

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

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S E N A T E

S.B. No. 1868

Introduced by **SENATOR LUISA "LOI" P. EJERCITO ESTRADA**

EXPLANATORY NOTE

The disturbing presence of various criminal street gangs such as *Akyat Bahay*, and *Bukas Kotse* further exacerbates crime situation in the country, which of late has reached an alarming level despite enforcement of supposedly stricter law enforcement measures.

In fact, law enforcement authorities have singled out a number of conspicuous and public places in Metro Manila as hot spots for commission of certain criminal activities by members of these gangs. While crimes perpetuated individually are at all time high, the same could not be effectively abated and deterred if the Philippine National Police and other law enforcement agencies will not succeed in its crackdown of various criminal street gangs. For indeed, most of these individual criminals, though may not be full pledged gang members, are in one way or another connected to many gangs and syndicates.

The purpose of this measure is to address this predicament by deterring and punishing establishment and operation of criminal street gangs, recruitment of individuals to participate therein, and commission of violent gang crimes. Through this, it is hoped that individuals will be prevented from further joining various syndicates and deter gang organizers and leaders to continue their operations.

Hence, immediate passage of this bill is earnestly sought.


LUISA "LOI" P. EJERCITO ESTRADA
Senator

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Introduced by **SENATOR LUISA "LOI" P. EJERCITO ESTRADA**

**AN ACT
DETERRING AND PUNISHING ESTABLISHMENT AND OPERATION OF
CRIMINAL STREET GANGS, RECRUITMENT OF INDIVIDUALS TO
PARTICIPATE THEREIN, COMMISSION OF VIOLENT GANG CRIMES, 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 as the "*Gang Prevention and Effective Deterrence Act of 2004*"

SECTION 2. Definition of Terms. - As used in this Act:

- 1) **CRIMINAL STREET GANG** – The term "criminal street gang" means a formal or informal group, club, organization, or association of 3 or more individuals, who act in concert, or agree to act in concert, with a purpose that any of these persons alone, or in any combination, commit or will commit, 2 or more predicate gang crimes.
- 2) **PREDICATE GANG CRIME.** – The term "predicate gang crime" means any act or threat, or attempted act or threat, which is chargeable under the Revised Penal Code and other special penal laws and punishable by imprisonment for more than 1 year, involving murder, attempted murder, gambling, kidnapping, robbery, extortion, arson, obstruction of justice, tampering with or retaliating against a witness, victim, or informant, burglary, sexual assault, carjacking, or manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemicals, and other similar offenses.

SECTION 3. Recruitment of Persons to Participate in a Criminal Street Gang. –

1) PROHIBITED ACTS – It shall be unlawful for any person to use any facility or cause another to do so, in order to recruit, employ, solicit, induce, command, or cause another person to be or remain as a member of a criminal street gang, or conspire to do so, with the intent that the person being recruited, solicited, induced, commanded, or caused to be or remain a member of such gang participate in an offense described in Section 2 (2).

2) PENALTIES- Any person who violates subsection (a) shall—

(a) be imprisoned for not more than 10 years; and

(b) if the person recruited, solicited, induced, commanded, or caused to participate in a criminal street gang is a minor –

(1) be imprisoned for not less than 3 years and not more than 10 years, fined under this title, or both; and

(2) at the discretion of the sentencing judge, be liable for any costs incurred by the government, or by any local government, for housing, maintaining and treating the person until the person attains the age of 18 years.

3) ILLEGAL PARTICIPATION IN CRIMINAL STREET GANGS- It shall be unlawful--

(a) to participate in a criminal street gang by committing, or conspiring or attempting to commit, 2 or more predicate gang crimes—

(1) in furtherance or in aid of the activities of a criminal street gang; or

(2) for the purpose of gaining entrance to or maintaining or increasing position in such a gang.

(b) to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to commit, cause to commit, or facilitate the commission of, a predicate gang crime—

(1) in furtherance or in aid of the activities of a criminal street gang; or

(2) for the purpose of gaining entrance to or maintaining or increasing position in such a gang.

4) PENALTIES- Any person who violates subsection (c) shall be imprisoned for twenty years, provided that:

(a) a person who violates this Act, 1 of whose predicate gang crimes involves attempted murder or conspiracy to commit murder, shall be imprisoned for not less than 20 years; and

(b) a person who at the time of the offense occupied a position of organizer, leader, supervisor, manager, or other position of management in the criminal street gang involved in such violation, shall be imprisoned for any term of years not less than 30 years or for life.

5) ADDITIONAL PENALTIES- In addition to any other penalty authorized by this section—

(a) a person who violates this Act, I of whose predicate gang crimes involves attempted murder or conspiracy to commit murder, shall be imprisoned for not less than 20 years; and

(b) a person who at the time of the offense occupied a position of organizer, leader, supervisor, manager, or other position of management in the criminal street gang involved in such violation, shall be imprisoned for any term of years not less than 30 years or for life.

6) FORFEITURE- IN GENERAL - A person who violates any provision of this section shall, in addition to any other penalty and irrespective of any provision of law be subject to forfeiture with respect to –

(a) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation; and

- (b) any property, used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the violation.

SECTION 4. Violent Crimes in Furtherance or in Aid of Criminal Street Gangs. - Any person who, in furtherance or in aid of a criminal street gang, murders, kidnaps, sexually assaults, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual, or attempts or conspires to do so, shall be punished, in addition and consecutive to the punishment provided for any other violation of this Act---

- (1) for murder, by death or imprisonment for any term of years or for life;
- (2) for kidnapping or sexual assault, by imprisonment for any term of years or for life;
- (3) for maiming, by imprisonment for any term of years or for life;
- (4) for assault with a dangerous weapon or assault resulting in section bodily injury, by imprisonment for not more than 30 years;
- (5) for attempting or conspiring to commit murder, kidnapping, maiming, or sexual assault, by imprisonment for not more than 30 years; and
- (6) for attempting or conspiring to commit a crime involving assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 20 years.

SECTION 5. Separability Clause. - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provisions not otherwise affected shall remain valid and subsisting.

SECTION 6. Repealing Clause. – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 7. Effectivity Clause. – this Act shall take effect fifteen (15) days after its publication in at least two (2) a newspapers of general circulation.

Approved,