



SENATE

'19 AUG 28 AIO 50

S. No. 977

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Introduced by SENATOR MANUEL LITO M. LAPID

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**AN ACT**  
**AMENDING REPUBLIC ACT NO. 4200, ENTITLED "AN ACT TO PROHIBIT**  
**AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF**  
**THE PRIVACY OF COMMUNICATION AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Section 3, Article III (Bill of Rights) of the 1987 Constitution enshrines the inviolability of the privacy of communication and correspondence, except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law. To safeguard this constitutional right, Republic Act No. 4200 or the "Anti-Wiretapping Law" was enacted. Essentially, it defined wiretapping as an act by "any person, not being authorized by all the parties to any private communication or spoken word, to tap any wire or cable, or by using any other device or arrangement, to secretly overhear, intercept, or record such communication or spoken word by using a device commonly known as a dictaphone or dictagraph or detectaphone or walkie-talkie or tape recorder, or however otherwise described." However, new technologies and means of communication have already emerged since the enactment of the law in 1965. Therefore, it is imperative that RA 4200 be amended and updated in order to expand its scope to cover such new methods of committing wiretapping.

This proposed measure aims to respond to this need of amending and updating the more than fifty-year old Anti-Wiretapping Law by placing in the law

the catch-all, encompassing language of "**WITH THE USE OF ANY ELECTRONIC, MECHANICAL, DIGITAL OR ANALOG PHONE SYSTEM, OR SIMILAR DEVICES**" and "any **ORAL, WIRE, RADIO, DIGITAL OR ELECTRONIC PRIVATE** communication." Thus, any future devices or methods will be covered by the law. This bill also widens the exemptions and instances wherein law enforcement agencies may conduct wiretapping upon lawful order of the court. Once enacted, this amendatory law will certainly contribute in the government's drive to curb criminality and violence in our society.

In view of this, early passage of this bill is sought.



**MANUEL "LITO" M. LAPID**  
*Senator*



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**PRIVACY OF COMMUNICATION AND FOR OTHER PURPOSES**

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

1 Section 1. Section 1 of Republic Act No. 4200 is hereby amended to read as  
2 follows:

3 "Section 1. It shall be unlawful for any person, not being  
4 authorized by all the parties to any **ORAL, WIRE, RADIO,**  
5 **DIGITAL OR ELECTRONIC** private communication [or  
6 spoken word], to tap [any wire or cable, or by using any other  
7 device or arrangement, to secretly overhear,] intercept[,] or  
8 record such communication [or spoken word by using a  
9 device commonly known as a dictaphone or dictagraph or  
10 dictaphone or walkie-talkie or tape recorder, or however  
11 otherwise described:] **WITH THE USE OF ANY**  
12 **ELECTRONIC, MECHANICAL, DIGITAL OR ANALOG**  
13 **PHONE SYSTEM, OR SIMILAR DEVICES.**

14 It shall also be unlawful for any person, be he a  
15 participant or not in the act or acts penalized in the next  
16 preceding sentence, to knowingly possess any tape record,

1 wire record, disc record, or any other such record, or copies  
2 thereof, of any **ORAL, WIRE, RADIO, DIGITAL OR**  
3 **ELECTRONIC PRIVATE** communication [or spoken word]  
4 secured either before or after the effective date of this Act in  
5 the manner prohibited by this law; or to replay the same for  
6 any other person or persons; or to communicate the contents  
7 thereof, either verbally or in writing, or to furnish  
8 transcriptions thereof, whether complete or partial, to any  
9 other person: *Provided*, That the use of such record or any  
10 copies thereof as evidence in any civil, criminal investigation  
11 or trial of offenses mentioned in section 3 hereof, shall not be  
12 covered by this prohibition."

13 Sec. 2. Section 2 of Republic Act No. 4200 is hereby amended to read as  
14 follows:

15 "Section 2. Any person who willfully or knowingly does  
16 or who shall aid, permit, or cause to be done any of the acts  
17 declared to be unlawful in the preceding section or who  
18 violates the provisions of the following section or of any order  
19 issued thereunder, or aids, permits, or causes such violation  
20 shall, upon conviction thereof, be punished by imprisonment  
21 for not less than six months [or more than six years] **TO A**  
22 **MAXIMUM OF SIX (6) YEARS IMPRISONMENT**  
23 **WITHOUT THE BENEFIT OF PROBATION**, and with the  
24 accessory penalty of perpetual absolute disqualification from  
25 public office if the offender be a public official at the time of  
26 the commission of the offense, and, if the offender is an alien  
27 he shall be subject to deportation proceedings **AFTER**  
28 **SERVICE OF SENTENCE.**"  
29  
30  
31

1           Sec. 3. Section 3 of Republic Act No. 4200 is hereby amended to read as  
2 follows:

3           "Section 3. Nothing contained in this Act, however, shall  
4 render it unlawful or punishable for any peace officer[,] **OR**  
5 **LAW ENFORCER** who is authorized by a written order of the  
6 Court, to execute any of the acts declared to be unlawful in  
7 the two preceding sections in cases involving the crimes of  
8 treason, espionage, provoking war and disloyalty in case of  
9 war, piracy, mutiny in the high seas, rebellion, conspiracy and  
10 proposal to commit rebellion, inciting to rebellion, *COUP*  
11 *D'ETAT*, **CONSPIRACY AND PROPOSAL TO COMMIT**  
12 *COUP D'ETAT*, sedition, conspiracy to commit sedition,  
13 inciting to sedition, kidnapping as defined by the Revised  
14 Penal Code, **ROBBERY IN BAND AS DEFINED AND**  
15 **PENALIZED BY ARTICLES 294, 295, 296, 299 AND 302**  
16 **OF THE REVISED PENAL CODE AND PRESIDENTIAL**  
17 **DECREE NO. 532, OTHERWISE KNOWN AS THE "ANTI-**  
18 **PIRACY AND ANTI-HIGHWAY ROBBERY LAW OF**  
19 **1974", VIOLATION OF REPUBLIC ACT NO. 9165,**  
20 **OTHERWISE KNOWN AS THE 'COMPREHENSIVE**  
21 **DANGEROUS DRUGS ACT OF 2002', AS AMENDED,**  
22 **VIOLATION OF REPUBLIC ACT NO. 3019, OR THE**  
23 **'ANTI-GRAFT AND CORRUPT PRACTICES ACT",**  
24 **SYNDICATED ILLEGAL RECRUITMENT AS DEFINED**  
25 **AND PUNISHED UNDER REPUBLIC ACT NO. 8042, OR**  
26 **THE 'MIGRANT WORKERS AND OVERSEAS FILIPINOS**  
27 **ACT OF 1995", AS AMENDED, VIOLATIONS OF**  
28 **REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS**  
29 **THE 'ANTI-MONEY LAUNDERING ACT OF 2001', AS**  
30 **AMENDED,** and violations of Commonwealth Act No. 616,  
31 punishing espionage and other offenses against national

1 security: *Provided*, That such written order shall only be  
2 issued or granted upon written application and the  
3 examination under oath or affirmation of the applicant and  
4 the witnesses he may produce and a showing: (1) that there  
5 are reasonable grounds to believe that any of the crimes  
6 enumerated hereinabove has been committed or is being  
7 committed or is about to be committed: *Provided, however*,  
8 That in cases involving the offenses of rebellion, conspiracy  
9 and proposal to commit rebellion, inciting to rebellion,  
10 sedition, conspiracy to commit sedition, [and] inciting to  
11 sedition, **COUP D'ETAT, CONSPIRACY AND PROPOSAL**  
12 **TO COMMIT COUP D'ETAT**, such authority shall be granted  
13 only upon prior proof that a rebellion, acts of sedition **OR**  
14 **CONSPIRACY AND PROPOSAL TO COMMIT COUP**  
15 **D'ETAT**, as the case may be, have actually been or are being  
16 committed; (2) that there are reasonable grounds to believe  
17 that evidence will be obtained essential to the conviction of  
18 any person for, or to the solution of, or to the prevention of,  
19 any of such crimes; and (3) that there are no other means  
20 readily available for obtaining such evidence."

21 "The order granted or issued shall specify: (1) the  
22 identity of the person or persons whose communications,  
23 conversations, discussions, or spoken words are to be  
24 overheard, intercepted, or recorded and, in the case of  
25 telegraphic or telephonic communications, the telegraph line  
26 or the telephone number involved and its location; (2) the  
27 identity of the peace officer authorized to overhear, intercept,  
28 or record the communications, conversations, discussions, or  
29 spoken words; (3) the offense or offenses committed or  
30 sought to be prevented; and (4) the period of the  
31 authorization. The authorization [shall be effective for the

1 period specified in the order which shall not exceed sixty (60)  
2 days from the date of issuance of the order, unless extended  
3 or renewed by the court upon being satisfied that such  
4 extension or renewal is in the public interest.] **MAY BE**  
5 **EXTENDED OR RENEWED FOR ANOTHER NINETY (90)**  
6 **DAYS FROM THE EXPIRATION OF THE ORIGINAL**  
7 **PERIOD, SUBJECT TO RENEWAL: *PROVIDED*, THAT**  
8 **THE COURT IS SATISFIED THAT SUCH EXTENSION OR**  
9 **RENEWAL IS IN THE PUBLIC INTEREST: *PROVIDED*,**  
10 ***FURTHER*, THAT THE APPLICATION FOR EXTENSION**  
11 **OR RENEWAL IS FILED BY THE ORIGINAL APPLICANT**  
12 **OR IN CASE OF PHYSICAL OR MENTAL DISABILITY OR**  
13 **DEATH, A MEMBER OF THE TEAM NAMED IN THE**  
14 **ORIGINAL ORDER OF THE AUTHORIZATION."**

15 "All recordings made under court authorization shall,  
16 within [forty-eight hours] **TEN (10) DAYS** after the  
17 expiration of the period fixed in the order, be deposited with  
18 the court in a sealed envelope or sealed package, and shall  
19 be accompanied by an affidavit of the peace officer granted  
20 such authority stating the number of recordings made, the  
21 dates and times covered by each recording, the number of  
22 tapes, discs, or records included in the deposit, and certifying  
23 that no duplicates or copies of the whole or any part thereof  
24 have been made, or if made, that all such duplicates or copies  
25 are included in the envelope or package deposited with the  
26 court. **IT SHALL BE UNLAWFUL FOR ANY PERSON,**  
27 **POLICE OR LAW ENFORCEMENT OFFICIAL TO OMIT**  
28 **OR EXCLUDE FROM THE AFFIDAVIT ANY ITEM OR**  
29 **PORTION ABOVEMENTIONED.** The envelope or package  
30 so deposited shall not be opened, or the recordings replayed,  
31 or used in evidence, or their contents revealed, except upon

1 order of the court, which shall not be granted except upon  
2 motion, with due notice and opportunity to be heard to the  
3 person or persons whose conversation or communications  
4 have been recorded."

5 **"ANY RECORDING AUTHORIZED BY WRITTEN**  
6 **ORDER OF THE COURT SHALL NOT BE ADMISSIBLE IN**  
7 **EVIDENCE AGAINST ANY PERSON WHO IS A PARTY**  
8 **TO THE COMMUNICATION, CONVERSATION,**  
9 **DISCUSSION, OR SPOKEN WORD WHICH ARE**  
10 **OVERHEARD, INTERCEPTED, OR RECORDED, IF THE**  
11 **PERSON'S IDENTITY IS NOT SPECIFIED IN SUCH**  
12 **WRITTEN ORDER AS REQUIRED IN THE SECOND**  
13 **PARAGRAPH OF THIS SECTION. THE NAME AND**  
14 **PERSONAL CIRCUMSTANCES OF SUCH PERSON, OR**  
15 **ANY OTHER INFORMATION WHICH TEND TO**  
16 **ESTABLISH THE PERSON'S IDENTITY SHALL NOT BE**  
17 **DISCLOSED TO THE PUBLIC."**

18 **"ANY PERSON, POLICE OR LAW ENFORCEMENT**  
19 **OFFICER WHO VIOLATES ANY OF THE ACTS**  
20 **PRESCRIBED IN THE PRECEDING PARAGRAPHS**  
21 **SHALL SUFFER THE PENALTY OF NOT LESS THAN SIX**  
22 **(6) MONTHS TO SIX (6) YEARS OF IMPRISONMENT."**

23 "The court referred to in this section shall be understood  
24 to mean the [Court of First Instance] **REGIONAL TRIAL**  
25 **COURT** within whose territorial jurisdiction the acts for which  
26 authority is applied for are to be executed."

27  
28 Sec. 4. A new section to be known as Section 3-A shall be inserted to read as  
29 follows:  
30



1 "SEC. 3-A. IT SHALL LIKEWISE BE UNLAWFUL FOR  
2 PUBLIC TELECOMMUNICATION ENTITIES AND OTHER  
3 SIMILAR ENTERPRISES ENGAGED IN THE BUSINESS  
4 OF VOICE AND DATA TRANSMISSION THROUGH  
5 WIRE, RADIO, DIGITAL OR ELECTRONIC MEANS, TO  
6 RETAIN FOR MORE THAN THREE (3) YEAR RECORDS  
7 OF VOICE AND DATA, WHICH ARE NO THE SUBJECT  
8 OF ANY PENDING CASE, INCLUDING INFORMATION  
9 ON THE IDENTITY OF THE PARTIES, ORIGIN,  
10 DESTINATION, DATE, TIME AND DURATION OF THE  
11 COMMUNICATION UNLESS OTHERWISE ORDERED BY  
12 A COURT OF COMPETENT JURISDICTION FOR  
13 PURPOSES ALLOWED UNDER SECTION 3 OF THIS  
14 ACT."

15  
16 "ANY PERSON WHO WILLFULLY OR KNOWINGLY  
17 VIOLATES THE PROHIBITION HEREIN PRESCRIBED  
18 OR WHO AIDS, PERMITS, OR CAUSES SUCH  
19 VIOLATION SHALL, UPON CONVICTION THEREOF, BE  
20 PUNISHED BY IMPRISONMENT OF NOT LESS THAN  
21 SIX (6) YEARS BUT NOT MORE THAN TWELVE (12)  
22 YEARS AND A FINE OF ONE MILLION PESOS  
23 (P1,000,000.00), AND WITH THE ACCESSORY  
24 PENALTY OF PERPETUAL ABSOLUTE  
25 DISQUALIFICATION FROM PUBLIC OFFICE IF THE  
26 OFFENDER IS A PUBLIC OFFICIAL AT THE TIME OF  
27 THE COMMISSION OF THE OFFENSE: *PROVIDED*,  
28 THAT IF THE PERSON WHO COMMITS THE VIOLATION  
29 IS AN ALIEN, THE PERSON SHALL BE SUBJECT TO  
30 DEPORTATION PROCEEDINGS AFTER SERVICE OF  
31 SENTENCE."  
32

1           Sec. 5. *Separability Clause.* - Should any provision of this Act or any  
2 part thereof be declared invalid, the other provisions, insofar as they are  
3 separate from the invalid one, shall remain in full force and effect.

4  
5           Sec. 6. *Repealing Clause.* – All laws, orders, issuances, rules and  
6 regulations or parts thereof inconsistent with this Act are hereby repealed or  
7 modified accordingly.

8  
9           Sec. 7. *Effectivity.* – This Act shall take effect fifteen (15) days after its  
10 publication in the Official Gazette or in a newspaper of general circulation.

11  
12           *Approved,*  
13  
14