

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

04 JUN 30 10:33

SENATE

RECEIVED BY: 

S. No. 1113

Introduced by Senator Franklin M. Drilon

EXPLANATORY NOTE

This bill seeks to revise P.D. No. 1069, otherwise known as, the "Philippine Extradition Law" (1975), which provides for the procedure for the extradition of persons who have committed crimes in a foreign country, by rectifying the flaws in said law. Certain inadequacies of the law have caused delays in extradition proceedings here in the Philippines.

The foregoing bill also encompasses the procedure in the preparation of request for extradition by the Philippine Government and in securing from the foreign state or government the persons who have committed crimes in the Philippines who have been adjudged as extraditable.

Presently, the Philippines has Extradition Treaties with Indonesia, Thailand, Canada, Australia, South Korea, Switzerland, Micronesia, Hong Kong and the U.S.A.

The approval of this bill is strongly urged to ensure the proper guidance of the State parties in the extradition process.


FRANKLIN M. DRILON

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AN ACT
PRESCRIBING THE PROCEDURE FOR THE
IMPLEMENTATION OF EXTRADITION TREATIES BETWEEN
THE PHILIPPINE GOVERNMENT AND A FOREIGN COUNTRY,
AND APPROPRIATING FUNDS THEREFOR

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

SECTION 1. *Title.* – This law shall be known as the “Revised Philippine Extradition Law.”

SECTION 2. *Definition of Terms.* – For purposes of this Act, the following terms are defined as follows:

- (a) Extradition – The removal of an accused from the requested State with the object of placing him at the disposal of the authorities of the requesting state to enable the latter to hold him in connection with any criminal investigation or prosecution directed against him or the execution of a penalty imposed on him under the penal or criminal law of the requesting state or government.
- (b) Extradition Treaty or Convention – An extradition agreement between the Republic of the Philippines and one or more foreign states or governments.
- (c) Accused – The person who is, or is suspected of being, within the territorial jurisdiction of the requested state and whose extradition has been requested by a state or government.
- (d) Requesting State or Government – The state or government from which the request for extradition has emanated.
- (e) Foreign Diplomat – Any authorized diplomatic representative of the requesting state or government and recognized as such by the Secretary of Foreign Affairs of the requested state.
- (f) Secretary of Foreign Affairs – The head of the Department of Foreign Affairs of the Republic of the Philippines, or in his absence, any

official acting on his behalf or temporarily occupying and discharging the duties of that position.

- (g) Secretary of Justice – The head of the Department of Justice of the Republic of the Philippines.

SECTION 3. *Aims of Extradition.* – Extradition may be granted only pursuant to existing treaty or convention, and with a view to:

- (a) A criminal investigation or prosecution instituted by authorities of the requesting state or government charging the accused with an offense punishable under the laws both of the foreign state or government and the Republic of the Philippines by imprisonment or other form of deprivation of liberty for a period stipulated in the relevant extradition, treaty or convention; or
- (b) The execution of a prison sentence imposed by a court of the requesting state or government, with such duration as that stipulated in the relevant extradition treaty or convention, to be served in the jurisdiction of and as a punishment for an offense committed by the accused within the territorial jurisdiction of the requesting state or government.

SECTION 4. *Request; By Whom Made; Requirements.* – (1) When the requesting state is the Republic of the Philippines – The request shall be made by the Secretary of Foreign Affairs addressed to the Foreign Diplomat by the requested state together with all the documents required hereunder prepared by the Department of Justice; (2) When the requesting state is the Foreign State the request shall be made by its Diplomat, addressed to the Secretary of Foreign Affairs, and shall be accompanied by:

- (a) The original or an authentic copy of either – (1) The decision or sentence imposed upon the accused by the court of the requesting state or government; or (2) The criminal charge and the warrant of arrest issued by the authority of the requesting state or government having jurisdiction of the matter or some other instruments having the equivalent force.
- (b) A recital of the acts for which extradition is requested, with the fullest particulars as to the name and identity of the accused, his whereabouts in the requested state, if known, the acts or omissions complained of, and the time and place of the commission of these acts;
- (c) The text of the applicable law or statement of the contents of said law, and the designation or description of the offense by the law, sufficient for evaluation of the request; and
- (d) Such other documents or information in support of the request.

SECTION 5. *Duty of Secretary of Foreign Affairs; Referral of Requests by the foreign state or government; Filing of Petition.* – (1) Unless it appears to the Secretary of Foreign Affairs that the request fails to meet the requirements of this law and the relevant treaty or convention, he shall forward the request

together with the related documents to the Secretary of Justice, who shall immediately designate and authorize an attorney in his office to take charge of the case.

Request made by the Republic of the Philippines shall originate from the Secretary of Justice who shall forward the same together with all the documents as abovementioned in Sec. 4 to the Secretary of Foreign Affairs.

(2) The attorney so designated shall file a written petition with the proper Regional Trial Court of the province or city (having jurisdiction of the place) where the accused may be found with a prayer that the court take the request under consideration, and shall attach to the petition all related documents. The filing of the petition and the service of the summons to the accused shall be free from the payment of docket and sheriff's fees.

(3) The Regional Trial Court with which the petition shall have been filed shall continue to have the exclusive power to hear and decide the case, regardless of the subsequent whereabouts of the accused, or the change or changes of his place of residence.

SECTION 6. *Concurrent Requests for Extradition.* - In case extradition of the same person has been requested by two or more states, the Secretary of Foreign Affairs, after consultation with the Secretary of Justice, shall decide which of the several requests shall be first considered, and copies of the former's decision thereon shall promptly be forwarded to the attorney having charge of the case, if there be one through the Department of Justice.

SECTION 7. *Provisional Arrest.* - (a) In case of urgency, the requesting state may, pursuant to the relevant treaty or convention and while the same remains in force, request for the provisional arrest of the accused, pending receipt of the request for extradition made in accordance with Section 4 of this Decree.

(b) A request for provisional arrest by a state or government shall be sent to the Director of the National Bureau of Investigation, Manila, either through the diplomatic channels or direct by post or telegraph.

(c) The Director of the National Bureau of Investigation or any official acting on his behalf shall upon receipt of the request immediately secure a warrant for the provisional arrest of the accused from the presiding judge of the Regional Trial Court of the province or city where the accused may be found who shall issue the warrant for the provisional arrest of the accused. The Director of the National Bureau of Investigation through the Secretary of Foreign Affairs shall inform the requesting state of the result of its request.

(d) If within a period of twenty (20) days after the provisional arrest, the Secretary of Foreign Affairs has not received the request for extradition and the documents mentioned in Section 4 of this Decree, the accused shall be released from custody.

(e) Release from provisional arrest shall not prejudice rearrest and extradition of the accused if a request for extradition is received subsequently in accordance with the relevant treaty or convention.

SECTION 8. *Procedure in Court for the Extradition of Persons who have committed crimes in a foreign country is hereby governed by the following provisions:*

(1) Issuance of Summons; Temporary Arrest; Hearing, Service of Notices. – Immediately upon receipt of petition, the presiding judge of the court shall, as soon as practicable, summon the accused to appear and to answer the petition on the day and hour fixed in the order. He may issue a warrant for the immediate arrest of the accused which may be served anywhere within the Philippines if it appears to the presiding judge that the immediate arrest and temporary detention of the accused will best serve the ends of justice. Upon receipt of the answer, or should the accused after having received the summons fail to answer within the time fixed, the presiding judge shall hear the case or set another date for the hearing thereof. The order and notice as well as a copy of the warrant of arrest, if issued, shall be promptly served each upon the accused and the attorney in charge of the case.

(2) Bail. – The provisions of the Rules of Court governing bail shall apply to bail in extradition cases; Provided, that in case the accused will be admitted to bail, the Court shall issue first a Hold-departure Order to the Bureau of Immigration.

(3) Appointment of Counsel de Officio. – If on the date set for the hearing, the accused does not have a legal counsel, the presiding judge shall appoint any law practitioner residing within his territorial jurisdiction as counsel de officio for the accused to assist him in the hearing.

(4) Hearing in Public, Exception; Legal Representation. – The hearing shall be public unless the accused requests with leave of court that it be conducted in chamber.

The attorney having charge of the case may upon request represent the requesting state or government throughout the proceedings. The requesting state or government may, however, retain private counsel to represent it for a particular extradition case.

Should the accused fail to appear on the date set for hearing, or if he is not under detention, the court shall forthwith issue a warrant for his arrest which may be served upon the accused anywhere in the Philippines.

(5) Nature and Conduct of Proceedings.

(a) In the hearing, the provisions of the Rules of Court insofar as practicable and not inconsistent with the summary nature of the proceedings, shall apply to extradition cases, and the hearing shall be conducted in such a manner as to arrive at a fair and speedy disposition of the case.

(b) Sworn statements offered in evidence at the hearing of any extradition case shall be admitted as evidence if properly and legally authenticated by the principal diplomatic and consular officer of the Republic of the Philippines residing in the requesting state.

(6) Decision. – Upon conclusion of the hearing, the court shall render a decision granting the extradition, and giving his reasons therefore, upon showing of the existence of a prima facie case. Otherwise, it shall dismiss the petition.

(7) Service of Decision. – The decision of the court shall be promptly served on the accused if he was not present at the hearing thereof, and the clerk of court shall immediately forward two copies thereof to the Secretary of Foreign Affairs through the Department of Justice.

(8) Appeal by Accused; Stay of Execution. –

- (a) The accused may, within ten (10) days from receipt of the decision of the Regional Trial Court granting extradition, appeal to the Court of Appeals, whose decision in extradition cases shall be final and immediately executory.
- (b) The appeal shall stay the execution of the decision to the Regional Trial Court.

(9) Application of Rules of Court. – The provisions of the Rules of Court governing appeal in criminal cases in the Court of Appeals shall apply to appeal in extradition cases.

(10) Service of Decision of Court of Appeals. – The accused and the Secretary of Foreign Affairs, through the Department of Justice, shall each be promptly served with copies of the decision of the Court of Appeals.

SECTION 9. *Surrender of Accused.* – If extradition is granted, and after the decision of the court in an extradition case has become final and executory, the accused shall be placed at the disposal of the authorities of the requesting state or government at a time and place to be determined by the Secretary of Foreign Affairs, after consultation with the foreign diplomat of the requesting state or government.

SECTION 10. *Seizure and Turn Over of Accused's Properties.* – Articles found in the possession of the accused to be extradited and who has been arrested may be seized upon order of the court at the instance of the requesting state or government, and such articles shall be delivered to the Department of Foreign Affairs which shall issue the corresponding receipt therefore.

SECTION 11. *Costs and Expenses; By Whom Paid.* - Except when the relevant extradition treaty provides otherwise, all costs or expenses incurred in any extradition proceeding and in apprehending, securing and transmitting an accused shall be paid by the requesting state or government. When the requesting state is the foreign state or government – the Secretary of Justice shall certify to the Secretary of Foreign Affairs the amount to be paid by the requesting state or government on account of expenses and costs, and the Secretary of Foreign Affairs shall cause the amounts to be collected and transmitted to the Secretary of Justice for deposit in the National Treasury of the Philippines.

SECTION 12. For the above said costs and expenses, when the Philippines is the requesting state, the amount of One Million Pesos

(P1,000,000.00) is hereby appropriated yearly from the General Fund to be administered by the Department of Justice.

SECTION 13. All laws, particularly P.D. No. 1069, orders and decrees inconsistent herewith are hereby modified or amended, accordingly.

SECTION 14. *Effectivity.* – This law shall take effect fifteen (15) days following its publication in two (2) national papers of general circulation.

Approved,