


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

15 FEB 25 P7:03

RECEIVED BY: 

SENATE
S. B. No. 2670

Introduced by Senator Aquilino “Koko” Pimentel III

1
2 **AN ACT INSTITUTIONALIZING A CRIMINAL**
3 **INVESTIGATION SYSTEM, REPEALING FOR THE PURPOSE**
4 **REPUBLIC ACT NO. 5180, OTHERWISE KNOWN AS “AN ACT**
5 **PRESCRIBING A UNIFORM SYSTEM OF PRELIMINARY**
6 **INVESTIGATION BY PROVINCIAL AND CITY FISCALS AND**
7 **THEIR ASSISTANTS, AND BY STATE ATTORNEYS OR THEIR**
8 **ASSISTANTS”, AND OTHER RELATED LAWS AND**
9 **ISSUANCES**

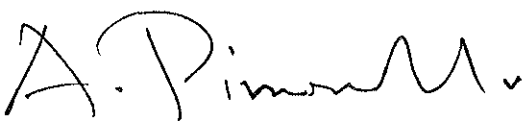
10
11 **EXPLANATORY NOTE**

12
13 The current state of criminal investigation in the country is not
14 only painfully slow but has also proven to be ineffective in prosecuting
15 criminal cases and securing convictions in court, thus, necessitating a
16 complete overhaul of the system to address unreasonable delays,
17 mishandling, and systemic inefficiency at the front end of the criminal
18 justice system – the stage of criminal investigation.

19 This bill seeks to streamline the criminal investigation process by
20 making it a two-step process: *First*, the criminal investigation stage
21 where the police and the investigating prosecutor coordinate closely to
22 gather evidence and build the case, and during the end of which a *prima*
23 *facie* determination of the propriety of filing an information shall be
24 made by the investigating prosecutor without need of adversarial

1 proceedings; and *Second*, the preliminary hearing stage where the trial
2 judge evaluates the evidence of both parties and resolves all other pre-
3 trial incidents in one proceeding, and during the end of which a
4 determination shall be made using the standard of *preponderance of*
5 *evidence* whether a full- blown criminal trial is warranted.

6 Considering the urgent need to make the conduct of criminal
7 investigations simple, speedy, and efficient, the immediate approval of
8 this measure is earnestly sought.


AQUILINO "KOKO" PIMENTEL III

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9 *Be it enacted by the Senate and House of Representatives of the Philippines*
10 *in Congress assembled.*

11
12 **SECTION 1.** *Short Title.* – This Act shall be known as the
13 Criminal Investigation Act of 2015.

14 **SECTION 2.** *Declaration of Policy.* – It is hereby declared the
15 policy of the State to ensure the speedy, effective, efficient and
16 economical conduct of criminal investigations by enhancing the
17 cooperation and coordination of law enforcement and prosecution
18 agencies, streamlining the process of determining which criminal
19 complaints should proceed to trial and eliminating bureaucratic layers
20 which cause undue delays in the criminal justice process.

1 **SECTION 3. *Definition of Terms.*** —

2 (a) “*Criminal Investigation System*” refers to the entire process of
3 investigating the commission of a crime and determining whether
4 there is sufficient cause to file a criminal case in court to hold a
5 respondent for trial. It is composed of two (2) stages: the criminal
6 investigation stage and the preliminary hearing stage.

7 (b) “*Criminal Investigation*” refers to the fact-finding inquiry
8 conducted by law enforcement officers, under the direction of the
9 investigating prosecutor, where evidence is gathered, with a view
10 to determining whether a crime has been committed and whether a
11 criminal information should be filed in court.

12 (c) “*Investigating Prosecutor*” refers to the Prosecutor General,
13 Regional Prosecutors, State Prosecutors, Provincial Prosecutors,
14 City Prosecutors and their respective Deputies and Assistants and
15 Prosecution Attorneys who have the authority to prosecute crimes
16 within their respective jurisdictions. It shall also refer to the
17 Ombudsman, the Special Prosecutor, their Deputies and Assistants,
18 Graft Investigation and Prosecution Officers and Special
19 Prosecutors, in cases falling under the jurisdiction of the Office of
20 the Ombudsman.

21 (d) “*Law enforcement officer*” refers to officers and agents of
22 the Philippine National Police, National Bureau of Investigation,
23 Office of the Ombudsman, Philippine Drug Enforcement Agency,
24 Bureau of Immigration, Bureau of Customs, Anti-Money
25 Laundering Council, Securities and Exchange Commission,
26 Bureau of Internal Revenue, Philippine Coast Guard and other
27 agencies which have the legal authority to enforce laws or
28 investigate the commission of crimes.

1 (e) *“Preliminary hearing”* refers to the proceedings conducted before
2 the trial judge after a criminal information has been filed in court,
3 during which the complainant and the respondent present their
4 respective evidence to establish whether the case should proceed to
5 a full-blown criminal trial.

6 (f) *“Trial Judge”* refers to the judge in whose court a criminal
7 information is filed after the conclusion of the criminal
8 investigation. The Trial Judge will conduct the preliminary hearing
9 and thereafter decide whether the case will be dismissed or will
10 proceed to trial.

11 (g) *“Prima facie evidence”* refers to evidence which, if
12 unexplained or uncontradicted, is sufficient to sustain the
13 proposition it supports or to establish the facts.

14 (h) *“Preponderance of evidence”* refers to the standard of proof
15 where the evidence of one side is deemed by the court to be more
16 convincing, of more probative weight, and more worthy of belief,
17 than that which was offered in opposition to it.

18 (i) *“Proof beyond reasonable doubt”* refers to the standard of proof
19 which produces moral certainty, or that which produces conviction
20 in an unprejudiced mind.

21 **SECTION 4. *Criminal Investigation System; Principles.*** – The
22 Criminal Investigation System shall be governed by the following
23 principles:

24 (a) The Criminal Investigation System shall be conducted in a
25 speedy, effective, efficient and economical manner, with a view to
26 facilitating the resolution of criminal cases, should they eventually
27 reach the courts, through the systematic and proper gathering of

1 evidence and forensic data, and accurate determination of
2 perpetrators and their respective liabilities.

3 (b) The Criminal Investigation System shall be composed of the
4 criminal investigation stage and the preliminary hearing stage.
5 During both stages, the primary aim of the investigating prosecutor
6 and the trial judge is to determine whether there is sufficient
7 evidence establishing the commission of a crime and linking the
8 respondent to its commission, enough to justify the conduct of a
9 full-blown criminal trial.

10 (c) All criminal investigation shall be under the direct control
11 and supervision of an investigating prosecutor. Law enforcers shall
12 take guidance from and cooperate closely with the investigating
13 prosecutor in the process of conducting criminal investigations,
14 especially in matters concerning compliance with laws and rules of
15 procedure, evidence-gathering and case-build up and preparation.

16 (d) Upon the conclusion of a criminal investigation, the
17 investigating prosecutor shall determine whether there is *prima*
18 *facie evidence* that a crime has been committed, of which the
19 respondent is probably guilty and should consequently stand trial.
20 The investigating prosecutor, in making such a determination, shall
21 rely on the substance of the complaint or report, and the evidence
22 gathered during the criminal investigation stage. The conduct of a
23 criminal investigation is an executive function; it is neither judicial
24 nor quasi-judicial and is not adversarial in nature.

25 (e) Upon the filing of a criminal information, the trial judge to
26 whose court it was raffled shall conduct a preliminary hearing and
27 exert all effort to determine, by preponderance of evidence,
28 whether there is sufficient cause for the respondent to stand trial.

1 All remedies available to either parties at the preliminary hearing
2 stage may be availed of, but the trial judge should not grant the
3 same in a manner that would result in unnecessary delays.

4 (f) All preliminary hearings shall be adversarial in nature, with
5 the trial judge relying on the submissions, arguments and counter-
6 arguments of the complainant and the respondent to arrive at a
7 decision. However, the trial judge may be allowed to take an active
8 part in the process and direct the course of the preliminary hearing
9 by employing inquisitorial measures such as ordering the oral
10 examination of witnesses or the production of additional evidence,
11 if the same will aid in the weighing of the merits of both parties'
12 evidence.

13 (g) Except when there is a clear showing of grave abuse of
14 discretion amounting to lack or excess of jurisdiction, the Criminal
15 Investigation System, at any stage, shall not be restrained or
16 enjoined by any court.

17 **SECTION 5. *Criminal Investigation; Initiation.*** – A criminal
18 investigation may be initiated through the following modes:

19 (a) Upon a report received by law enforcement agency – a law
20 enforcement agency may receive reports of a crime from private
21 individuals and intelligence assets, or referrals/recommendations
22 from other government agencies. In such cases, the law
23 enforcement agency shall immediately coordination with an
24 investigating prosecutor to determine the course of the criminal
25 investigation.

26 (b) Upon the instance of an investigating prosecutor – an
27 investigating prosecutor may initiate a criminal investigation in the

1 following instances: (1) when a report or recommendation has
2 been received regarding the commission of a crime, and (2) when
3 such investigating prosecutor initiates an investigation to gather
4 evidence on high incident crimes and other identified priority
5 crimes and other identified priority crimes. In such cases, the
6 conduct and direction of the criminal investigation shall be
7 determined by the investigation prosecutor, with the assistance of
8 law enforcers.

9 (c) Upon the instance of an aggrieved party who files a criminal
10 complaint – an aggrieved party may formally file a criminal
11 complaint in the prosecution office, accusing another person/s of
12 committing a crime. In such cases, the conduct and direction of the
13 criminal investigation shall be determined by the investigation
14 prosecutor, with the assistance of law enforcers.

15 **SECTION 6. Criminal Investigation; Procedure. –**

16 (a) In cases where no criminal complaint is filed and the criminal
17 investigation commences upon the instance of the law enforcer or
18 the investigation prosecutor, as provided in Section 5 (a) and (b) of
19 this Act, the following rules shall apply:

20 1. All reports of a crime received by a law enforcer shall
21 immediately be communicated to an investigating prosecutor,
22 who shall lead the criminal investigation and direct its
23 course, with the full cooperation and assistance of law
24 enforcers concerned.

25 2. If a report is received by an investigating prosecutor from
26 any other office or agency, or if the investigating prosecutor
27 initiates the investigating to gather evidence on high incident
28 crimes and other identified priority crimes, coordination with

1 the appropriate law enforcement agency shall be immediately
2 established in order to commence the criminal investigation.

3 (b) In cases where a criminal complaint is filed and the criminal
4 investigation commences upon the instance of a private offended
5 party, as provided in Section 5 (c) of this Act, the following rules
6 shall apply:

7 1. The investigating prosecutor taking cognizance of a criminal
8 complaint shall ensure that the same contains:

9 a. A statement of facts constituting the crime;

10 b. An allegation of the commission of a crime, with reference to
11 the law/s allegedly violated;

12 c. The names of persons being accused, and their addresses;

13 d. The affidavits of witnesses;

14 e. Supporting documents and other evidence relevant to the
15 crime;

16 f. The signature of the complaint; and

17 g. The complainant's certification of non-forum shopping;

18 2. The complaint shall be sworn to by the complainant before the
19 investigating prosecutor, who shall certify that the same
20 represents the complainant's voluntary act and was fully
21 understood by the complainant.

22 3. The investigating prosecutor shall immediately coordinate with
23 the appropriate law enforcement agency to enlist law enforcers
24 who shall lead the criminal investigation and direct its course,
25 with the full cooperation and assistance of law enforcers
26 concerned.

27 (c) The investigating prosecutor, as far as practicable, shall
28 immediately proceed to the scene of the crime in order to supervise

1 the investigation and insure the compliance of all evidence-
2 gathering techniques with applicable laws and rules, including
3 rules on chain of custody over evidence.

4 (d) During the criminal investigation, the investigating
5 prosecutor shall exercise the following powers:

- 6 1. Initiate, manage, and supervise all incidents of the criminal
7 investigation, in coordination with concerned law enforcers;
- 8 2. Perform all acts necessary to ensure the integrity of the criminal
9 investigation process and its compliance with relevant laws and
10 rules;
- 11 3. Take custody of and preserve all relevant evidence and ensure
12 the integrity of the chain of custody over evidence at all stages
13 of the criminal investigation;
- 14 4. Supervise intelligence-gathering, surveillance, and other
15 methods of investigation in relation to the crime;
- 16 5. Apply for warrants of arrest, searches and seizures, and such
17 other processes as may be necessary in the course of the
18 criminal investigation; and
- 19 6. Direct law enforcers to submit inventories, reports, findings, and
20 other documents in connection with the criminal investigation.

21 (e) During the criminal investigation, law enforcers shall
22 exercise the following powers:

- 23 1. Conduct investigations, surveillance, intelligence-gathering,
24 forensic examinations, and other criminal investigative
25 techniques under the authority of the investigating prosecutor
26 and pursuant to the criminal investigation plan;

- 1 2. Recommend to the investigating prosecutor the application for
2 warrants of arrest or searches and seizures in the course from of
3 the criminal investigation;
- 4 3. Request for guidance and counsel from the investigating
5 prosecutor, especially on points of law and legal procedure;
- 6 4. Serve warrants of arrest or searches and seizures as issued by
7 the proper courts;
- 8 5. Locate and secure witnesses and procure their sworn statements
9 in connection with the crime being investigated;
- 10 6. Locate and secure object evidence related to the criminal
11 investigation, and turn over the same to the investigating
12 prosecutor consistent with chain of custody rules; and
- 13 7. Prepare and sign reports, inventories, and other papers necessary
14 for the documentation of the criminal investigation. The same
15 shall not be released to any third party except with the written
16 clearance of the investigating prosecutor.

17 (f) The investigating prosecutor shall determine whether the
18 criminal investigation should be terminated. Upon its termination,
19 the law enforcers concerned shall prepare affidavits, background
20 information of persons connected with the criminal investigation,
21 and other relevant facts to aid in the investigating prosecutor's
22 determination of a *prima facie* case.

23 (g) Within thirty (30) days from submission of the case file, the
24 investigating prosecutor shall determine, based on the case file,
25 whether there is a *prima facie* evidence that a crime has been
26 committed, warranting the filing of a criminal information against
27 the person or persons who appear to be criminally responsible for
28 the offense involved.

1 (h) The findings of the investigating prosecutor shall be
2 contained in a Criminal Investigation Report. A Criminal
3 Investigation Report finding the existence of a *prima facie*
4 evidence of a crime shall include a criminal information naming
5 the person or persons to be accused and their respective crimes.

6 (i) The Criminal Investigation Report of an investigating
7 prosecutor shall be approved or disapproved by the head of the
8 prosecution office concerned. In case the Criminal Investigation
9 Report is disapproved, the head of the prosecution office may
10 reverse the findings of the investigating prosecutor and (1) proceed
11 to dismiss the case, or (2) direct the filing of the criminal
12 information in court, without need of further reinvestigation. The
13 final decision of approval or disapproval by the head of the
14 prosecution office shall be embodied in a Resolution.

15 (j) If a criminal investigation results in the dismissal of the case,
16 the aggrieved party may seek reconsideration within five (5) days
17 from the promulgation of the Resolution. No further appeals shall
18 be available.

19 (k) If a criminal investigation results in the finding of *prima*
20 *facie* evidence, the criminal information/s shall be filed in court not
21 later than five (5) days from the promulgation of the Resolution.

22 **SECTION 7. Preliminary Hearing: General Rules.** – The
23 following general rules shall apply to all preliminary hearings.

24 (a) No motion for reinvestigation shall be entertained at the stage
25 of the preliminary hearing, except on the ground of newly-
26 discovered evidence.

1 (b) During the preliminary hearing, the trial judge shall have the
2 power to issue compulsory processes, resolve preliminary legal
3 issues that will not prejudice the case, and issue Hold Departure
4 Orders, Temporary Restraining Orders, Freeze Orders and other
5 ancillary remedies.

6 (c) The preliminary hearing shall be summary in nature and shall
7 rely primarily on the written submissions, arguments, and
8 counter-arguments of the parties, unless the trial judge, upon
9 motion of either party or *motu proprio*, decides to take an active
10 part in the proceedings by employing inquisitorial measures
11 such as ordering the oral examination of any of the parties or
12 witnesses, or the production of additional evidence, in order to
13 clarify contentious matters.

14 (d) Except for meritorious circumstances, preliminary hearings
15 shall be concluded within a maximum of three (3) trial settings,
16 but in no case longer than fifteen (15) days.

17 **SECTION 8. Preliminary Hearing: Procedure.** – Upon the filing
18 of the criminal information in the proper court, the following procedure
19 shall apply.

20 (a) The criminal information shall be raffled to a trial judge, who
21 shall promptly issue a subpoena to the complainant and the
22 respondent, ordering them to appear in court for the preliminary
23 hearing of the case. The respondent, together with the subpoena,
24 shall be furnished a copy of the criminal information, criminal
25 complaint, and its supporting documents (in cases where a
26 criminal complaint was filed), the Criminal Investigation Report
27 and the Resolution.

1 (b) The complainant shall be represented by the investigating
2 prosecutor, who shall present the case of the complainant to the
3 trial judge with reference to the criminal complaint and its
4 supporting documents, the Criminal Investigation Report, the
5 Resolution, and such other relevant documents as may assists
6 the trial judge.

7 (c) The respondent shall be represented by counsel and given the
8 opportunity to interpose a defense. The respondent shall file a
9 Counter-Affidavit which shall contain all the substance of the
10 defense, together with the affidavits of witnesses and such other
11 supporting documents as may be necessary to establish the case.

12 (d) If a subpoena is returned unserved or if, despite due notice,
13 the respondent fails to appear in court, the trial judge shall issue
14 an order of default and proceed with the preliminary hearing *ex*
15 *parte*, receiving only the evidence adduced by the prosecution.
16 However, even in *ex parte* preliminary hearings, the trial judge
17 may *motu proprio* order the prosecution to present witnesses for
18 oral examination by the trial judge or produce additional
19 documentary evidence to aid the trial judge's determination.

20 (e) Upon termination of the preliminary hearing, the trial judge
21 shall have five (5) days to determine, using the standard of
22 preponderance of evidence, whether there is sufficient cause for
23 the respondent to stand trial. If no such sufficient cause is found,
24 the case shall be dismissed. Otherwise, the trial judge shall
25 order that the case proceed to trial, and issue a warrant of arrest
26 against the respondent, if proper.

1 (f) Either party may request reconsideration of the decision of the
2 trial judge within five (5) days from its promulgation. No
3 further appeals shall be available.

4 **SECTION 9. *Implementing Rules and Regulations.*** – Within sixty
5 (60) days from the promulgation of this Act, an inter-agency committee
6 composed of the Supreme Court, Department of Justice and law
7 enforcement agencies shall issue implementing rules and regulations to
8 govern the implementation of this Act.

9 **SECTION 10. *Separability Clause.*** – If any provision of this Act
10 shall be declared unconstitutional, any other provision not affected
11 thereby shall remain in full force and effect.

12 **SECTION 11. *Repealing Clause.*** – Republic Act No. 5180,
13 Presidential Decree No. 77, and Presidential Decree No. 911 are hereby
14 repealed. All other laws, decrees, orders, rules and regulations or parts
15 thereof inconsistent with this Act are hereby repealed or modified
16 accordingly.

17 **SECTION 12. *Effectivity.*** – This Act shall take effect within
18 fifteen (15) days after its publication in at least two (2) newspapers of
19 general circulation.

20
21 Approved,
22