

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES }
First Regular Session

SENATE
OFFICE OF THE SECRETARY

'04 JUN 30 10:00

RECEIVED BY: Order

SENATE

S. No. 678

INTRODUCED BY HON. MANUEL B. VILLAR JR.


EXPLANATORY NOTE

Organized crime has become pervasive in the country today. Practically all societal evils such as kidnap-for-ransom, car nap, drug trafficking, illegal gambling, bank robbery are perpetrated by crime syndicates operating with a considerable degree of organization and sophistication and amassing great wealth that has enabled them to evade the law, inflict grave damage to the economy and threaten our democratic processes.

This bill seeks to strengthen our government's legal armory against crime syndicates by securing not only the criminal conviction of members of organized crime but their accomplices as well. It also denies crime syndicates the fruits of their illegal activities, which they have used to acquire an expensive lifestyle, and routinely laundered through purchase of assets, placement in the banking system, and investment into legitimate enterprises.

The past administration created a task force to combat and neutralize crime syndicates. A few organized crime groups had been busted and neutralized. However, even if these groups had been busted, many of those involved were acquitted after trial and some new syndicates have emerged undaunted by the government's anti-crime efforts. In spite of the successful efforts of a small-budgeted task force, the prosecutorial and the judicial parts of our criminal justice system have not been able to convict most of the perpetrators. This has allowed the organized crime syndicates to continue operating and have caused grave concerns on peace and order which impairs the country's business and economic climate.

More is needed in the government's anti-crime arsenal to effectively combat organized crime. The passage of this bill is fervently called for.


MANUEL B. VILLAR, JR.
Senator

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES }

First Regular Session

'04 JUN 30 10:00

RECEIVED BY: Ordo

SENATE

S. No. 678

INTRODUCED BY HON. MANUEL B. VILLAR JR.

AN ACT
DEFINING ORGANIZED CRIME, PROVIDING PENALTIES THEREFOR AND
FOR OTHER PURPOSES

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

1 **SECTION 1. Title.** – This Act shall be known as the “**Anti-Organized Crime Act**
2 **of 2004.**”

3
4 **SECTION 2. Declaration of Policy.** – It shall be policy of the State to protect our
5 people from organized crime and other transnational crime, and to that end, strengthen the
6 laws and government’s capabilities to effectively deter, prevent, suppress and prosecute acts
7 relating to organized crime. The State shall join international community in preventing and
8 combating transnational organized crime.

9
10 **SECTION 3. Definitions.** – For the purpose of this Act, the following terms are
11 hereby defined as follows:

- 12
13 a. **Organized Crime** – is understood to be the large-scale and complex criminal
14 activity carried on by groups of persons, however loosely or tightly organized, for
15 the enrichment of those participating and at the expense of the community and its
16 members. It shall also include transnational crime. It is frequently accomplished
17 through ruthless disregard of any law, including offenses against the person, and
18 frequently in connection with political corruption.
- 19
20 b. **Transnational Crime** – refers to a serious crime which is usually committed by
21 an organized criminal group for profit and which has international dimensions
22 such as, but not limited to the following:
- 23
24 1. It is committed in more than one State;
25 2. It is committed in one State but substantial part of its preparation, planning,
26 direction or control takes place in another State;
27 3. It is committed in one State but involves an organized criminal group that
28 engages in criminal activities in more than one State; or

1 4. It is committed in one State but has substantial effects in another State.

2
3 c. **Organized Crime Group** – shall mean any group, association or other body
4 consisting of five (5) or more persons, with the primary aim of committing any or
5 series or a combination of unlawful activities defined herein in order to obtain
6 financial or other benefit.

7
8 d. **Enterprise** – includes any individual or association, partnership, corporation or
9 other legal entity or any union or group of individuals associated in fact whether
10 for legitimate or illegitimate purposes

11
12 e. **Unlawful activity covered under Organized Crime** – refers to any act or
13 omission or series or combination thereof involving or having relation, but not
14 limited to the following:

- 15
16 1. Money Laundering penalized under Republic Act 9160, otherwise known as
17 the Anti-Money Laundering Act of 2001;
- 18 2. Illicit trafficking of Narcotic Drugs and Psychotropic substances and
19 violations of Sections 3,4,5,7,8 and 9 of Article Two of the Republic Act No.
20 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972;
- 21 3. Piracy on the high seas under the Act 3815, otherwise known as the Revised
22 Penal Code, as amended and Presidential Decree No. 532;
- 23 4. Kidnapping for ransom under Article 267 of the Revised Penal Code, as
24 amended;
- 25 5. Robbery and extortion under Articles 294, 295, 296, 299, 300, 301, and 302 of
26 the Revised Penal Code, as amended;
- 27 6. Acts of Terrorism under United Nations Resolution 2625, October 1970 and
28 the U.N. Security Council Resolution 1189 of August 1998;
- 29 7. Arms Smuggling under PD1866 as amended by RA 8294;
- 30 8. Trafficking in Persons under the pertinent provisions of Republic Act 8043,
31 known as the Inter-Country Adoption Act, Republic Act 6955, known as an
32 Act Declaring as Illegal the Matching of Filipinos for Marriage to Foreign
33 National for Fee or for Profit, Republic Act 8042, known as the Migrant
34 Workers' Act and under U.N. Convention Against Transnational Crime
35 including its Protocols to Prevent, Suppress and Punish Trafficking in
36 Persons, Especially Women and Children and Protocol Against Smuggling of
37 Migrants by Land, Sea and Air;
- 38 9. Illegal Gambling under Presidential Decree 1602;
- 39 10. Prostitution under paragraph 5, Article 202 of the Revised Penal Code;
- 40 11. Bribery/Indirect Bribery under Article 210 and 211 of the Revised Penal
41 Code;
- 42 12. Violations of the pertinent provisions of Republic Act No. 3019, otherwise
43 known as the Anti-Graft and Corrupt Practices Act;
- 44 13. Plunder under Republic Act No. 7080 as amended;

45
46 **SECTION 4. Prohibited Activities.** – It shall be unlawful for any person to:

47
48 a. Knowingly commit any of the crimes or series or combination of two or more
49 crimes enumerated under paragraph (g) Section 3 of this Act with an organized
50 crime group as herein defined for the purpose relating directly or indirectly to the
51 obtaining of a financial or other material benefit;

52 b. Facilitates in any way the provision of property or financial and related services to
53 the commission of organized crime as provided in this Act, without prejudice to
54 the provisions under Republic Act 9160, otherwise known as the Anti-Money;

- 1 c. Harbor or conceal, for the purpose of relating directly or indirectly to the
2 obtaining of a financial or other material benefit, any person or group she has
3 information to be or is about to commit in concert with an organized crime group
4 as herein defined, any single or series or combination of two or more offences
5 enumerated herein;
6 d. Conspire or propose to commit any of the above-mentioned;
7 e. Knowingly do any other acts knowing that his participation would contribute to
8 the achievement of the above-described criminal acts.
9

10 **SECTION 5. *Creation of National Anti-Organized Crime Commission.*** – The
11 National Anti-Organized Crime Commission is hereby created and shall be composed of the
12 Secretary of the Department of Justice as Chairman, the Secretary of Interior and Local
13 Government, Secretary of National Defense, Secretary of Foreign Affairs, the Chief of Staff
14 of the Armed Forces of the Philippines, Director-General of the Philippine National Police,
15 Executive Director of the Philippine Center on Transnational Crime, Director of the National
16 Bureau of Investigation, and the Commissioner of Bureau of Immigration and Deportation as
17 members.
18

19 **SECTION 6. *Powers and Functions of the Commission.*** – The National Anti-
20 Organized Crime Commission shall have the following powers and functions;
21

- 22 a. Prepare and implement fast track anti-crime action agenda and adopt appropriate
23 measures to ensure an effective and efficient anti-crime drive;
24 b. Orchestrate and synchronize the conduct of intelligence and counter-intelligence
25 to identify syndicates, members thereof and their cohorts who are involved in
26 criminal activities;
27 c. Cause or direct the immediate arrest, investigation and speedy prosecution of
28 crime syndicates, members thereof and their cohorts, with due regard to
29 constitutional processes;
30 d. Refer the cases at hand to the Department of Justice, and or other appropriate law
31 enforcement agencies for investigation or prosecution, as the case may be;
32 e. Follow up the progress of on-going investigation taken cognizance of by the Task
33 Forces;
34 f. Select and recruit personnel from within the PNP, the AFP, NBI and other law
35 enforcement agencies for assignment to the Task Forces subject to the conformity
36 of the agency concerned;
37 g. Enlist the assistance of any department, bureau, office, agency or instrumentality
38 of the Government, including government-owned and/or controlled corporations
39 in the anti-crime drive, which may include the use of their personnel, facilitates
40 and resolute prevention, detection and investigation of crimes and prosecution of
41 their perpetrators;
42 h. Subject to the existing laws, grant monetary rewards or incentives to informants
43 giving vital information leading to the successful prosecution of criminal
44 offenders and corrupt government officials;
45 i. Coordinate with the Witness Protection Security and Benefit Program Committee
46 of the Department of Justice to evaluate and asses witness who may qualify under
47 the provision;
48 j. Recruit civilian personnel and enlist their services for intelligence gathering
49 efforts;
50 k. Coordinate and establish cooperation with other agencies in foreign States;
51 l. Any other legal acts incidental to its primary functions.
52

53 **SECTION 7. *Jurisdiction.*** – The Regional Trial Courts shall have jurisdiction over
54 prosecutions under this Act and applications for forfeiture including petitions for temporary
55 restraining order (TRO) or injunction. Those committed by public officers and private

1 persons who are in conspiracy with such public officers shall be under the jurisdiction of the
2 Sandiganbayan.

3
4 Any person may be charged with and convicted of any of the prohibited acts provided
5 in Section 4 hereof without prejudice with the prosecution with the prosecution of any act or
6 acts considered as the unlawful activities as herein defined.

7
8 Any person injured in his person, business or property by reason of violation of any of
9 the prohibited acts provided in Section 4, or his heirs, may file appropriate actions in the
10 proper court and shall recover threefold the damages he sustains and the cost of the suit,
11 including reasonable attorney fees.

12
13 Actions on offenses involving organized crime or for any other violations of this Act
14 shall not be covered by the Statute of Limitations and such they may be filed any time after
15 the occurrence of the cause of action.

16
17 **SECTION 8. *Prohibition against Political, Religious and Racial Harassment.*** –
18 This Act shall not in a way be used as an instrument for political, religious or racial
19 harassment or persecution, or a means to violate the constitutional rights of a person or
20 persons to form unions, associations, or societies for purposes not contrary to law.

21
22 **SECTION 9. *Confiscation and Seizure*** – Upon filing of the information of the
23 organized crime, the court may, *motu proprio* or upon verified motion of the Commission,
24 issue temporary restraining order, writ of injunction, writ of attachment of garnishment, or
25 take other appropriate action for the tracking, seizure or destruction of the property, currency,
26 financial instruments and any other proceeds of crime derived from offenses covered by this
27 Act or property the value of which corresponds to that of such proceeds.

28
29 Upon conviction of person under this Act and without prejudice to the provisions
30 under Republic Act 9160, otherwise known as the Anti-Money Laundering Act, the court
31 shall enter a judgment of forfeiture of the property, currency, financial instruments and to
32 seize all property, currency and financial instruments and other proceeds of the crime ordered
33 forfeited.

34
35 **SECTION 10. *Restitution.*** – The court entering the judgment of confiscation,
36 seizure and forfeiture, upon finality of the decision, shall hear petitions by victims of criminal
37 acts provided herein for the restitution of property, other monetary instruments or
38 compensation.

39
40 Where there has been an acquittal from allegation of the commission of prohibited
41 Acts herein, the property or other monetary instruments shall be returned to the defendant or
42 to the lawful owner.

43
44 **SECTION 11. *Arrest Without Warrant;*** – When a person suspected of committing
45 a violation under Section 4 of this Act is arrested without warrant in accordance with Section
46 6 of rule 113 of the Rules of Court, the authorities shall file the case against him before a
47 competent court within thirty-six (36) hours following his arrest. No person arrested under
48 this Section shall be detained for more than a period of thirty-six hours without filing
49 appropriate charge or charges; otherwise he shall be released.

50
51 **SECTION 12. *Witness Protection.*** – Any person who provides material
52 information, whether testimonial or documentary, necessary for the investigation or
53 prosecution of individual or groups or organization suspected or accused of committing any
54 violation of criminal acts as provided herein shall be placed under the Witness Protection
55 Program as provided under Republic Act 6981.

1
2 **SECTION 13. *Law Enforcement Cooperation.*** – The Commission shall cooperate
3 with their foreign counterpart, consistent with the respective domestic legal and
4 administrative system, to enhance the effectiveness of law enforcement action to combat the
5 organized crimes as herein provided and shall adopt effective measures:
6

- 7 a. To enhance and, where necessary, to establish channels of communication in
8 order to facilitate the secure and rapid change of information concerning all
9 aspects of the organized crimes covered herein;
10
11 b. To cooperate with other States in conducting inquiries with respect to offenses
12 covered concerning:
13 1. The identity, whereabouts and activities of persons suspected of involvement
14 in such offenses or the location or other persons concerned;
15 2. The movement of proceeds of crime or property derived from the commission
16 of such crimes;
17 3. The movement of property, equipment or other instrumentalities used or
18 intended for use in the commission of such crimes.
19
20 c. To facilitate effective coordination between their competent authorities, agencies
21 and services and to promote the exchange of personnel and other experts,
22 including, subject to bilateral agreements or arrangements with other States, the
23 posting of liaison officers;
24
25 d. To exchange information with other States on specific means and methods used
26 by organized criminal groups, including, where applicable, routes and
27 conveyances and the use of false identities, altered or false documents or other
28 means of concealing their activities.
29

30 **SECTION 14. *Mutual Assistance among States.*** – The Philippine Government,
31 through NACC shall coordinate with other States, for mutual legal assistance in investigation,
32 prosecutions and judicial proceedings in relation to the crimes covered under this Act, and
33 shall reciprocally extend to foreign States similar assistance.
34

35 Mutual legal assistance may be requested by the Philippine Government, through the
36 NACC, to a foreign Party State or States, when the former has reasonable ground to suspect
37 that the offense referred to under this Act, is transnational in nature, including that victims,
38 witnesses, proceeds, instrumentalities or evidence of such offenses are located in the
39 requested Party State. Same nature of assistance shall be afforded to the requesting Party
40 State under the existing relevant laws, treaties, agreements and arrangement with the
41 requesting Party State.
42

43 Mutual legal assistance to be afforded in accordance with this Section may be for any
44 of the following purposes:
45

- 46 a. Taking evidence or statements from persons;
47 b. Effecting service of judicial documents;
48 c. Executing searches and seizures, and freezing;
49 d. Examining objects and sites;
50 e. Providing information, evidentiary items and experts evaluation;
51 f. Providing originals or certified copies of relevant documents and records,
52 including government, bank, financial, corporate or business records;
53 g. Identifying or tracing proceeds of crime, property, instrumentalities of other things
54 for evidentiary purposes;
55 h. Facilitating the voluntary appearance of persons in requesting State Party;

- 1 i. Any other type of assistance that is not contrary to the domestic law of the foreign
2 Party State.
3

4 A request for mutual legal assistance shall contain:
5

- 6 a. The identity of the authority making the request;
7 b. The subject matter and nature of the investigation, prosecution or judicial
8 proceeding to which the request relates and the name and functions of the
9 authority conducting the investigation, prosecution or judicial proceeding;
10 c. A summary of the relevant facts, except in relation to requests for the purpose of
11 service of judicial documentation;
12 d. A description for the assistance sought and details of any particular procedure that
13 the requesting State party to be followed;
14 e. Where possible, the identity, location and nationality of any person concerned;
15 and
16 f. The purpose for which the evidence, information or action is sought.
17

18 Mutual legal assistance may be refused:
19

- 20 a. If the request is not made in conformity with the provisions of this Section and
21 the implementing rules and regulations;
22 b. If the Commission considers that execution of the request is likely to prejudice its
23 sovereignty, security, *ordre public*, or other essential interests;
24 c. If the Commission would be prohibited by Philippine laws from carrying out the
25 actions requested with regard to any similar offense, had it been subject to
26 investigation, prosecution or judicial proceedings under the requesting State's
27 own jurisdiction;
28 d. If it would be contrary to the legal system of the Philippines relating to mutual
29 legal assistance for the request to be granted.
30

31 The Philippines shall negotiate for the inclusion of organized crimes as provided in
32 this Act as among extraditable offenses in all future treaties.
33

34 **SECTION 15. Penal Provisions.** – The penalty of life imprisonment to death shall
35 be imposed upon a person convicted of violation of Section 4(a) of this Act. If the penalty
36 imposed is life imprisonment, a fine of Ten Million Pesos (P10,000,000.00) shall be
37 imposed.
38

39 The penalty of imprisonment ranging from Twenty (20) years and One (1) day to
40 Thirty (30) years and a fine of Eight Million Pesos (P8,000,000.00) shall be imposed upon
41 person convicted of violation of Section 4(b) of this Act.
42

43 The penalty of imprisonment ranging from Fifteen (15) years and One (1) day to
44 Twenty (20) years and a fine of Six Million Pesos (P6,000,000.00) shall be imposed upon a
45 person convicted of violation of Section 4(c) of this Act.
46

47 The penalty of imprisonment ranging from Ten (10) years and One (1) day to Fifteen
48 (15) years and a fine of Four Million Pesos (4,000,000.00) shall be imposed upon a person
49 convicted of violation of Section 4(d) of this Act.
50

51 The penalty of imprisonment ranging from Five (5) years and One (1) day to Ten (10)
52 years and a fine of Two Million Pesos (2,000,000.00) Pesos shall be imposed upon person
53 convicted of violation of Section 4(e) of this Act.
54

1 The penalties herein applied shall be without prejudice to the penalties applied to
2 crime or crimes committed under paragraph (e) of Section 3 of this Act.
3

4 **SECTION 16. *Implementing Rules and Regulations.*** – Within thirty (30) days
5 from the effectivity of this Act, the National Anti-Organized Crime Commission shall
6 promulgate the rules and regulations to implement effectively the provisions of this Act.
7

8 Other pertinent measures relating to the cooperation, coordination and extradition
9 treaties with other States in preventing, combating and prosecution of organized crime and
10 bringing perpetrators to justice shall be included in the promulgation of the rules and
11 regulations.
12

13 **SECTION 17. *Congressional Oversight Committee.*** – There is hereby created a
14 Congressional Oversight Committee composed of seven (7) members from the Senate and
15 seven members (7) from the House of Representatives. The members from the Senate shall
16 be appointed by the Senate President based on the proportional representation of the parties
17 or coalitions therein with at least two (2) Senators representing the minority. Members from
18 the House of Representatives shall be appointed by the Speaker also based on proportional
19 representation of the parties or coalitions therein with at least two (2) members representing
20 the minority.
21

22 The Oversight Committee shall have the power to promulgate its own rules, to
23 oversee the implementation of this Act, and to review or revise the implementing rules issued
24 by the National Anti-Organized Crime Council within thirty (30) days from the promulgation
25 of the said rules.
26

27 **SECTION 18. *Appropriations Clause.*** – The National Anti-Organized Crime
28 Commission shall be provided with an initial appropriations of Thirty Million Pesos
29 (P30,000,000.00) to be drawn from the national government. Appropriations for the
30 succeeding years shall be included in the General Appropriations Act.
31

32 **SECTION 19. *Repealing Clause.*** – Any law, decree, executive order, rules or
33 regulations or parts thereof inconsistent with the provisions of this Act is hereby repealed or
34 modified accordingly.
35

36 **SECTION 20. *Separability Clause.*** - If any part, provision or section of this Act, or
37 the application thereof to any person or circumstance, is held to be invalid, the other
38 provisions and sections of this Act, and the application of such provision or section to other
39 persons or circumstances shall not be affected thereby.
40

41 **SECTION 21. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
42 complete its publication in the *Official Gazette* or in at least two (2) national newspapers of
43 general circulation.
44

45 Approved,