

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



Senate
Office of the Secretary

'17 JUL -6 AIO :30

SENATE

SENATE BILL NO. 1496

RECEIVED BY: _____

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

AN ACT
MANDATING THE ADMINISTRATION OF REGULAR DRUG TESTS
IN CORRECTIONAL AND PENAL INSTITUTIONS

Explanatory Note

Reports that our penal institutions are at the crux of the illegal drugs trade in the country are not new. In fact, as early as 15 December 2014, a surprise raid was conducted by the Department of Justice (DOJ), then headed by this representation, to tear down the network of illegal drug operations believed to be driving the national narcotics industry from within the New Bilibid Prisons (NBP). As a result of the raid, the DOJ discovered and seized contrabands (drug paraphernalia, cash, firearms and other weapons, communication gadgets, etc.), and dismantled luxurious *kubols* (huts) of inmates. This anti-drug campaign at the NBP eventually culminated with "*Oplan Galugad*" and was likewise implemented in other prison facilities.

When the current administration took office, the DOJ Secretary was quick to accuse the previous administration for failing to stomp out the illegal drugs operation in NBP.¹ The DOJ and Philippine National Police (PNP) brought in the Special Action Force (SAF) to replace the NBP guards supposedly to address the illegal drug problem in the NBP.²

However, in spite of the much publicized effort, the DOJ and the PNP still failed to effectively control the NBP. Barely months from taking over, inmates were found to still be able to do drugs in NBP.³

¹ Politiko. 24 May 2016. "Duterte's drug strike to begin in Bilibid; all jail guards to be replaced – Aguirre." Retrieved from: <http://politics.com.ph/dutertes-drug-strike-begin-bilibid-jail-guards-replaced-aguirre/>. Accessed on 4 July 2017.

² Business World. 21 July 2016. "PNP-SAF takes over Bilibid prison security" Retrieved from: <http://www.bworldonline.com/content.php?section=Nation&title=png-saf-takes-over-bilibid-prison-security&id=130707>. Last accessed on 4 July 2017.

³ GMA News. 28 September 2016. "Aguirre admits SAF hasn't completely wiped out drugs in Bilibid." Retrieved from: <http://www.gmanetwork.com/news/news/nation/583096/aguirre-admits-saf-hasn-t-completely-wiped-out-drugs-in-bilibid/story/>. Last accessed on 4 July 2017.

A year after taking over, the current Secretary of Justice has admitted that there has been a resurgence of the drug trade in the national penitentiary.⁴ It appears that in spite of the early pronouncements of the DOJ Secretary and the PNP Chief, the current measures being implemented are still ineffective in eradicating the drug problems in our penitentiary system.

Thus, to help eradicate the proliferation of drug use and trade in our penal institutions, this bill mandates the conduct of mandatory and unannounced drug testing to all detainees/prisoners and their custodians. Once a detainee/prisoner tests positive for drug use, he/she shall be required to undergo a Drug Dependency Examination and thereafter transferred to a treatment and/or rehabilitation facility for detainees/prisoners who use illegal drugs. Likewise, a positive drug test result shall be considered by the Board of Pardons and Parole in its evaluation of such prisoner's pending application for executive clemency or parole, if any. Government employees and officials working in these facilities who test positive for drug use shall similarly undergo a Drug Dependency Examination, without prejudice to them being subject to administrative and criminal sanctions.

With this measure, it is envisioned that our detention facilities and correctional institutions shall finally be rid of the scourge of illegal drugs. Thus, early approval of this measure is requested.


LEILA M. DE LIMA

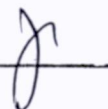
⁴ Interaksyon. 15 June 2017. "Aguirre admits 'resurgence' of Bilibid drug trade." Retrieved from: <http://www.interaksyon.com/aguirre-admits-resurgence-in-bilibid-drug-trade/>. Last accessed on 3 July 2017.

'17 JUL -6 A10 :30

SENATE

SENATE BILL NO. 1496

RECEIVED BY: _____



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

AN ACT
MANDATING THE ADMINISTRATION OF REGULAR DRUG TESTS
IN CORRECTIONAL AND PENAL INSTITUTIONS

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

1 **Section 1. Short Title.** – This Act shall be known as the “Drug-Free Prisons Act of
2 2017”.

3 **Sec. 2. Declaration of Policy.** – It is the policy of the State to safeguard the integrity
4 of correctional and penal institutions throughout the country thereby ensuring the
5 successful rehabilitation and reformation of inmates before their reintegration into
6 mainstream society. Towards this end, the State shall implement measures to prevent
7 the entry of illegal drugs in penitentiaries and the use of these prohibited substances
8 by those under State custody, as well as by the public officials and employees who work
9 therein.

10 **Sec. 3. Coverage.** – This Act shall apply to:

- 11 (a) all municipal, city, and provincial jails under the supervision of the
12 Bureau of Jail Management and Penology (BJMP) and the local
13 government units; and

1 (b) all prison and reformation facilities under the supervision of the Bureau
2 of Corrections (BuCor); and

3 (c) the custodial centers of the Philippine National Police, the National
4 Bureau of Investigation, and the Armed Forces of the Philippines.

5 **Sec. 4. Mandatory Drug Testing.** – The following shall be covered by the mandatory
6 drug testing:

- 7 1. All persons in state custody, whether under detention for investigation and/or
8 trial for an alleged commission of an offense or crime, or have already been
9 sentenced with imprisonment by final judgment, irrespective of the place of
10 their detention or imprisonment, shall undergo mandatory drug testing; and
- 11 2. All persons employed or detailed in prisons, jails, and other detention facilities,
12 whether in a permanent or temporary capacity.

13 The testing shall be conducted in accordance with the procedures set forth by
14 the Dangerous Drugs Board and at random and unannounced intervals, the frequency
15 of which shall be determined by the head of the detention/prison facility but in no case
16 shall be less than once per annum. The result of the test conducted upon such person
17 shall be revealed to him/her and reflected in his/her prison record; *Provided*, that all
18 drug test results and records must strictly be held confidential as provided for under
19 the pertinent provisions of Republic Act No. 9165.

20 **Sec. 5. Effect of a Positive Result.** – A positive drug test result shall immediately be
21 made known to the head of the detention/prison institution, who shall then notify the
22 concerned person. Such person shall have fifteen (15) days from receipt of notice to
23 challenge the result of the test. A challenge test shall then be conducted, using the same

specimen, by a government drug testing laboratory. Failure to file a challenge within the prescribed period shall make the positive drug test result final.

A detainee/prisoner who is found positive of drug use shall undergo a Drug Dependency Examination conducted by the Department of Health (DOH) and thereafter be immediately transferred to facilities designated for treatment and/or rehabilitation of detainees/prisoners who are drug users. Repeated drug use even after ample opportunity for treatment and rehabilitation shall be dealt with the corresponding penalties under R.A. No. 9165.

If the prisoner has a pending petition for executive clemency or parole, the head of the prison institution shall inform the Board of Pardons and Parole of such positive drug test result. The Board shall consider the positive drug test result in its evaluation of such petition.

A public official/employee who is tested positive of drug use shall likewise undergo a Drug Dependency Examination conducted by the DOH, and shall be advised on possible programs for treatment and rehabilitation. However, this shall be without prejudice to administrative and criminal liabilities for violation of R.A. No. 9165, and other civil service rules against drug use by public officials and employees.

Sec. 6. Funding. – The concerned detention/prison institution shall bear the expenses for the conduct of the initial drug test. However, drug test conducted as a result of a challenge to a positive drug test result shall be on the account of the detainee/prisoner or public official/employee, as applicable.

Sec. 7. Annual Report. – The BuCor and the BJMP shall submit to the President of the Senate and the Speaker of the House of Representatives an annual report on the implementation of this Act.

1 **Sec. 8. *Implementing Rules and Regulations.*** – Within six (6) months from the date
2 of effectivity of this Act, the Department of Justice, the Department of Interior and
3 Local Government, the Department of National Defense, the DOH, and the
4 Commission on Human Rights, shall promulgate the necessary implementing rules
5 and regulations to implement the provisions of this Act.

6 **Sec. 9. *Separability Clause.*** - If any provision of this Act is declared invalid or
7 unconstitutional, the provisions not affected thereby shall continue to be in full force
8 and effect.

9 **Sec. 10. *Repealing Clause.*** - All laws, executive orders, presidential decrees,
10 presidential proclamations, letters of instruction, rules and regulations or parts
11 thereof inconsistent with the provisions of this Act are hereby repealed or modified
12 accordingly.

13 **Sec. 11. *Effectivity.*** - This Act shall take effect upon its approval fifteen (15) days
14 following its publication in the Official Gazette or in two (2) newspaper of general
15 circulation in the Philippines.

16 Approved,