

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



'13 OCT -2 A11 :42

SENATE
S. No. 1769

RECEIVED BY: *Ji*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article II, Section 5 provides:

The maintenance of peace and order, the protection of life, liberty and property and the promotion of the general welfare are essential for the enjoyment by all people of the blessings of democracy.

Reform is needed to ensure that criminals are held accountable for their actions, that they receive swift and certain punishment commensurate with their crimes, and that the protection of innocent citizens takes priority over other objectives.

Criminals should face a high probability of apprehension and prosecution, and those found guilty should face absolutely certain measured response penalties, which at the same time are aimed to rehabilitate the criminals.

This is necessary in order to remove violent criminals from the streets and meet the extraordinary threat that posed to the public by the use and trafficking of illegal drugs.

Hence, this bill seeks to provide swift and certain punishment for criminals in order to deter violent crime.*

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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* This bill was originally filed during the Thirteenth Congress, First Regular Session.

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1 AN ACT
2 PROVIDING SWIFT AND CERTAIN PUNISHMENT FOR CRIMINALS IN
3 ORDER TO DETER VIOLENT CRIME

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

4 SECTION 1. *Short Title.* – This Act shall be known as the “National Drug and Crime
5 Emergency Act.”

6 SECTION 2. *Definition of Terms.* – For the purposes of this Act, the term:

7 (A) “Crime of violence” means –

8 (1) An offense that is a felony and has an element the use, attempted use, or
9 threatened use of physical force against the person or property of another; or
10 by its nature, involves a substantial risk that physical force against the
11 person or property of another may be used in the course of committing the
12 offense; and

13 (2) Includes murder, kidnaping, aggravated assault, extortionate extension of
14 credit, forcible sex offenses, arson, robbery, and burglary of a dwelling; and

15 (B) “Trafficking crime” means any felony punishable under the law, which involves
16 the manufacture sale, distribution, dispensing, importation, or exportation of, or possession with
17 intent to manufacture sell, distribute, or dispense, import, or export, a controlled substance.

18 SECTION 3. *Increased Mandatory Minimum Sentences Without Release for Certain*
19 *Criminals.* – Whoever, during and in relation to any crime of violence or drug trafficking crime,
20 including a crime of violence or drug trafficking crime which provides for an enhanced punished

1 if committed by the use of a deadly or dangerous weapon or device, for which the person may be
2 prosecuted --

3 (A) Possesses a firearm, shall, in addition to the punishment provided for such crime
4 of violence or drug trafficking crime, be sentenced to imprisonment for not less than five (5)
5 years without release;

6 (B) Discharges a firearm with intent to injure another person, shall, in addition to the
7 punishment provided for such crime of violence or drug trafficking crime, be sentenced to
8 imprisonment for not less than seven (7) years without release; or

9 (C) Possess a firearm that is machinegun, or is equipped with a firearm silencer or
10 firearm muffler shall, in addition to the punishment provided for such crime of violence or drug
11 trafficking crime, be sentenced to imprisonment for nine (9) years without release.

12 In case if a second conviction under this subsection, a person shall be sentenced to
13 imprisonment for not less than twelve (12) years without release for possession or not less than
14 fifteen (15) years without release for discharge of a firearm, and of the firearm is a machinegun,
15 or is equipped with a forearm silencer or firearm muffler, to twenty (20) years without release.
16 In the case of third or subsequent conviction under this subsection, a person shall be sentenced to
17 life imprisonment without release. If the death of a person results from the discharge of a
18 firearm, with intent to kill another person, by a person during the commission of a crime, the
19 person who discharged the firearm shall be sentenced to life imprisonment without release.
20 Notwithstanding any other law, a court shall not place on probation or suspend the sentence of
21 any person convicted of a violation of this section, nor shall the term of imprisonment imposed
22 under this subsection run concurrently with any other term of imprisonment including that
23 imposed for the crime of violence or drug trafficking crime in which the firearm was used. No
24 person sentenced under this subsection shall be eligible for parole, nor shall such person be
25 released for any reason whatsoever, during a term of imprisonment imposed under this
26 paragraph.

27 SECTION 4. *Life Imprisonment Without Release for Criminals Convicted a Third Time.*

28 -- If any person commits a drug offense after two or more prior convictions for a felony drug

1 offense have become final, such person shall be sentenced to a mandatory term of life
2 imprisonment without release, unless the penalty provided for in the offense committed is higher
3 than what is provided for in this section.

4 SECTION 5. *Longer Prison Sentences.* – Whoever sell illegal drugs to minors or for use
5 of minors in drug trafficking shall, in addition to the punishment provided for such drug
6 trafficking crime, be sentenced to imprisonment for not less than ten (10) years without release.

7 SECTION 6. *Mandatory Work Requirement for All Prisoners.* –

8 (A) *In General.* – It shall be the policy of the State that convicted prisoners confined
9 in prisons, jails, and other detention facilities shall work. The type of work in which they will be
10 involved shall be dictated by appropriate security considerations and by the health of prison
11 involved. Such labor may include, but not limited to–

- 12 (1) Local public works projects and infrastructure repair;
- 13 (2) Construction of new prisons and other detention facilities;
- 14 (3) Prison industries; and
- 15 (4) Other appropriate labor.

16 (B) *Prisoners Shall Work.* – Medical certification of 100 percent disability, security
17 considerations, or disciplinary action shall be the only excuse to remove a prisoner from labor
18 participation.

19 (C) *Use of Funds.* – Any funds generated by labor conducted pursuant to this section
20 shall be deposited in a separate fund in the National Treasury for use in the payment of prison
21 construction and operating expenses or for payment of compensation judgments.
22 Notwithstanding any other law, such funds shall be available without appropriation. Prisoners
23 shall be paid a share of funds generated by their labor conducted pursuant to this section.

24 (D) *Drug Testing.* – The Bureau of Jail Management and Penology shall, as soon as
25 practicable after the effective date of this section, establish by regulation a program of drug
26 testing of targeted classes of arrestees, individuals in jails, prisons, and other correctional
27 facilities, and persons on conditional or supervised release before or after conviction, including

1 probationers, parolees, and persons released on bail. The necessary regulations shall be issued
2 within 90 days from the effectivity of this Act and may include guidelines or specifications
3 concerning the –

- 4 (1) Classes of persons to be targeted for testing;
- 5 (2) Drugs to be tested for;
- 6 (3) Frequency and duration of testing; and
- 7 (4) Effect of test results in decisions concerning the sentence, the conditions to
8 be imposed on release before or after conviction, and the granting,
9 continuation, or termination of such release.

10 SECTION 7. *Separability Clause.* – If any provision or part hereof, is held invalid or
11 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
12 valid and subsisting.

13 SECTION 8. *Repealing Clause.* – Any law, presidential decree, or issuance, executive
14 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent
15 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

16 SECTION 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
17 publication in at least two (2) newspapers of general circulation.

Approved,