

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

SENATE
OFFICE OF THE SECRETARY

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SENATE
S. B. NO. **871**

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Introduced by Senator Jinggoy Ejercito Estrada

EXPLANATORY NOTE

The 11 September 2001 terrorist attacks in the United States shook the very core not only of that country but that of the entire free civilized world. The shock and horror felt by countless people all over the globe reverberates even now especially by the families of those who died in the attack, for years, if not lifetimes to come. Democratic institutions have never faced such a terrible challenge –terrorism.

Once again rearing its ugly head but this time on such an unprecedented scale and devastating effect – left in its wake is the threat of more heinous attacks possibly with the use of weapons of mass destruction that have portents of dire and unimaginable consequences. That it could strike the most powerful and richest country in the planet has left nations and peoples across the globe with a profound sense of insecurity and unease.

This menace cuts across borders and recognizes no morality. Perpetrated by people with no conscience who harbor real or imagined hurts and who pursue a mindless ideology or cause, its victims are most often than not blameless civilians who are killed with no compunction. Terrorists hide themselves deep underground using false identities and employing highly sophisticated methods and cutting edge technology to further their nefarious ends. They can strike anywhere, anytime and against hapless victims.

Our country is no exception. Homegrown terrorist organizations, like the Abu Sayyaf Group, who have known links to the Al Qaeda Global Terror Network, have in the past, and until recently, launched terrorist depredations that have brought our country into the international limelight and caused us untold economic and other losses. That terrorism has apparently been cartelized and has long gone global

cannot be denied. It has to be fought tooth and nail and on all fronts using every means available and allowable by all peace-loving and civilized nations lest we become hostage to, and forever live in dead of, it. Thus, this proposed legislative measure.


Early approval of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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S.B. No. 871

Introduced by Sen. Jinggoy Ejercito Estrada

**AN ACT
TO DEFINE AND PENALIZE ACTS OF TERRORISM AND FOR OTHER PURPOSES**

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

1 **SECTION 1. Short Title.** - This Act shall be known and cited as the "Anti
2 Terrorism Act of 2004".

3 **SEC. 2. Declaration of Policy.** - It is hereby declared the policy of the State to
4 protect the lives and properties of the people against all acts of terrorism and to
5 condemn terrorism as a crime against humanity. Towards this end, the State shall
6 adopt all adequate, efficient and effective counter measures to fight, suppress and
7 penalize all acts of terrorism with due regard to and respect for the fundamental rights
8 and freedoms of the people guaranteed under the Constitution.

9 Further, the State recognizes the transnational nature of terrorism and shall
10 maintain full cooperation with all nations in the fight against the same in accordance
11 with due process, existing international, regional, multi-lateral and bi-lateral agreements
12 or instruments, and United Nations resolutions.

13 **SEC. 3. Terrorism. - How Committed.** - Terrorism is committed by the
14 premeditated use or threatened use of serious violence, force, or by any other means of
15 destruction perpetrated against civilians or non-combatants, or against properties with

1 the intention of instilling a state of common danger, panic or fear, or of coercing or
2 intimidating the public or government.

3 Acts of terrorism may be committed through any of the following means:

- 4 (1) hijacking or threatening to hijack any kind of aircraft, ship, vessel, electric or
5 railroad train, locomotive, passenger bus or other means of mass
6 transportation, or public conveyance.
- 7 (2) Taking or threatening to kidnap, or take hostage any person, in order to
8 compel, coerce, or force another person, whether natural or juridical,
9 including the government or any of its agencies or instrumentalities, to give
10 something of value or a sum of money as ransom, or in order for that other
11 person to do or abstain from doing any act or decision as a condition for the
12 release or non-taking of the hostages.
- 13 (3) Causing or threatening to cause death or serious bodily harm to a person or
14 persons, or to cause a serious risk to the health or safety of the public or any
15 segment thereof;
- 16 (4) Killing of, or violent attack upon, an internationally protected person or upon
17 the liberty of such person in violation of the Convention on the Protection and
18 Punishment of Crimes Against Internationally Protected Persons, including
19 Diplomatic Agents, and other international agreements;
- 20 (5) Causing serious interference with, or serious disruption of an essential
21 service, vital facility, critical infrastructure, including the mass transmission of
22 virus on the internet, other than as a result of advocacy, grievance, protest,
23 dissent, strike, or an armed conflict provided the same is in accordance with
24 international humanitarian law;
- 25 (6) Causing serious damage to property, the environment and national

1 patrimony;

2 (7) Causing or threatening to cause mass destruction through the use of
3 biological or chemical agents, noxious, poisonous or radioactive substances
4 or materials, nuclear devices, explosives firearms, or any other kind of lethal
5 weapon, material, or substance, or resorting to arson;

6 (8) Manufacture, possession, acquisition, transport, diversion, supply, use or sale
7 of explosives, biological agent, chemical agent, nuclear weapon, materials or
8 equipment and instruments in furtherance of terrorism.

9 Any person who, directly or indirectly, commits any acts of terrorism shall suffer
10 the penalty of life imprisonment to death. If the penalty imposed is life imprisonment, a
11 fine ten million pesos (Php 10,000,000.00) shall also be imposed.

12 Any person who manufactures, possesses, acquires, transports, diverts,
13 supplies, uses or sells explosives, biological agent, chemical agent, nuclear weapon,
14 materials or equipment and instruments in furtherance or terrorism shall suffer the
15 penalty of life imprisonment and a fine of ten million pesos (Php 10,000,000.00).

16 **SEC. 4. Conspiracy to Commit Acts of Terrorism,-** There is a conspiracy to
17 commit terrorism when two (2) or more persons come to an agreement to commit any
18 act of terrorism as defined in Section 3 of this Act and decide to commit it.

19 The conspiracy to commit any act of terrorism shall be punished by imprisonment
20 from ten (10) years and one (1) day to fifteen (15) years with a fine of five million pesos
21 (Php 5,000,000.00).

22 **SEC. 5. Participation in any Act of Terrorism.-** Any person who, with the
23 intent to facilitate any act of terrorism knowingly participates in any of the following
24 activities:

25 (1) establishing or maintaining, or in serving as, contact or link with any

1 person or persons that are known to have pursued or are pursuing
2 terrorist activities;

3 (2) procuring weapons, bombs, explosives, devices, spare parts, and
4 other accessories thereof;

5 (3) providing training to any person or persons to carry out terrorist
6 activities, or

7 (4) arranging or assisting in the conduct of a meeting of two (2) or more
8 persons, knowing that the meeting is to support or further the terrorist
9 activities; shall suffer the penalty of imprisonment from fifteen years
10 (15) and one (1) day to twenty (20) years with a fine of eight million
11 pesos (Php 8,000,000.00).

12 **SEC. 6. *Financing of Materially Supporting Any Act of Terrorism.***- (a) It shall
13 be unlawful for any person, group, organization or entity to knowingly provide properties
14 or finances, or possess them for the commission of terrorism as herein defined or
15 facilitate in any way the provision or possession of such properties of finances, and it
16 shall carry with it the penalty of life imprisonment and a fine of ten million pesos
17 (Php10,000,000.00).

18 **SEC.7. *Harboring or Concealing.***- Any person who harbors or conceals any
19 person whom he/she knows to be a person who has carried out or is about to carry out
20 a terrorist activity shall suffer the penalty of imprisonment of ten (10) years and one (1)
21 day to fifteen (15) years and a fine of five million pesos (Php5,000,000.00).

22 **SEC. 8. *Penalty for infidelity in the custody of prisoners under this Act.***-
23 Any public officer or private person who shall have custody of a prisoner under the
24 provisions of this Act and who have caused the escape of such prisoner whether
25 through the public officer or the private persons consent or negligence shall suffer the

1 following penalties:

- 2 1) Imprisonment of ten (10) years and one (1) day to fifteen (15)
3 years, if a fugitive shall have been sentenced by final judgment
4 to any penalty;
- 5 2) Imprisonment of five (5) years and one (1) day to ten (10) years
6 if the fugitive shall not have been finally convicted but only held
7 as a detention prisoner.

8 **Sec. 9. Making False Threats of Act of Terrorism.**- It shall be unlawful for any
9 person to :

- 10 (1) communicate or make available by any means, any information
11 which he/she knows or believes to be false to another person
12 with the intention of inducing in him/her any other person a
13 false belief that a terrorist act has been, is being or will be
14 carried out; or
- 15 (2) place any article or substance in any place, or dispatch any
16 article or substance by mail or by any other means of sending
17 things from one place to another, with the intention of inducing
18 in another person a false belief that-
- 19 (i) the article or substance is likely to explode or ignite and thereby
20 cause personal injury or damage to property; or
- 21 (ii) the article contains or the substance consists of any dangerous,
22 hazardous, radioactive or harmful substance; any toxic chemical;
23 or any microbial or other biological agent, or toxin, that is likely to
24 cause death, disease or personal injury or damage to property.

25 For the purpose of subsections (1) and (2), a reference to a person

1 inducing in another person a false belief does not require the first-mentioned
2 person to have any particular person in mind as the person in whom he/she
3 intends to induce the false belief.

4 If the false threat did not result to death, disease, personal injury or
5 damage to property, the penalty of imprisonment from six (6) months to one (1)
6 year or a fine of fifty thousand pesos (Php 50,000,000.00) shall be imposed.

7 If the false threat resulted to death, disease, personal injury or damage to
8 property , the penalty of imprisonment from one (1) year and (1) day to six (6)
9 years and a fine one hundred thousand pesos (Php 100,000.00) shall be
10 imposed.

11 **SEC. 10. Arrest and Detention.**- Any person arrested for violation of this Act,
12 pursuant to rule 113, Section 5, paragraphs (a) and (b), of the Rules of Court, may be
13 detained for an inquest period of not more than fifteen (15) working days following
14 his/her arrest.

15 The period of detention may be extended beyond fifteen (15) days if the person
16 arrested without a warrant demands for a preliminary investigation and consents to it in
17 writing and in the presence of his or her counsel, he/she shall be entitled to all the rights
18 under the RA No. 7438 , otherwise known as "An Act Defining Certain Rights of
19 Persons Arrested, Detained, or Under Custodial Investigation".

20 **SEC. 11. Witness Protection.** – Any person who provides material information,
21 whether testimonial or documentary, necessary for the investigation or prosecution of
22 individuals suspected or accused of committing any of the offense under Sections
23 3,4,5,6, and 7 herein shall be placed under the Witness Protection Program pursuant to
24 Republic Act 6981.

25 **SEC. 12. Immunity from Prosecution.**- Any person who serves as a witness

1 for the government or provides evidence in a criminal case involving any violation of this
2 Act, or who voluntarily or by virtue of a **subpoena testificandum** or **duces tecum**,
3 produces, identifies, or gives testimony on, but not limited to, books, papers,
4 documents, tapes containing words, sounds, pictures, or images, photos, maps,
5 diagrams, sketches, recording, disc, or any other form of written, recorded, or real
6 evidence, shall be immune from any criminal prosecution, subject to the compliance
7 with the provisions of PD 1732 otherwise known as Decree Providing Immunity from
8 Criminal Prosecution to Government Witnesses and the pertinent provisions of the
9 Rules of Court.

10 **SEC. 13. Prosecution, Judgment and/or Conviction.-** Any person may be
11 charged with or convicted of acts of terrorism without prejudice to the prosecution of any
12 other act or acts penalized under the Revised Penal Code which are not absorbed in
13 the offense of terrorism.

14 When there is a variance between the act of terrorism charged in the complaint
15 or information, and that proved or established by the evidence, the accused shall be
16 convicted of the offense proved included in the charge of terrorism if the intent sow
17 terror or intimidate or coerce the government or the public was not proven during the
18 trial. No person, however, shall be twice put in jeopardy of punishment for the same
19 offense.

20 **Sec. 14. Penalty for Juridical Person, Alien or Public Officer.-** If the offender
21 is a corporation, association partnership, the corresponding penalty provided in this Act
22 shall be imposed upon its responsible officers, directors, or trustees who knowingly
23 participated in the commission of any violation of this Act or who knowingly permitted or
24 failed to prevent its commission, If the offender is an alien, he or she shall, in addition
25 to the penalties herein prescribed, be summarily deported after serving the sentence. If

1 the offender is a public official or employee, he or she shall, in addition to the penalties
2 prescribed herein, be barred from holding public offices.

3 **Sec. 15. *Applicability of Republic Act No. 9160, as Amended by Republic***
4 ***Act No. 9194.***- Terrorism as defined and punished under this Act shall be considered
5 an unlawful activity under RA 9160, otherwise known as the Anti-Money Laundering Act
6 of 2001, as amended by RA 9194. For this purpose, all matters involving monetary
7 instruments or property used or intended to be used for terrorist activities shall be
8 subject to provisions of Sections 10 and 11 thereof. ***Provided,*** that deposits or
9 investment with any banking institution or non-bank financial institution may be inquired
10 into or examined without prior court order pursuant to RA 9160, as amended.

11 **SEC. 16. *Applicability of Republic Act No. 4200.***- The provisions of RA 4200,
12 otherwise known as the Anti-Wire Tapping Act shall apply to include all offenses
13 punishable under this Act.

14 **SEC. 17. *Provisional Remedies.***- Upon the filing of the information for any
15 violation of this Act, the Regional Trial Court may, upon verified motion of any
16 appropriate government agency, issue temporary restraining order, writ of injunction,
17 writ of attachment or garnishment or other equitable provisional relief, or take other
18 appropriate action, for the tracking, seizure, preservation, disabling, disposal,
19 disarmament or destruction of the property, found to be utilized in terrorist activity to
20 prevent the same from being removed, concealed, dissipated, destroyed, disseminated,
21 activated, transferred, assigned, otherwise dispose of during the pendency of the
22 criminal proceedings.

23 **SEC.18. *Mutual Assistance and Cooperation between the Philippines and***
24 ***other States or International Organizations.***- When a foreign State or International
25 Organization makes a request for assistance concerning any matter related to any act

1 of terrorism, the council as created under Section 22 of this Act shall take the
2 appropriate action on the matter, provided that such request does not contravene the
3 Constitution or any existing law. Any request of the Philippine Government to a foreign
4 State or International Organization shall be coursed through the Council.

5 **SEC.19. *Anti-Terrorism Council.***- There is hereby created an Anti-Terrorism
6 Council, hereinafter referred to as the "Council" which shall be under the supervision
7 and control of the President, who shall serve as its chairperson, with the Secretary of
8 Justice and the Secretary of the Interior and Local Government as its vice-chairpersons,
9 and with the following members: Secretary of National Defense, Secretary of Foreign
10 Affairs, Secretary of Transportation and Communications, the National Security Advisor;
11 and such other members of that may be appointed by the President.

12 The council shall serve as the central policy-making, supervising, coordinating
13 and monitoring body of the government on all matters of domestic and international
14 terrorism. The council shall keep records of the proceedings and decisions, and such
15 records shall be subject to such security classifications as the Council may, in its sound
16 discretion, direct to safeguard the national interest.

17 The president may designate a primary agency which shall carry out and
18 implement policies of the council. The president shall likewise designate a secretariat
19 for the Council from the existing government agencies involved on anti-terrorism efforts
20 without any additional salary, compensation, allowance, or any other form of
21 emoluments for such personnel to be assigned to the Council's secretariat.

22 In addition to their normal functions, the National Intelligence Coordinating
23 Agency shall be the technical adviser to the Council and with the following support
24 agencies to the Council: National Bureau of Investigation, Bureau of Immigration, Office
25 of the Civil Defense, Intelligence Service of the Armed Forces of the Philippines, Anti-

1 Money Laundering Council, Philippine Center on Transnational Crime, and the
2 intelligence and investigative elements of the Philippine National Police shall serve as
3 support agencies for the Council.

4 The Council shall, not later than one hundred eighty (180) days after the
5 effectivity of the Implementing Rules and Regulations, formulate and come up with a
6 comprehensive and effective anti-terrorism plan and program to deter and prevent acts
7 of terrorism to include, among others, exhaustive preparations necessary for the
8 government and the country to cope with all forms of terrorist attacks such as but not
9 limited to, the use of biological, chemical or nuclear weapons, or other weapons of mass
10 destruction.

11 **SEC. 20. Functions of the Council.**- In pursuit of its mandate under Section 19,
12 the Council shall have the following functions:

- 13 a. formulate and conduct policy researches and studies in
14 addressing terrorism.
- 15 b. Direct the conduct of anti-terrorism and counter-terrorism
16 measures and post conflict actions to address the effects of
17 terrorism.
- 18 c. Cause or direct the immediate investigation and speedy
19 prosecution of cases involving acts of terrorism and monitor the
20 progress of such cases.
- 21 d. Transfer the conduct of investigation of specific cases from one
22 law enforcement agency to another;
- 23 e. Establish a comprehensive data-base systems on anti-terrorism
24 and counter-terrorism operations and post-conflict actions;
- 25 f. Grant monetary rewards and incentives to informants who are

1 willing to give vital information to build up cases for the
2 prosecution of those who committed acts of terrorism;

3 g. Recommend the inclusion of vital witnesses under the Witness
4 Protection Security and Benefits Program;

5 h. Call upon any department, bureau, office or other executive
6 agency for assistance; and

7 i. Exercise such other functions as may be assigned by the
8 President.

9 **SEC. 21. *Implementing Rules and Regulations.*** Within sixty (60) days from
10 the effectivity of this Act, the Anti-Terrorism Council shall promulgate the Implementing
11 Rules and Regulations as may be necessary to ensure the efficient and effective
12 implementation of the provisions of this Act.

13 **SEC. 22. *Appropriations-*** The amount of twenty five million pesos (php
14 5,000,000.00) is hereby authorized to be appropriated to the Council as initial funding
15 chargeable against the contingent fund of the Office of the President.

16 Thereafter, the amount needed by the Council to effectively carry out the purpose
17 of this Act shall be included in the annual General Appropriations Act.

18 **SEC. 23. *Extra Territorial Application of this Act.-*** Except as provided in the
19 treaties and laws of preferential application, the provisions of this Act shall be enforced
20 not only within the Philippine archipelago, including its atmosphere, its interior waters
21 and maritime zone but also outside of its jurisdiction against those who should commit
22 any offense covered by this Act while on a Philippine ship, airship, Philippine embassies
23 and consulates, or other diplomatic premises.

1 **SEC. 24. Separability Clause.-** If any provision or portion of this Act or the
2 application thereof to any person or circumstance is declared to be unconstitutional or
3 invalid, the other provisions or portions of this Act, and the application of such provision
4 or section to other person or circumstances, shall not be affected thereby.

5 **SEC. 25. Amendatory Clause-** Republic Act No. 9160, as amended by Republic
6 Act No. 9194 and Republic Act No. 4200 are hereby amended or modified accordingly.

7 **SEC. 26. Repealing Clause.-** All laws, decrees, executive orders, rules and
8 regulations or parts thereof, inconsistent with the provisions of this Act are hereby
9 repealed, amended or modified accordingly.

10 **SEC. 27. Suppletory Effect of the Revised Penal Code.-** The provisions of the
11 Revised Penal Code shall have a suppletory effect to the provisions of this Act.

12 **SEC. 28. Effectivity.-** This Act shall take effect fifteen (15) days after its
13 complete publication in the Official Gazette or in at least two (2) national newspapers of
14 general circulation.

15 Approved.