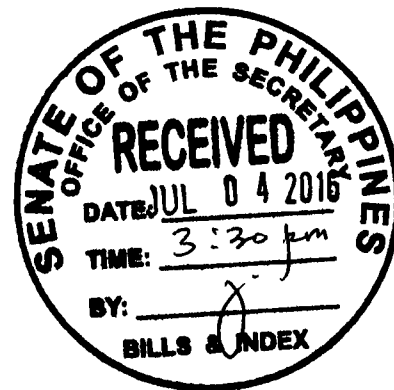


SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )



SENATE

SENATE BILL No. 369

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Introduced by **SENATOR LEILA M. DE LIMA**

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**AN ACT**  
**INSTITUTIONALIZING A CRIMINAL INVESTIGATION SYSTEM,**  
**REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 5180, OTHERWISE**  
**KNOWN AS "AN ACT PRESCRIBING A UNIFORM SYSTEM OF**  
**PRELIMINARY INVESTIGATION BY PROVINCIAL AND CITY FISCALS**  
**AND THEIR ASSISTANTS, AND BY STATE ATTORNEYS OR THEIR**  
**ASSISTANTS", AND OTHER RELATED LAWS AND ISSUANCES**

**EXPLANATORY NOTE**

This legislative measure aims to streamline and strengthen the process of criminal investigation that will expedite and improve the administration of the criminal justice system in the country.

The conduct of criminal investigation is an important element in effectively prosecuting criminal cases. However, it is imperative to look into the current state of the judicial procedure in the country, and effectively address chronic delays and systemic inefficiency in litigating crimes.

There are two major reforms proposed under this measure.

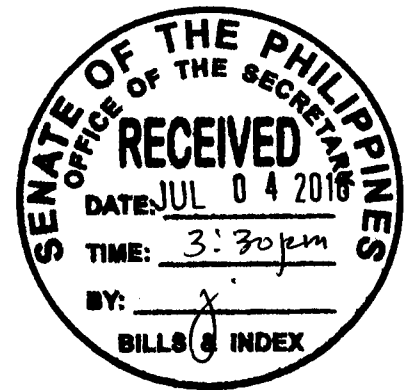
*First*, the investigating law enforcer and the investigating prosecutor shall work hand-in-hand in investigating a crime. In actively participating in case build-up, both the police and the prosecutor can combine their forensic and legal expertise to come up with a solid case that will withstand the rigors of trial. Furthermore, the fusion of functions will make the handling of evidence during the investigation stage more systematic.

*Second*, the Investigating Prosecutors, based on the complaint and/or the result of the criminal investigation which they themselves led and supervised, shall determine, without need of additional adversarial proceedings, whether there is a *prima facie* case to elevate the case to court. Upon filing in court, the case shall be set for preliminary hearing where the trial judge evaluates the evidence of both parties and resolves all other pre-trial incidents in one proceeding, and during the end of which a determination shall be made using the standard of *preponderance of evidence* whether a full-blown criminal trial is warranted.

Improvement in the investigation, prosecution and litigation of crimes in the country will greatly benefit the whole judicial system. Hence, the approval of this bill is earnestly requested.

  
LEILA M. DE LIMA

SEVENTEENTH CONGRESS OF THE )  
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*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 as the *Criminal Investigation Act*  
2 *of 2016.*

3

4 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to ensure  
5 the speedy, effective, efficient and economical conduct of criminal investigations by  
6 enhancing the cooperation and coordination of law enforcement and prosecution  
7 agencies, streamlining the process of determining which criminal complaints should  
8 proceed to trial and eliminating bureaucratic layers which cause undue delays in the  
9 criminal justice process.

10

11 Sec. 3. *Definition of Terms.* –

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

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

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

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

24 (e) "*Preliminary hearing*" refers to the proceedings conducted before the trial  
25 judge after a criminal information has been filed in court, during which the

1 complainant and the respondent present their respective evidence to establish  
2 whether the case should proceed to a full-blown criminal trial.

3 (f) "*Trial judge*" refers to the judge in whose court a criminal information is filed  
4 after the conclusion of the criminal investigation. The trial judge will conduct  
5 the preliminary hearing and thereafter decide whether the case will be  
6 dismissed or will proceed to trial.

7 (g) "*Prima facie evidence*" refers to evidence which, if unexplained or  
8 uncontradicted, is sufficient to sustain the proposition it supports or to  
9 establish the facts.

10 (h) "*Preponderance of evidence*" refers to the standard of proof where the  
11 evidence of one side is deemed by the court to be more convincing, of more  
12 probative weight, and more worthy of belief, than that which was offered in  
13 opposition to it.

14 (i) "*Proof beyond reasonable doubt*" refers to the standard of proof which  
15 produces moral certainty, or that which produces conviction in an  
16 unprejudiced mind.

17  
18 **Sec. 4. *Criminal Investigation System; Principles.*** – The Criminal Investigation  
19 System shall be governed by the following principles:

20 (a) The Criminal Investigation System shall be conducted in a speedy, effective,  
21 efficient and economical manner, with a view to facilitating the resolution of  
22 criminal cases, should they eventually reach the courts, through the  
23 systematic and proper gathering of evidence and forensic data, and accurate  
24 determination of perpetrators and their respective liabilities.

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

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

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

21 (e) Upon the filing of a criminal information, the trial judge to whose court it was  
22 raffled shall conduct a preliminary hearing and exert all effort to determine,  
23 by preponderance of evidence, whether there is sufficient cause for the  
24 respondent to stand trial. All remedies available to either parties at the

1 preliminary hearing stage may be availed of, but the trial judge should not  
2 grant the same in a manner that would result in unnecessary delays.

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

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

14  
15 *Sec. 5. Criminal Investigation; Initiation.* – A criminal investigation may be initiated  
16 through the following modes:

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

23 (b) *Upon the instance of an investigating prosecutor* – an investigating  
24 prosecutor may initiate a criminal investigation in the following instances: (1)  
25 when a report or recommendation has been received regarding the

1 commission of a crime, and (2) when such investigating prosecutor initiates  
2 an investigation to gather evidence on high incident crimes and other  
3 identified priority crimes. In such cases, the conduct and direction of the  
4 criminal investigation shall be determined by the investigating prosecutor,  
5 with the assistance of law enforcers.

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

11  
12 **Sec. 6. Criminal Investigation; Procedure. –**

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

- 17 1. All reports of a crime received by a law enforcer shall immediately be  
18 communicated to an investigating prosecutor, who shall lead the criminal  
19 investigation and direct its course, with the full cooperation and assistance  
20 of law enforcers concerned.
- 21 2. If a report is received by an investigating prosecutor from any other office  
22 or agency, or if the investigating prosecutor initiates the investigation to  
23 gather evidence on high incident crimes and other identified priority  
24 crimes, coordination with the appropriate law enforcement agency shall be  
25 immediately established in order to commence the criminal investigation.



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

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

6 a. a statement of facts constituting the crime

7 b. an allegation of the commission of a crime, with reference to the law/s  
8 allegedly violated

9 c. the names of persons being accused, and their addresses

10 d. the affidavits of witnesses

11 e. supporting documents and other evidence relevant to the crime

12 f. the signature of the complainant

13 g. the complainant's certification of non-forum shopping

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

17 3. The investigating prosecutor shall immediately coordinate with the  
18 appropriate law enforcement agency to enlist law enforcers who shall  
19 participate in the criminal investigation. The investigating prosecutor shall  
20 lead the criminal investigation and direct its course, with the full  
21 cooperation and assistance of law enforcers concerned.

22 (c) The investigating prosecutor, as far as practicable, shall immediately proceed  
23 to the scene of the crime in order to supervise the investigation and ensure the  
24 compliance of all evidence-gathering techniques with applicable laws and  
25 rules, including rules on chain of custody over evidence.

1 (d) The investigating prosecutor shall determine whether the criminal  
2 investigation should be terminated. Upon its termination, the law enforcers  
3 concerned shall submit a case file containing all relevant statements of fact,  
4 inventory of evidence, affidavits, background information of persons  
5 connected with the criminal investigation, and other relevant facts to aid in  
6 the investigating prosecutor's determination of a *prima facie* case.

7 (e) Within thirty (30) days, the investigating prosecutor shall determine, based on  
8 the case file, whether there is a *prima facie* evidence that a crime has been  
9 committed, warranting the filing of a criminal information against the person  
10 or persons criminally responsible.

11 (f) The findings of the investigating prosecutor shall be contained in a Criminal  
12 Investigation Report. A Criminal Investigation Report finding the existence of  
13 a *prima facie* evidence of a crime shall include a criminal information naming  
14 the person or persons to be accused and their respective crimes.

15 (g) The Criminal Investigation Report of an investigating prosecutor shall be  
16 approved or disapproved by the Head of the Prosecution Office concerned. In  
17 case the Criminal Investigation Report is disapproved, the Head of the  
18 Prosecution Office may reverse the findings of the Investigating Prosecutor  
19 and (1) proceed to dismiss the case, or (2) direct the filing of the criminal  
20 information in court, without need of further reinvestigation. The final  
21 decision of approval or disapproval by the head of the prosecution office shall  
22 be embodied in a Resolution.

23 (h) If a criminal investigation results in the dismissal of the case, the aggrieved  
24 party may seek reconsideration within five (5) days from the promulgation of  
25 the Resolution. No further appeals shall be available.

1 (i) If a criminal investigation results in the finding of *prima facie* evidence, the  
2 criminal information/s will be filed in court no later than five (5) days from  
3 the promulgation of the Resolution.  
4

5 *Sec. 7. Powers of the Investigating Prosecutor during the Criminal Investigation.*

6 The investigating prosecutor shall exercise the following powers during the criminal  
7 investigation:

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

21  
22 *Sec. 8. Powers of the Law Enforcers During the Criminal Investigation: Law*

23 *Enforcers shall exercise the following powers during the Criminal Investigation:*

- 24 1. Conduct investigations, surveillance, intelligence-gathering, forensic  
25 examinations and other criminal investigative techniques under the

1 authority of the investigating prosecutor and pursuant to the criminal  
2 investigation plan;

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

17  
18 *Sec. 9. Preliminary Hearing; General rules.* – The following general rules shall  
19 apply to all preliminary hearings:

- 20 (a) No motion for reinvestigation shall be entertained at the stage of the  
21 preliminary hearing, except on the ground of newly-discovered evidence.
- 22 (b) During the preliminary hearing, the trial judge shall have the power to  
23 issue compulsory processes, resolve preliminary legal issues that will not  
24 prejudice the case, and issue Hold Departure Orders, Temporary  
25 Restraining Orders, Freeze Orders and other ancillary remedies.

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

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

11 Sec. 10. *Preliminary Hearing; Procedure.* – Upon the filing of the criminal  
12 information in the proper court, the following procedure shall apply:

13 (a) The criminal information shall be raffled to a trial judge, who shall  
14 promptly issue a subpoena to the complainant and the respondent,  
15 ordering them to appear in court for the preliminary hearing of the case.  
16 The respondent, together with the subpoena, shall be furnished a copy of  
17 the criminal information, criminal complaint and its supporting  
18 documents (in cases where a criminal complaint was filed), the Criminal  
19 Investigation Report and the Resolution.

20 (b) The complainant shall be represented by the investigating prosecutor, who  
21 shall present the case of the complainant to the trial judge with reference  
22 to the criminal complaint and its supporting documents (in cases where a  
23 criminal complaint was filed), the Criminal Investigation Report, the  
24 Resolution and such other relevant documents as may assist the trial  
25 judge.

1 (c) The respondent shall be represented by counsel and given the opportunity  
2 to interpose a defense. The respondent shall file a Reply which shall  
3 contain all the substance of the defense, together with the affidavits of  
4 witnesses and such other supporting documents as may be necessary to  
5 establish the case.

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

13 (e) Upon termination of the preliminary hearing, the trial judge shall have five  
14 (5) days to determine, using the standard of preponderance of evidence,  
15 whether there is sufficient cause for the respondent to stand trial. If no  
16 such sufficient cause is found, the case shall be dismissed. Otherwise, the  
17 trial judge shall order that the case proceed to trial, and issue a warrant of  
18 arrest against the respondent, if proper.

19 (f) Either party may request reconsideration of the decision of the trial judge  
20 within five (5) days from its promulgation. No further appeals shall be  
21 available.  
22

23 Sec. 11. *Implementing Rules and Regulations.* – Within sixty (60) days from the  
24 promulgation of this Act, an inter-agency committee composed of the Supreme

1 Court, Department of Justice and law enforcement agencies shall issue implementing  
2 rules and regulations to govern the implementation of this Act.

3  
4 Sec. 12. *Separability Clause.* – If any provision of this Act shall be declared  
5 unconstitutional, any other provision not affected thereby shall remain in full force  
6 and effect.

7  
8 Sec. 13. *Repealing Clause.* – Republic Act No. 5180, Presidential Decree No. 77 and  
9 Presidential Decree No. 911 are hereby repealed. All other laws, decrees, orders, rules  
10 and regulations or parts thereof inconsistent with this Act are hereby repealed or  
11 modified accordingly.

12  
13 Sec. 14. *Effectivity.* – This Act shall take effect within fifteen (15) days after its  
14 publication in at least two (2) newspapers of general circulation.

15  
16 Approved,