

SENATE

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S.B. No. 381

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INTRODUCED BY: SENATOR EMMANUEL D. PACQUIAO

AN ACT
TO IMPOSE THE DEATH PENALTY ON THE HEINOUS CRIME OF
KIDNAPPING, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS,
AS AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The recent upsurge in the killing of kidnap victims by terrorists, and the continuing distress of Filipinos across social classes over the safety of their family members from kidnap for ransom gangs demand prompt action.

Kidnapping crimes, and especially those made for ransom, exchange priceless lives for a lesser interest. Kidnappers victimize not only the wealthy, but with increasing incidents now, even the ordinary families. At times, kidnapping leads to other crimes, including the violation of the chastity or killing of victims.

The menace of kidnapping for ransom has also resulted into an international concern for the Philippines as domestic terror groups endanger foreign nationals in their effort to get money that can fund more nefarious activities. It has brought shame to the country, and caused foreigners, even those with intentions to help our people, to seriously think over their travel to the Philippines.

The State is bound to secure its people, and foreign expatriates and tourists that it hosts, from the threat of kidnappers. They cannot be allowed to live and work in fear of the criminals.

Against the terrorist kidnappers, the State must strengthen its no-ransom policy with a deterring enactment that clearly imposes a penalty approximating the value of the lives that the crime endangers.

Therefore, the present bill is being filed separate from similarly intended bills for other kinds of crimes in order for the bill to be addressed promptly and independent of more lengthy discussion of other crimes.

This will show that the State is deliberate in strengthening its responsibility to secure the safety of people in the country against kidnappers.

In view of the foregoing, approval of this bill is earnestly sought.

A stylized, handwritten signature in black ink, consisting of several overlapping loops and a horizontal line across the middle.

EMMANUEL D. PACQUIAO

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

Section 1. *Declaration of Policy.* – It is hereby declared the policy of the State to foster and ensure not only obedience to its authority, but also to adopt such measures as would effectively promote the maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare which are essential for the enjoyment by all the people of the blessings of democracy in a just and humane society;

Section 2. Article 267 of the Revised Penal Code, as amended, is hereby amended to read as follows:

“Art. 267. Kidnapping and serious illegal detention. – Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusion perpetua* to death:

1. If the kidnapping or detention shall have lasted more than three days.
2. If it shall have been committed simulating public authority.
3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.
4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.

The penalty of death shall be imposed where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense.

1
2 The penalty of death shall be imposed where the kidnapping or
3 detention was committed to further any act or purpose of insurgency against
4 the State, even if none of the circumstances above-mentioned were present in
5 the commission of the offense.

6
7 When the victim is killed or dies as a consequence of the detention or
8 is raped, or is subjected to torture or dehumanizing acts, the maximum penalty
9 shall be imposed.”

10
11 **Section 3.** Article 27 of the Revised Penal Code, as amended, is hereby amended to read
12 as follows:

13
14 “Art. 27. *Reclusion perpetua*. – The penalty of *reclusion perpetua* shall
15 be from twenty years and one day to forty years.

16
17 Reclusion temporal. – The penalty of reclusion temporal shall be from
18 twelve years and one day to twenty years.

19
20 Prision mayor and temporary disqualification. – The duration of the
21 penalties of prision mayor and temporary disqualification shall be from six
22 years and one day to twelve years, except when the penalty of disqualification
23 is imposed as an accessory penalty, in which case, it shall be that of the
24 principal penalty.

25
26 Prision correccional, suspension, and destierro. – The duration of the
27 penalties of prision correccional, suspension, and destierro shall be from six
28 months and one day to six years, except when the suspension is imposed as an
29 accessory penalty, in which case, its duration shall be that of the principal
30 penalty.

31
32 Arresto mayor. – The duration of the penalty of arresto mayor shall be
33 from one month and one day to six months.

34
35 Arresto menor. – The duration of the penalty of arresto menor shall be
36 from one day to thirty days.

37
38 Bond to keep the peace. – The bond to keep the peace shall be required
39 to cover such period of time as the court may determine.”

40
41 **Section 4.** Article 47 of the same Code is hereby amended to read as follows:

42
43 Art. 47. In what cases the death penalty shall not be imposed;
44 Automatic review of the Death Penalty Cases. – The death penalty shall be
45 imposed in all cases in which it must be imposed under existing laws, except
46 when the guilty person is below eighteen (18) years of age at the time of the
47 commission of the crime or is more than seventy years of age or when upon
48 appeal or automatic review of the case by the Supreme Court, the required
49 majority vote is not obtained for the imposition of the death penalty, in which
50 cases the penalty shall be *reclusion perpetua*.

1
2 In all cases where the death penalty is imposed by the trial court, the
3 records shall be forwarded to the Supreme Court for automatic review and
4 judgment by the Court en banc, within twenty (20) days but not earlier than
5 fifteen (15) days after promulgation of the judgment or notice of denial of any
6 motion for new trial or reconsideration. The transcript shall also be forwarded
7 within ten (10) days from the filing thereof by the stenographic reporter.”
8

9 **Section 5.** Article 62 of the same Code, as amended, is hereby amended to read as
10 follows :
11

12 “Art. 62. Effects of the attendance of mitigating or aggravating
13 circumstances and of habitual delinquency. – Mitigating or aggravating
14 circumstances and habitual delinquency shall be taken into account for the
15 purpose of diminishing or increasing the penalty in conformity with the
16 following rules:
17

18 1. Aggravating circumstances which in themselves constitute a crime
19 specially punishable by law or which are included by the law in defining a
20 crime and prescribing the penalty therefor shall not be taken into account for
21 the purpose of increasing the penalty.
22

23 1(a). When in the commission of the crime, advantage was taken by
24 the offender of his public position, the penalty to be imposed shall be in its
25 maximum regardless of mitigating circumstances.
26

27 The maximum penalty shall be imposed if the offense was committed
28 by any group who belongs to an organized/syndicated crime group.
29

30 An organized/syndicated crime group means a group of two or more
31 persons collaborating, confederating or mutually helping one another for
32 purposes of gain in the commission of any crime.
33

34 2. The same rule shall apply with respect to any aggravating
35 circumstances inherent in the crime to such a degree that it must of necessity
36 accompany the commission thereof.
37

38 3. Aggravating or mitigating circumstances which arise from the moral
39 attributes of the offender, or from his private relations with the offended party,
40 or from any other personal cause, shall only serve to aggravate or mitigate the
41 liability of the principals, accomplices and accessories as to whom such
42 circumstances are attendant.
43

44 4. The circumstances which consist in the material execution of the act,
45 or in the means employed to accomplish it, shall serve to aggravate or mitigate
46 the liability of those persons only who had knowledge of them at the time of
47 the execution of the act or their cooperation therein.
48

49 5. Habitual delinquency shall have the following effects :
50

1 (a) Upon a third conviction the culprit shall be sentenced to the penalty
2 provided by law for the last crime of which he be found guilty and to the
3 additional penalty of prision correccional in its medium and maximum
4 periods;

5
6 (b) Upon a fourth conviction, the culprit shall be sentenced to the
7 penalty provided for the last crime of which he be found guilty and to the
8 additional penalty of prision mayor in its minimum and medium periods; and
9

10 (c) Upon a fifth or additional conviction, the culprit shall be sentenced
11 to the penalty provided for the last crime of which he be found guilty and to
12 the additional penalty of prision mayor in its maximum period to reclusion
13 temporal in its minimum period.
14

15 Notwithstanding the provisions of this article, the total of the two
16 penalties to be imposed upon the offender, in conformity herewith, shall in no
17 case exceed 30 years.
18

19 For purposes of this article, a person shall be deemed to be a habitual
20 delinquent, if within a period of ten years from the date of his release or last
21 conviction of the crimes of serious or less serious physical injuries, robo,
22 hurto, estafa or falsification, he is found guilty of any of said crimes a third
23 time or oftener.
24

25 **Section 6.** Article 81 of the same Code, as amended, is hereby amended to read as
26 follows :
27

28 “Art. 81. When and how the death penalty is to be executed. – The
29 death sentence shall be executed with preference to any other and shall consist
30 in putting the person under sentence to death as may be provided by law. The
31 death sentence shall be executed under the authority of the Director of Prisons,
32 endeavoring so far as possible to mitigate the sufferings of the person under
33 the sentence during the execution of the sentence as well as during the
34 proceedings prior to the execution.
35

36 If the person under sentence so desires, he shall be anesthetized at the
37 moment of the execution.
38

39 The death sentence shall be carried out not later than one (1) year after
40 the judgment has become final.”
41

42 **Section 7.** Article 83 of the same Code is hereby amended to read as follows:
43

44 “Art. 83. Suspension of the execution of the death sentence. – The
45 death sentence shall not be inflicted upon a woman while she is pregnant or
46 within one (1) year after delivery, nor upon any person over seventy years of
47 age. In this last case, the death sentence shall be commuted to the penalty of
48 *reclusion perpetua* with the accessory penalties provided in Article 40.
49

1 In all cases where the death sentence has become final, the records of
2 the case shall be forwarded immediately by the Supreme Court to the Office of
3 the President for possible exercise of the pardoning power.”
4

5 **Section 8.** Republic Act No. 9346 is hereby repealed. All other laws, presidential decrees
6 and issuances, executive orders, rules and regulations or parts thereof inconsistent with the
7 provisions of this Act are hereby repealed or modified accordingly.
8

9 **Section 9.** If, for any reason or reasons, any part of the provision of this Act shall be held
10 to be unconstitutional or invalid, other parts or provisions hereof which are not affected
11 thereby shall continue to be in full force and effect.
12

13 **Section 10.** This Act shall take effect fifteen (15) days after its publication in two (2)
14 national newspapers of general circulation. The publication shall not be later than seven (7)
15 days after the approval hereof.
16

17
18
19 *Approved,*