

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

SENATE SECRETARY
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SENATE
S. NO. 1768

Introduced by Senator ALFREDO S. LIM

EXPLANATORY NOTE

The terrorist attack in Russia that had claimed the lives of hundreds of innocent civilians mostly children and now recently the bombing of the Australian Embassy in Jakarta, Indonesia which allegedly killed eight (8) persons and left scores of wounded civilians are wake up calls to us that we must give serious concern on the need to enact a law that will address the problem of terrorism with vigor.

We recall that the 9-11 terrorist attacks in various parts of the United States had claimed over three thousand lives of innocent people and destroyed properties worth billions of pesos. The United States lost no time in addressing the problem and formulated stricter domestic and foreign policies through responsive legislation and administrative regulations.

International terrorism poses a continuous threat to humanity in unprecedented scale and with greater devastation.* It knows no border and recognizes no mortality. It is perpetrated by men with depraved minds who plainly harbor real or imagined harm in pursuit of their senseless and inhuman ideology and who indiscriminately inflict damage or take the lives of anyone caught in its path.

Terrorists conceal their whereabouts through the use of false identities and sophisticated methods but strike anytime against hapless victims.

Local terrorist organizations like Abu Sayyaf Group with links to Al Qaeda have launched attacks in various parts of the country in the guise of kidnapping with ransom innocent Filipinos and foreigners. It must be fought tooth and nail and on every fronts available and allowable to all peace-loving and civilized nations lest we become its hostage.

The bill seeks to define acts constituting terrorism and making it a heinous crime justifying the imposition of capital punishment.

It likewise provides deterrence to avert their possible commission by granting the government ample power to detect the whereabouts of terrorists, their funds and schemes of operation.


With proper court order, searches of places, inquiry into bank accounts and identifying local and foreign members of terrorist groups may be carried out with due regard to the fundamental right of everyone.


ALFREDO S. LIM
Senator

THIRTEENTH CONGRESS OF THE)
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04 SEP 13 14:54

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S. NO. 1768

Introduced by SEN. ALFREDO S. LIM

AN ACT
TO DETER AND PUNISH ACTS OF TERRORISM AND FOR
OTHER PURPOSES

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

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

Section 2. **Declaration of Policy.**- It is hereby declared a policy of the State that acts of terrorism be considered as heinous crimes against humanity, and that conspiracy as well as proposal to commit the same and membership in a terrorist organization or association be regarded as criminal offenses.

Acts of terrorism are hereby condemned and all powers and resources of the State shall be utilized in deterring, preventing and punishing such acts with due regard to due process and civil rights, existing international agreements and United Nations (U.N.) Resolutions.

Further, the State recognizes the nature of the acts of terrorism which knows no boundaries and as such it shall ensure full cooperation with all nations in the fight against the same.

Section 3. Acts of Terrorism - Any of the following acts shall constitute terrorism:

- 1) Causing or attempting or threatening to cause the wanton destruction or loss of lives, liberties or properties through any means with the intent of sowing terror to the public, changing or impeding the operation of public utilities, or disturbing public peace and order whether internationally or domestically, or in the advancement of ideological, political, religious, ethnic, or cultist belief, or any form of belief espousing any cause or purpose;
- 2) Using or attempting or threatening to use force with the aid of weapons, such as, but not limited to, biological or chemical agents, bombs or explosives, nuclear devices, firearms, poisonous substances, or any other kind of weapons of mass destruction with any of the intentions mentioned in paragraph 1;
- 3) Assassinating or attempting or threatening to assassinate any national leader or any internationally protected individual with the end view of obtaining any of the ends stated in paragraph 1;
- 4) Detaining or attempting or threatening to detain the persons mentioned in paragraph 3 for any of the intentions stated in paragraph 1;

Section 4. Conspiracy to Commit Terrorism - The crime of conspiracy to commit terrorism shall be committed when two (2) or more persons come to an agreement to commit terrorism and decide to commit it without committing any of the acts mentioned in Section 3 hereof.

Section 5. Proposal to Commit Terrorism - The crime of proposal to commit terrorism shall be committed by any person who decides to commit any act of terrorism and proposes its commission.

Section 6. Membership in Terrorist Organization or Association- any person who knowingly, willfully or by overt acts affiliates with, or becomes a member or retains such membership in any organization, group or association, foreign or domestic, whose

purpose includes any conduct to commit or tending to commit terrorism, within or outside the country, shall suffer, after final conviction, the penalty of *prision mayor* as provided for under the Revised Penal Code.

Section 7. Authority to Conduct Secret Searches and to Intercept and Undertake Surveillance.- Any provision of the law to the contrary notwithstanding, in cases involving terrorism, conspiracy or proposal to commit treason, or membership in a terrorist organization or association, law enforcement agencies, pursuant to a judicial order to be issued after application of the Secretary of Justice or his duly authorized representative before the appropriate Regional Trial Court, herein referred to as the Court, within whose territorial jurisdiction the acts for which the authority is applied for have been committed, are being committed, are about to be committed, may conduct searches of the homes and residences and conduct electronic surveillance and/or tap, monitor or intercept any wire, cable, oral, or any other communication transmission facility, including the internet, e-mail, voicemail and text messages of any person suspected of: 1) being a participant in or perpetrator of acts of terrorism, or the crime of conspiracy or proposal to commit terrorism; or 2) being a member of a terrorist organization or association.

The judicial order mentioned herein shall be issued by the judge upon finding of probable cause that the crime of terrorism, or the crime of conspiracy or proposal to commit treason, or membership in a terrorist organization or association has been committed, is being committed, or is about to be committed, after examination under oath of the applicant and the witnesses who may be produced.

The judicial order shall specify, if known, the true name of the person and the address of his homes or residences, against whom such search and/or surveillance or tapping are to be applied, otherwise, a description sufficient to identify such person or residences may be had. It shall likewise state the names or code names, for security reasons, of intelligence or law enforcement agents or personnel who shall conduct the said search and/or surveillance or tapping. Moreover, the offense or offenses committed or sought to be investigated upon, solved or prevented, shall also be stated as well as the period of effectivity of the order.

Intelligence or law enforcement agents or personnel concerned shall promptly and immediately, within thirty-six (36) hours from the expiration of the period stated in the order, turn over all data gathered to the court which issued said order. The latter shall seal and safeguard the same from any tampering and shall appoint the clerk of court to serve as the guardian of said data gathered. Such data shall not be opened unless a valid order is issued therefore by the competent court.

The turn over shall be accompanied by affidavits executed by the Intelligence or law enforcement agents or personnel who conducted the search and/or surveillance stating therein the manner how they were conducted, the number of times they were done, and the pertinent time and place for such search, tapping or surveillance. Such affidavits shall be jointly sealed and safeguarded with the data gathered.

Any person who shall, without any valid authority issued therefore, divulge any information respecting the data gathered shall suffer the penalty of six (6) months imprisonment or a fine of twenty thousand pesos (P20,000.00) or both at the discretion of the court.

The data gathered pursuant to this section shall be admissible in court as evidence only with respect to crimes herein defined and penalized.

Section 8. Authority to Inquire into all Kinds of Bank Deposits. - Any provision of the law to the contrary notwithstanding, inquiry into peso or foreign currency bank deposits of suspected terrorists, or terrorist organizations or associations, local or international, may also be had pursuant to the provisions of Section 7 herein where there is sufficient ground to believe that sums of money are being laundered to finance acts of terrorism.

Any provision of the law to the contrary notwithstanding, upon finding of such sufficient ground as determined by the appropriate Regional Trial Court, such bank deposits shall be automatically be devoid of secrecy and shall be made available for investigation and prosecution purposes.

Section 9. Deportation and Refusal of Entry - This provision shall apply to foreign nationals found guilty by final judgement of the acts mentioned in Sections 3, 4, 5 and 6 of this Act who, after service of sentence, shall be immediately deported to the country which issued his or her passport. Otherwise, if he or she is stateless or has been issued a void passport or no longer holds a valid passport, to his or her country of origin immediately preceding his or her entry into the Philippines.

A foreign national suspected of being involved in any of the acts mentioned in Sections 3, 4, 5 and 6 shall likewise be treated as an undesirable alien who shall be immediately denied entry into the Philippines.

A foreign national is a suspect if he or she is known to be a member of any terrorist organization or association or has been involved in any terrorist activities.

Section 10. Penalties. - Any person who commits any of the acts enumerated in Section 3 of this Act shall suffer the penalty of *reclusion perpetua* to death and a fine of ten million pesos (P10,000,000.00).

Any person who commits the acts mentioned in Sections 4 and 6 of this Act shall suffer the penalty of *reclusion perpetua* and a fine of one million pesos (P1,000,000.00).

Any person who commits the act mentioned in section 5 hereof shall suffer the penalty of *reclusion temporal* and a fine of five hundred thousand pesos (P500,000.00).

Section 11. Anti-Terrorism Commission. - There is hereby created an Anti-Terrorism Commission (ATC), hereinafter referred to as the "Commission," which shall be under the direct supervision and control of the President composed of the Secretaries of Justice, the Interior and Local Government, Foreign Affairs, National Defense, and Health, and the Director General of the National Security Council. The Judicial and the Legislative branches of government shall likewise be represented by the Court Administrator of the Supreme Court, and the Chairpersons of the Senate and the House of Representatives committees on National Defense and Public Order, respectively. It shall serve as the central policy-making, supervising and coordinating agency of the government on matters of terrorism.

The Secretariat of the Commission shall be drawn from existing staff members of the National Security Council and such other government Department, Bureau or Agency as may be necessary who shall not receive any additional salary.

The Commission is hereby mandated, not later than forty-five (45) days after the effectivity of this Act, to formulate and come up with a comprehensive and effective anti-terrorism plan and program to deter and prevent acts of terrorism to include, among others, exhaustive preparations necessary for the government and the country to cope with all forms of terrorist attacks such as, but not limited to, the use of biological, chemical or nuclear weapons, or other weapons of mass destruction.

Section 12. Appropriations. - The Amount of Twenty Five Million Pesos (Php25,000,000.00) is hereby authorized to be appropriated to the Commission as initial funding chargeable against any available funds of the Office of the President.

Thereafter, the amount needed by the Commission to effectively carry out the purpose of this Act shall be included in the Annual General Appropriations Act.

Section 13. Separability Clause. - If for any reason a provision, portion or section of this Act shall be declared unconstitutional, the remainder shall not be affected thereby.

Section 14. Repealing Clause. - All laws, presidential decrees, executive orders, rules and regulations or any part thereof inconsistent with the provisions of this Act are hereby deemed repealed or modified accordingly.

Section 15. Effectivity Clause. - This Act shall take effect immediately after its complete publication in two (2) newspapers of general circulation.

Approved,