000.00) shall be appropriated annually for the implementation of this Act.

Section 28. *Implementing Rules and Regulations.* — The ICTO-DOST, the DOJ and the Department of the Interior and Local Government (DILG) shall jointly formulate the necessary rules and regulations within ninety (90) days from approval of this Act, for its effective implementation.

Section 29. *Separability Clause* — If any provision of this Act is held invalid, the other provisions not affected shall remain in full force and effect.

Section 30. *Repealing Clause.* — All laws, decrees or rules inconsistent with this Act are hereby repealed or modified accordingly. Section 33(a) of Republic Act No. 8792 or the "Electronic Commerce Act" is hereby modified accordingly.

Section 31. *Effectivity.* — This Act shall take effect fifteen (15) days after the completion of its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

SPL | *Related to Quasi-Offenses*
Book TWO Title FOURTEEN

RA No 10586 | Anti-Drunk and Drugged Driving Act of 2013

REPUBLIC ACT No. 10586

AN ACT PENALIZING PERSONS DRIVING UNDER THE INFLUENCE OF ALCOHOL, DANGEROUS DRUGS, AND SIMILAR SUBSTANCES, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Short Title.* – This Act shall be known as the "Anti-Drunk and Drugged Driving Act of 2013".

Section 2. *Declaration of Policy.* – Pursuant to the Constitutional principle that recognizes the protection of life and property and the promotion of the general welfare as essential for the enjoyment of the blessing of democracy, it is hereby declared the policy of the State to ensure road safety through the observance of the citizenry of responsible and ethical driving standards.

Towards this end, the State shall penalize the acts of driving under the influence of alcohol, dangerous drugs and other intoxicating substances and shall inculcate the standards of safe driving and the benefits that may be derived from it through institutional programs and appropriate public information strategies.

Section 3. *Definition of Terms.* – For purposes of this Act:

(a) *Alcohol* refers to alcoholic beverages classified into beer, wine and distilled spirits, the consumption of which produces intoxication.

(b) *Breath analyzer* refers to the equipment which can determine the blood alcohol concentration level of a person through testing of his breath.

(c) *Chemical tests* refer to breath, saliva, urine or blood tests to determine the blood alcohol concentration level and/or positive indication of dangerous drugs and similar substances in a person's body.

(d) *Dangerous drugs and other similar substances* refer to drugs listed in the schedules annexed to the 1961 Single Convention on Narcotics Drugs, as amended by the 1972 Protocol, and in the schedules annexed to the 1971 Single Convention of Psychotropic Substances as enumerated in its attachment which is an integral part of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" and those that the Board may reclassify, add to or remove from the list of dangerous drugs.

(e) *Driving under the influence of alcohol* refers to the act of operating a motor vehicle while the driver's blood alcohol concentration level has, after being subjected to a breath analyzer test, reached the level of intoxication, as established jointly by the Department of Health (DOH), the National Police Commission (NAPOLCOM) and the Department of Transportation and Communications (DOTC).

(f) *Driving under the influence of dangerous drugs and other similar substances* refers to the act of operating a motor vehicle while the driver, after being subjected to a confirmatory test as mandated under Republic Act No. 9165, is found to be positive for use of any dangerous drug.

(g) *Field sobriety tests* refer to standardized tests to initially assess and determine intoxication, such as the

horizontal gaze nystagmus, the walk-and-turn, the one-leg stand, and other similar tests as determined jointly by the DOH, the NAPOLCOM and the DOTC.

(h) *Motor vehicle* refers to any land transportation vehicle propelled by any power other than muscular power.

(i) *Motor vehicles designed to carry hazardous materials* refer to those designed to carry or transport materials which may endanger health and lives of the public.

(j) *Public utility vehicles* refer to motor vehicles for hire and used to carry or transport passengers or goods.

Section 4. *Driver's Education.* – Every applicant for a motor vehicle driver's license shall complete a course of instruction that provides information on safe driving including, but not limited to, the effects of the consumption of alcoholic beverages on the ability of a person to operate a motor vehicle, the hazards of driving under the influence of alcohol, dangerous drugs and/or other similar substances, and the penalties attached for violation thereof.

For professional drivers, every applicant for a driver's license or those applying for renewal thereof shall undergo the driver's education herein stated.

The driver's license written examination shall include questions concerning the effects of alcohol and drug intoxication on the ability of a person to operate a motor vehicle and the legal and pecuniary consequences resulting from violation of the provisions of this Act.

Section 5. *Punishable Act.* – It shall be unlawful for any person to drive a motor vehicle while under the influence of alcohol, dangerous drugs and/or other similar substances.

Section 6. *Conduct of Field Sobriety, Chemical and Confirmatory Tests.* – A law enforcement officer who has probable cause to believe that a person is driving under the influence of alcohol, dangerous drugs and/or other similar substances by apparent indications and manifestations, including overspeeding, weaving, lane straddling, sudden stops, swerving, poor coordination or the evident smell of alcohol in a person's breath or signs of use of dangerous drugs and other similar substances, shall conduct field sobriety tests.

If the driver fails in the sobriety tests, it shall be the duty of the law enforcement officer to implement the mandatory determination of the driver's blood alcohol concentration level through the use of a breath analyzer or similar measuring instrument.

If the law enforcement officer has probable cause to believe that a person is driving under the influence of dangerous drugs and/or other similar substances, it shall be the duty of the law enforcement officer to bring the driver to the nearest police station to be subjected to a drug screening test and, if necessary, a drug confirmatory test as mandated under Republic Act No. 9165.

Law enforcement officers and deputized local traffic enforcement officers shall be responsible in implementing this section.

Section 7. *Mandatory Alcohol and Chemical Testing of Drivers Involved in Motor Vehicular Accidents.* – A driver of a motor vehicle involved in a vehicular accident resulting in the loss of human life or physical injuries shall be subjected to chemical tests, including a drug screening test and, if necessary, a drug confirmatory test as mandated under Republic Act No. 9165, to determine the presence and/or concentration of alcohol, dangerous drugs and/or similar substances in the bloodstream or body.

Section 8. *Refusal to Subject Oneself to Mandatory Tests.* – A driver of a motor vehicle who refuses to undergo the mandatory field sobriety and drug tests under Sections 6, 7 and 15 of this Act shall be penalized by the confiscation and automatic revocation of his or her driver's license, in addition to other penalties provided herein and/or other pertinent laws.

Section 9. *Acquisition of Equipment.* – Within four (4) months from the effectivity of this Act, the Land Transportation Office (LTO) and the Philippine National Police (PNP) shall acquire sufficient breath analyzers and drug-testing kits to be utilized by law enforcement officers and deputized local traffic enforcement officers nationwide giving priority to areas with high reported occurrences of accidents. For purposes of acquiring these equipment and for the training seminars indicated in Section 10 hereof, the LTO shall utilize the Special Road Safety Fund allotted for this purpose as provided under Section 7 of Republic Act No. 8794, entitled: "An Act Imposing a Motor Vehicle User's Charge on Owners of All Types of Motor Vehicles and for Other Purposes". Additional yearly appropriations for the purchase of breath analyzers and drug-testing kits shall be provided annually under the General Appropriations Act.

Section 10. *Deputation.* – The LTO may deputize traffic enforcement officers of the PNP, the Metropolitan Manila Development Authority (MMDA) and cities and municipalities in order to enforce the provisions of this Act.

Section 11. *Law Enforcement Officer Education.* – The LTO and the PNP shall conduct training seminars for their law enforcers and deputies with regard to the proper conduct of field sobriety tests and breath analyzer tests every year. Within four (4) months from the effectivity of this Act, the LTO shall publish the guidelines and procedures for the proper conduct of field sobriety tests, which guidelines shall be made available to the public and made available for download through the official LTO website.

Section 12. *Penalties.* – A driver found to have been driving a motor vehicle while under the influence of alcohol, dangerous drugs and/or other similar substances, as provided for under Section 5 of this Act, shall be penalized as follows:

(a) If the violation of Section 5 did not result in physical injuries or homicide, the penalty of three (3) months imprisonment, and a fine ranging from Twenty thousand pesos (Php20,000.00) to Eighty thousand pesos (Php80,000.00) shall be imposed;

(b) If the violation of Section 5 resulted in physical injuries, the penalty provided in Article 263 of the Revised Penal Code or the penalty provided in the next preceding subparagraph, whichever is higher, and a fine ranging from One hundred thousand pesos (Php100,000.00) to Two hundred thousand pesos (Php200,000.00) shall be imposed;

(c) If the violation of Section 5 resulted in homicide, the penalty provided in Article 249 of the Revised Penal Code and a fine ranging from Three hundred thousand pesos (Php300,000.00) to Five hundred thousand pesos (Php500,000.00) shall be imposed; and

(d) The nonprofessional driver's license of any person found to have violated Section 5 of this Act shall also be confiscated and suspended for a period of twelve (12) months for the first conviction and perpetually revoked for the second conviction. The professional driver's license of any person found to have violated Section 5 of this Act shall also be confiscated and perpetually revoked for the first conviction. The perpetual revocation of a driver's license shall disqualify the person from being granted any kind of driver's license thereafter.

The prosecution for any violation of this Act shall be without prejudice to criminal prosecution for violation of the Revised Penal Code, Republic Act No. 9165 and other special laws and existing local ordinances, whenever applicable.

Section 13. *Direct Liability of Operator and/or Owner of the Offending Vehicle.* – The owner and/or operator of the vehicle driven by the offender shall be directly and principally held liable together with the offender for the fine and the award against the offender for civil damages unless he or she is able to convincingly prove that he or she has exercised extraordinary diligence in the selection

and supervision of his or her drivers in general and the offending driver in particular.

This section shall principally apply to the owners and/or operators of public utility vehicles and commercial vehicles such as delivery vans, cargo trucks, container trucks, school and company buses, hotel transports, cars or vans for rent, taxi cabs, and the like.

Section 14. *Nationwide Information Campaign.* – Within one (1) month from the promulgation of the implementing rules and regulations as provided under Section 17 hereof, the Philippine Information Agency (PIA), in coordination with the LTO, the local government units (LGUs) and other concerned agencies, shall conduct information, education and communication (IEC) campaign for the attainment of the objectives of this Act.

Section 15. *Nationwide Random Terminal Inspection and Quick Random Drug Tests.* – The LTO shall conduct random terminal inspections and quick random drug tests of public utility drivers. The cost of such tests shall be defrayed by the LTO.

Section 16. *Review of Penalties.* – The LTO shall, after five (5) years from the effectivity of this Act and every five (5) years thereafter, review the applicability and enforcement of all foregoing pecuniary penalties and shall initiate amendment and/or upgrade the same as may be necessary, subject to the approval of the Secretary of the DOTC.

Section 17. *Implementing Rules and Regulations.* – The DOTC, the DOH and the NAPOLCOM shall, within three (3) months from the effectivity of this Act, jointly promulgate the necessary implementing rules and regulations to carry out the provisions of this Act.

Section 18. *Separability Clause.* – If, for any reason, any part or provision of this Act is declared invalid, such declaration shall not affect the other provisions of this Act.

Section 19. *Repealing Clause.* – Subparagraph (f), Section 56, Article 1 of Republic Act No. 4136, otherwise known as the "Land Transportation and Traffic Code", as amended; subparagraph (f), Section 5 of Republic Act No. 7924, otherwise known as "An Act Creating the Metropolitan Manila Development Authority, Defining its Powers and Functions, Providing Funds Therefor and for Other Purposes;" subparagraph (a), Section 36 of Republic Act No. 9165; and all other laws, orders, issuances, circulars, rules and regulations or parts thereof which are inconsistent with any provision of this Act are hereby repealed or modified accordingly.

Section 20. *Effectivity.* – This Act shall take effect after fifteen (15) days from its publication in the *Official Gazette* or in two (2) national newspapers of general circulation.

RA No 10666 | **Children's Safety on Motorcycles Act**

Republic Act No. 10666

AN ACT PROVIDING FOR THE SAFETY OF CHILDREN ABOARD MOTORCYCLES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Short Title.* – This Act shall be known as "Children's Safety on Motorcycles Act of 2015".

Section 2. *Declaration of Policy.* – It is the policy of the State to defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.

Towards this end, the State shall pursue a more proactive and preventive approach to secure the safety of passengers, especially children, by regulating the operation of motorcycles along roads and highways.

Section 3. *Definitions.* – For purposes of this Act, the following terms shall mean:

(a) *Motorcycle* refers to any two (2)-wheeled motor vehicle having one (1) or two (2) riding saddles;

(b) *Public roads* refer to roads designed by the national government or local government units as roads for public use such as, but not limited to, national highways, provincial roads, city, municipal and barangay streets;

(c) *Foot peg* refers to a flat form attached to the motorcycles on which to stand or brace the feet; and

(d) *Rider* refers to the driver of a motorcycle.

Section 4. *Prohibition.* – It shall be unlawful for any person to drive a two (2)-wheeled motorcycle with a child on board on public roads where there is heavy volume of vehicles, there is a high density of fast moving vehicles or where a speed limit of more than 60/kph is imposed, unless:

(a) The child passenger can comfortably reach his/her feet on the standard foot peg of the motorcycle;

(b) The child's arms can reach around and grasp the waist of the motorcycle rider; and

(c) The child is wearing a standard protective helmet referred to under Republic Act No. 10054, otherwise known the "Motorcycle Helmet Act of 2009."

Section 5. *Exception.* – Notwithstanding the prohibition provided in the preceding section, this Act shall not apply to cases where the child to be transported requires immediate medical attention.

Section 6. *Penalties.* – Any person who operates a motorcycle in violation of Section 4 of this Act shall be fined with an amount of three thousand pesos (P3,000.00) for the first offense; five thousand pesos (P5,000.00) for the second offense; and ten thousand pesos (P10,000.00) for the third and succeeding offenses.

Moreover, for the third offense, the driver's license of the offender shall be suspended for a period of one (1) month.

Violation of these provisions beyond the third time shall result to automatic revocation of the offender's driver's license.

Section 7. *Review of Penalties.* – The Land Transportation Office (LTO) is hereby empowered to increase or adjust the amounts of fines herein imposed: *Provided,* That:

(a) The increase or adjustment is made after public consultation once every three (3) years from the effectivity of this Act and in the amount not exceeding twenty percent (20%) of the amounts sought to be increased or adjusted;

(b) A thorough study has been conducted indicating that the existing amounts are no longer an effective deterrent;

(c) Current relevant economic indices, such as the Consumer Price Index (CPI), have been considered in the determination of the increase or adjustment; and

(d) The increases or adjustment shall only become effective fifteen (15) days after its publication in two (2) newspapers of general circulation.

Section 8. *Qualifying Circumstances.* – If, in violation of the provisions of this Act, death shall have resulted or serious or less serious injuries shall have been inflicted upon the child or any other person, a penalty of one (1) year imprisonment shall be imposed upon the motorcycle rider or operator of the motorcycle involved without prejudice to the penalties provided under Act No. 3815, otherwise known as "The Revised Penal Code of the Philippines", as amended.

Section 9. *Authority to Deputize Traffic Enforcers and Local Government Units (LGUs).* — To effectively implement the provisions of this Act, the LTO is hereby given the authority to deputize members of the Philippine National Police (PNP), the Metropolitan Manila

Development Authority (MMDA) and the LGUs to carry out enforcement functions and duties.

Section 10. *Public Information Campaign.* – Not later than thirty (30) days following the promulgation of the Implementing Rules and Regulations (IRR) of this Act, the LTO, in coordination with the Philippine Information Agency (PIA), the Department of Education (DepED) and concerned private organizations and agencies, shall undertake a nationwide information and education campaign for a period of three (3) months on the important provisions of this Act and its IRR.

Thereafter, the aforementioned agencies shall include the essential provisions of this Act in their respective annual communications programs.

Section 11. *Implementing Rules and Regulations.* – *As* the lead agency, the LTO shall formulate the IRR of this Act within ninety (90) days after its effectivity.

Section 12. *Separability Clause.* – If for any reason any section or provision of this Act is declared unconstitutional, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 13. *Repealing Clause.* – All laws, decrees, or rules and regulations which are inconsistent with or contrary to the provisions of this Act are hereby amended or repealed.

Section 14. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) national newspapers of general circulation.

RA No 10913 | **Anti-Distracted Driving Act**

July 21, 2016 *

REPUBLIC ACT NO. 10913

AN ACT DEFINING AND PENALIZING DISTRACTED DRIVING

SECTION 1. *Short Title.* — This Act shall be known as the "Anti-Distracted Driving Act".

SECTION 2. *Declaration of Policy.* — It is hereby declared the policy of the State to safeguard its citizenry from the ruinous and extremely injurious effects of vehicular accidents.

While the State recognizes the vital roles of information and communications technology in nation-building, the State also takes cognizance of the inimical consequences of the unrestrained use of electronic mobile devices on road safety as to cause its regulation.

SECTION 3. *Definition of Terms.* — As used in this Act:

(a) *Diplomatic motor vehicle* — any motor vehicle leased or owned by a foreign mission and its staff for their official use;

(b) *Electronic entertainment and computing device* — any handheld electronic device capable of digital information processing, recording, capturing or displaying and computing operations such as, but not limited to, laptop, computers, tablets, video game consoles and calculators;

(c) *Government motor vehicle* — any motor vehicle owned by the national government or any of its agencies, instrumentalities or political subdivisions, including government-owned or -controlled corporations or their subsidiaries for official use;

(d) *Implementing agency* — the Department of Transportation and Communications-Land Transportation Office (DOTC-LTO);

(e) *Mobile communications devices* — electronic communications equipment such as, but not limited to, cellular phones, wireless telephones, two-way radio transceivers, pagers and other similar devices capable of transmitting, receiving, or both, of encrypted data and/or signals through wireless electronic or any other similar means;

(f) *Motor vehicle* — engine-driven vehicles such as, but not limited to, automobiles, trucks, vans, buses, jeeps, motorcycles and tricycles;

(g) *Motorist* — a person driving a motor vehicle;

(h) *Private motor vehicle* — any motor vehicle owned by individuals and juridical persons for private use; and

(i) *Public motor vehicle* — a motor vehicle with a valid franchise issued by the appropriate government agency to operate as a public utility vehicle or any vehicle for hire.

SECTION 4. *Distracted Driving.* — Subject to the qualifications in Sections 5 and 6 of this Act, distracted driving refers to the performance by a motorist of any of the following acts in a motor vehicle in motion or temporarily stopped at a red light, whether diplomatic, public or private, which are hereby declared unlawful:

(a) Using a mobile communications device to write, send, or read a text-based communication or to make or receive calls, and other similar acts; and

(b) Using an electronic entertainment or computing device to play games, watch movies, surf the internet, compose messages, read e-books, perform calculations, and other similar acts.

SECTION 5. *Extent of Coverage.* — (a) The operation of a mobile communications device is not considered to be distracted driving if done using the aid of a hands-free function or similar device such as, but not limited to, a speaker phone, earphones and microphones or other similar devices which allow a person to make and receive calls without having to hold the mobile communications device: *Provided*, That the placement of the mobile communications device or the hands-free device does not interfere with the line of sight of the driver.

(b) Wheeled agricultural machineries such as tractors and construction equipment such as graders, rollers, backhoes, payloaders, cranes, bulldozers, mobile concrete mixers and the like, and other forms of conveyances such as bicycles, pedicabs *"habal-habal"*, trolleys, *"kuliglig"*, wagons, carriages, carts, sledges, chariots or the like, whether animal or human-powered, are covered by the provisions of this Act as long as the same are operated or driven in public thoroughfares, highways or streets or under circumstances where public safety is under consideration.

(c) The provisions of this Act shall not apply to motorists of motor vehicles which are not in motion, except those which are stopped momentarily at a red light, or are pulled over to the side of the road in compliance with a traffic regulation.

SECTION 6. *Exemptions.* — The provisions of this Act shall not apply to the following:

(a) A motorist using a mobile phone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services, agency or entity; and

(b) A motorist using a mobile phone while operating an emergency vehicle such as an ambulance, a fire truck, and other vehicles providing emergency assistance, in the course and scope of his or her duties.

SECTION 7. *Nationwide Public Information Campaign.* — The DOTC-LTO, in coordination with the Philippine Information Agency (PIA), the Department of Education (DepEd), the Department of the Interior and Local Government (DILG), the Philippine National Police (PNP) and private agencies and organizations shall undertake a nationwide information, education and communication (IEC) campaign for a period of six (6) months from the effectivity of this Act.

SECTION 8. *Penalties*. — Any person who shall violate any provision of this Act shall be penalized with:

(a) A fine of five thousand pesos (P5,000.00) for the first offense;

(b) A fine of ten thousand pesos (P10,000.00) for the second offense;

(c) A fine of fifteen thousand pesos (P15,000.00) and suspension of driver's license for three (3) months for the third offense; and

(d) A fine of twenty thousand pesos (P20,000.00) and revocation of driver's license: *Provided*, That the implementing agency may increase the amount of fine herein imposed once every five (5) years in the amount not exceeding ten percent (10%) of the existing rates sought to be increased which shall take effect only upon publication at least two (2) newspapers of general circulation: *Provided, further*, That a driver of a public utility vehicle, a school bus, a school service vehicle, a common carrier hauling volatile, flammable or toxic material, or a driver who commits an act classified herein as distracted driving within a fifty (50)-meter radius from the school premises shall be subject to a penalty of thirty thousand pesos (P30,000.00) and suspension of one's driver's license for three (3) months.

The foregoing penalties shall be imposed without prejudice to other liabilities under the Revised Penal Code or any special law, arising out or on occasion of the herein prohibited acts.

SECTION 9. *Liability of Owner and/or Operator of the Vehicle Driven by the Offender*. — The owner and/or operator of the vehicle driven by the offender shall be directly and principally held liable together with the offender for the fine unless he or she is able to convincingly prove that he or she has exercised extraordinary diligence in the selection and supervision of his or her drivers in general and the offending driver in particular.

This section shall principally apply to the owners and/or operators of public utility vehicles and commercial vehicles such as delivery vans, cargo trucks, container trucks, school and company buses, hotel transports, cars or vans for rent, taxi cabs, and the like.

SECTION 10. *Enforcement and Assistance by Other Agencies*. — The Metro Manila Development Authority (MMDA), the PNP and other concerned government agencies and instrumentalities shall be responsible for the enforcement of the foregoing provisions and shall render such assistance as may be required by the DOTC-LTO in order to effectively implement the provisions of this Act.

SECTION 11. *Implementing Rules and Regulations*. — The DOTC-LTO shall promulgate the necessary implementing rules and regulations within sixty (60) days from the effectivity of this Act.

SECTION 12. *Repealing Clause*. — Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 13. *Separability Clause*. — If, for any reason, any part or provision of this Act is declared invalid, such declaration shall not affect the other provisions of this Act.

SECTION 14. *Effectivity*. — This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved:

* Lapsed into law on July 21, 2016 without the signature of the President in accordance with Article VI, Section 27 (1) of the Constitution.

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