

13TH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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SENATE
OFFICE OF THE SECRETARY

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SENATE

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S. No. 690

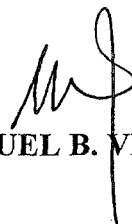
INTRODUCED BY HON. MANUEL B. VILLAR JR.

EXPLANATORY NOTE

The country has witnessed the escalation of crimes with syndicates habitually committing crimes to the detriment of peace and order and the public welfare. Individuals and families have been victimized and brutalized in heinous crimes, with criminals committing them with impunity due to their political connections. To aggravate the situation, law enforcement personnel who are supposed to be protectors of the people take advantage of their positions also in the pursuit of lawless undertakings.

The identification of the criminal elements who are often out in the open is therefore essential for crime eradication. Law enforcement could quickly resolve cases being investigated if they have immediate access to updated criminal records. This can be done if there is a national crime database, which will therefore not only be used for obtaining the necessary job or police clearances.

This bill seeks to establish a national crime database that will be useful in the elimination of crime and criminal elements.


MANUEL B. VILLAR, JR.

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INTRODUCED BY HON. MANUEL B. VILLAR JR.

AN ACT ESTABLISHING A NATIONAL CRIME DATABASE

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

SECTION 1. **Short Title.** This Act shall be know as the “National Crime Database Act of 2004.”

SECTION 2. **Purposes.** The purposes of this Act are:

- (a) to create a complete and accurate national criminal record database that is an essential element in fighting crime; and
- (b) to require the National Bureau of Investigation and the Philippine National Police to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal-history records, in a timely fashion, to criminal-history record repositories and for non-criminal-justice purposes, to update existing criminal record systems that are currently outdated and contain incomplete or incorrect information; and
- (c) to male accessible detailed databases of criminal-history records, including arrests and dispositions.

SECTION 3. **Definition of Terms.** As used in this Act:

- (a) “Crime database officer” means, an official so designated by the Director of the NBI as the chief administrator of the region’s criminal-history record repository or a designee who is a regular full-time employee of that repository.
- (b) “Criminal-history records” means information collected by criminal-justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release. The term does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.
- (c) “Criminal-history record repository” means the agency designated by the appropriate executive official or the legislature to perform centralized record-keeping functions for criminal-history records and services in the State.
- (d) “Criminal justice” encompasses any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The

administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal-history records.

- (e) "Criminal-justice agency" means (1) Courts; (2) a governmental agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.
- (f) "Criminal-justice services" means services provided by the NBI to criminal-justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.
- (g) "Direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.
- (h) "NBI" means the National Bureau of Investigation
- (i) "PNP" means the Philippine National Police
- (j) "Interregional Identification Index System" or "III System" means the system for the storage of criminal-history records and includes the National Identification Index, the National Fingerprint File and, the criminal-history record repositories of the NBI, the PNP, the Courts, and other criminal justice agencies.
- (k) "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, about an arrested or charged individual maintained by the NBI to provide positive identification of record subjects indexed in the III System.
- (l) "National Identification Index" means an index maintained by the NBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal-history records in the III System
- (m) "National indices" means the National Identification Index and the National Fingerprint File.
- (n) "Non-criminal-justice purposes" means uses of the criminal-history record for crime prevention and other legitimate law enforcement purposes authorized by federal or state law including, but not limited to, employment suitability or licensing determinations, immigration and naturalization matters, and national security clearances.
- (o) "Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the person as the subject of a criminal-history record or records indexed in the III System.
- (p) "Regional unit" means the NBI or PNP regional units covering the 14 geographical regions of the Philippines, unless otherwise specified.
- (q) "NBI National Office" means the main office which shall have control over the national indices of the national crime database.

SECTION 4. Establishment of National Crime Database Council.

- (a) There is hereby established a National Crime Database Council which shall have the authority to promulgate rules and procedures governing the use of the III System for criminal-justice and non-criminal-justice purposes. The Council shall be located, for administrative purposes, within the NBI main office. The Council shall be organized and its first meeting held as soon as practicable after the effective date of this Act.
- (b) The Council shall consist of 8 members:
 - (1) Director of the National Bureau of Investigation
 - (2) Secretary of Justice
 - (3) Secretary of Interior and Local Government
 - (4) Court Administrator
 - (5) Chief of the Presidential Anti-Organized Crime Task Force
 - (6) Head of the Crime Prevention and Coordination Service of the National Police Commission

- (7) Director of the Philippine National Police Computer Center
 - (8) Representative of a non-governmental organization involved in crime prevention and eradication.
- (a) The Chairman of the Council shall be a member of and elected by the members of the Council. The Chairman shall serve a two-year term and may be re-elected to only one additional two-year term.
 - (b) The Council shall meet at least once a year. Meetings shall be open to the public. Appropriate prior public notices shall be provided.
 - (c) The Council shall have authority to request from the NBU such reports, studies, statistics, or other information or materials as it finds necessary to enable it to perform its duties under this Act. The NBI, to the extent authorized by law, may provide such assistance or information.
 - (d) The Chairman may establish technical or other committees as necessary and may prescribe their membership, responsibilities, and duration.

SECTION 5. Development of a Plan for Establishing a National Crime Database.

- (1) In general - Not later than 45 days after the date of enactment of this Act, the National Crime Database Council, in coordination with other criminal-justice agencies, and after consultation with the different regional directors of both the National Bureau of Investigation and the Philippine National Police, shall develop a plan on how to create a national crime database, using the interregional identification index system or III system, to which the criminal justice agencies shall have direct access.
- (2) Objective - The objective of the plan developed under paragraph (1) shall be to establish a national crime database, which shall include the criminal history records, with samples of fingerprints, and the disposition of cases, if any. The existing database of criminal history records being used for employment or travel clearances shall be updated and integrated with proposed national crime database.

SECTION 6. Responsibilities of Criminal Justice Agencies.

(a) NBI Responsibilities

- 1. The NBI Director shall appoint a NBI Crime Database Officer who will:
 - (A) have responsibility for administering the provisions of this Act within the NBI and criminal justice agency community.
 - (B) Ensure that any provisions and rules, procedures, and standards established under this Act are complied with; and
 - (C) Regulate the use of records received by means of the III System from other criminal justice agencies when such records are supplied by the NBI directly to other criminal justice agencies.
 - (1) The NBI will provide to criminal justice agencies and to regional criminal-history record repositories, criminal-history records maintained in its database for non-criminal-justice purposes described in Section 3, paragraph (n).
 - (2) The NBI will provide a telecommunications network and maintain centralized facilities for the exchange of criminal-history records for both criminal-justice and non-criminal-justice purposes described in Section 3, paragraphs (d) and (n). The NBI will ensure that the exchange of these records for criminal-justice purposes has priority over exchange for non-criminal-justice purposes.

- (3) The NBI will modify or enter into user agreements with regional criminal-history record repositories to require them to establish record-request procedures conforming to those prescribed in this Act.

(b) Responsibilities of the NBI and PNP regional units

1. Each regional unit shall appoint a crime database officer who will:
 - (A) have responsibility for administering the provisions of this Act within that region;
 - (B) ensure that provisions and rules, procedures, and standards established under this Act and other forthcoming implementing rules are complied within the region; and
 - (C) regulate the in-region use of records received by means of the III System from the NBI National Office or from other criminal justice agencies.
2. Each regional criminal-history record repository will:
 - (A) provide information and records for the National Identification Index and the National Fingerprint File; and
 - (B) provide the region's III System-indexed criminal-history records for non-criminal-justice purposes described in Section 3, paragraph (n); and
 - (C) be managed by the regional NBI unit.
3. Each regional unit will participate in the National Fingerprint File.
4. Each regional unit will provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Act.

(c) The Courts

1. The courts will provide the data concerning the disposition of cases, to be included in criminal history records.
2. The courts will provide information as to the status of pending cases.

(a) Compliance with III System Standards.

In carrying out their responsibilities under the Act, criminal justice agencies and the NBI will comply with system rules, procedures, and standards duly established under this Act and any implementing rules or regulation issued by the National Crime Database Council, concerning record dissemination and use, response time, data quality, system security, and other aspects of system operation.

(d) Maintenance of Record Services

1. Use of the III System for non-criminal-justice purposes authorized in this Act shall be managed so as not to diminish the level of service provided in support of criminal-justice purposes.
2. Administration of the provisions of this Act shall not reduce the level of service available to authorized non-criminal-justice users on the effective date of this Act.

SECTION 7. Authorized Record Disclosures.

- (a) To the extent authorized by our laws which authorize national indices checks, the NBI National Office criminal-history record repository will provide on request criminal-history records to regional criminal-history record repositories for non-criminal-justice purposes.

- (b) The NBI National Office criminal-history record repository, and regional criminal-history record repositories will provide criminal-history records to criminal-justice agencies and other government or nongovernmental agencies for non-criminal-justice purposes allowed by our laws, which authorize national indices checks.
- (c) Records obtained under this Act may be used only for the official purposes for which they were requested. Implementing rules and regulations shall be issued, that shall establish procedures and measures consistent with the provisions of this Act, to ensure that records are used only by authorized officials for authorized purposes and to require that subsequent record checks are requested to obtain current information whenever a new need arises. These procedures must ensure that record entries that may not legally be used for a particular non-criminal-justice purpose will be deleted from the response and, if no information authorized for release remains, an appropriate "no record" response will be communicated to the requesting official.

SECTION 8. Record-request Procedures.

- (a) Applicant fingerprints or other approved forms of positive identification will be submitted with all requests for criminal-history record checks for non-criminal-justice purposes.
- (b) Requests for criminal-history record checks utilizing the National Indices made under any law shall be submitted through that regional criminal-history records repository. A regional criminal-history record repository will process interregional requests for non-criminal-justice purposes through the national indices only if such requests are transmitted through another regional criminal-history record repository or the NBI National Office.
- (c) Request for criminal-history record checks utilizing the National Indices made under any law shall be submitted through the NBI National Office or, if the repository consents to process fingerprint submissions, through the repository in the region in which such requests originated. Direct access to the National Identification Index by entities other than the NBI National Office and regional criminal-history records repositories shall not be permitted for non-criminal-justice purposes.
- (d) The NBI National Office and the regional criminal-history record repository may charge fees for handling requests involving fingerprint processing for non-criminal-justice purposes. No fees will be charges, however, for providing criminal-history records in response to an electronic request for a record that does not involve a request to process fingerprints.
- (e) If a regional repository cannot positively identify the subject of a record request made for non-criminal-justice purposes, then the request, together with fingerprints or other approved identifying information, will be forwarded to the NBI National Office for a search of the national indices. If the NBI positively identify the subject as having a III System-indexed record or records, then the NBI will so advise the regional repository that submitted the request. The repository will then be entitled to obtain the additional criminal-history record information from the NBI or other regional repositories.

SECTION 13. Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,