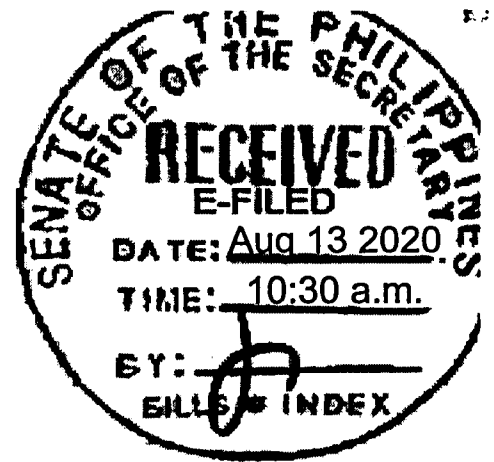


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S.B. No. 1771

Introduced by **Senator Richard J. Gordon**

**AN ACT
MANDATING THE REPORTING OF DEATHS AND ILLNESSES OF
PERSONS DEPRIVED OF LIBERTY AND DETAINED CHILDREN
IN CONFLICT WITH LAW, PENALIZING NON-REPORTING AND
FALSE REPORTING OF DEATHS THEREOF, AND FOR OTHER
PURPOSES**

EXPLANATORY NOTE

Even before the COVID-19 pandemic, an average of 50 to 60 prisoners have died in the New Bilibid Prison (NBP) every month from October 2019 to April 2020.¹ In April, only one death was attributed to COVID. However, on July 18, 2020, a news report² stated that at least nine high-profile inmates of the NBP died due to COVID-19. Among those who have died were Jaybee Nino Sebastian who was convicted for kidnap-for-ransom and carjacking and other high-profile drug lords. Reports³ show that these high-profile inmates died within days from each other and were reported to be caused by COVID-19.

On 20 July 2020 or two (2) days after the reports of the deaths of the high-profile inmates, an online article was published on an international news website detailing the booming macabre trade in the Philippines, and how easy it is to fake death in our country.⁴

The late reporting of these deaths, suspicious circumstances surrounding the deaths and the identity of these high-profile inmates shocked the nation and questions regarding the truthfulness and veracity of these reports regarding the circumstances of the deaths of the inmates have been questioned. The Filipino

¹ <https://pcij.org/article/4032/before-covid-19-philippine-jails-already-a-death-trap>

² <https://newsinfo.inquirer.net/1309104/covid-19-kills-9-high-profile-inmates>

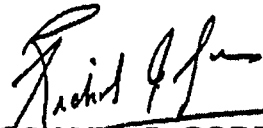
³ <https://www.gmanetwork.com/news/news/nation/748219/dead-drug-convict-tested-negative-for-covid-19-bucor-claims-he-was-also-positive/story/>

⁴ <https://www.telegraph.co.uk/travel/destinations/asia/philippines/articles/philippines-the-global-leader-for-faking-own-death/>

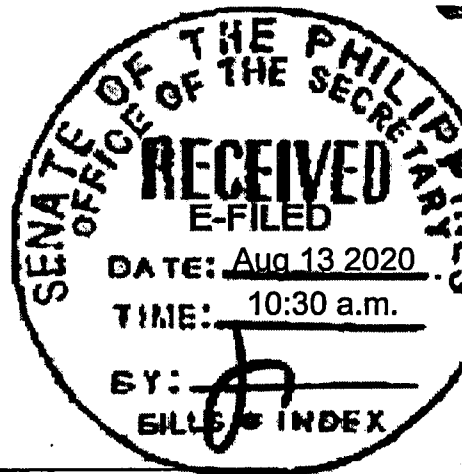
people have the right to know what really happened with these inmates. The people felt cheated. Justice was cheated. We cannot let this happen again.

In light of this recent controversy this bill seeks to address the seemingly lack of laws regarding the reporting of deaths and illnesses of persons deprived of liberty (PDL) and detained children in conflict with the law (CICL). This bill proposes to: (i) have a mandatory reporting of the deaths of PDLs and CICLs to the Supreme Court, Executive Department, and the Commission on Human Rights; (ii) automatic investigation regarding the deaths of PDLs and CICLs who died under suspicious circumstances; (iii) mandatory autopsy of PDLs and CICLs who have been charged or convicted of a heinous crime or crimes punishable by death, reclusion perpetua, or life imprisonment, or one who died unexpectedly or under suspicious circumstances (iv) notification to the families of the PDLs or CICLs who are critically ill or who dies; and (v) provide for witnesses in cases of mandatory cremation of PDLs and CICLs due to public health emergencies.

Thus, this bill is earnestly sought.


RICHARD J. GORDON
Senator

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PURPOSES

*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 “Death in Custody
2 Reporting Act of 2020.”

3 **SEC. 2. Declaration of Policy.** – It is the declared policy of the State to ensure
4 that the execution of sentences is properly and completely served, within the bounds of
5 law. Furthermore, it is in the interest of the State to investigate all suspicious deaths of
6 persons in custody to ensure the proper dispensation of justice. For this purpose,
7 sufficient mechanisms for proper monitoring of deaths in custody shall be in place.

8 **SEC. 3. Definition of Terms.** – As used in this Act:

9 a. Child in conflict with the law (CICL) - refers to a detained child who is,
10 accused of, or adjudged as, having committed an offense under Philippine laws.

11 b. Persons Deprived of Liberty (PDL) - refers to a person who has been
12 arrested, held in lawful custody, detained, or imprisoned awaiting or pending trial
13 or in execution of a lawful sentence.

14 c. Jail - refers to a place of confinement for inmates under investigation or
15 undergoing trial, or serving short-term sentences. Jails include provincial, district,
16 city and municipal jails managed and supervised by the Provincial Government

1 and the Bureau of Jail Management and Penology (BJMP), respectively, which
2 are both under the Department of the Interior and Local Government (DILG).

3 d. Prison - refers to the national prisons or penitentiaries managed and
4 supervised by the Bureau of Corrections (BuCor), an agency under the
5 Department of Justice (DOJ).

6 e. Suspicious circumstances - refers to any circumstance which would lead a
7 reasonable man — based on his skills, experience, and/or understanding of the
8 circumstances — that there is a possibility that the death of a PDL or CICL is
9 fictitious or caused by unlawful means.

10 f. Youth Detention Home - refers to a 24-hour child-caring institution
11 managed by accredited local government units (LGUs) and licensed and/or
12 accredited non-government organizations (NGOs) providing short-term
13 residential care for CICL who are awaiting court disposition of their cases or
14 transfer to other agencies or jurisdictions.

15 g. Youth Rehabilitation Center - refers to a 24-hour residential care facility
16 managed by the Department of Social Welfare and Development (DSWD), LGUs,
17 licensed and/or accredited NGOs monitored by the DSWD, which provides care,
18 treatment and rehabilitation services for CICL. Rehabilitation services are
19 provided under the guidance of a trained staff where residents are cared for
20 under a structured therapeutic environment with the end view of reintegrating
21 them into their families and communities as socially functioning individuals.
22 Physical mobility of residents of said centers may be restricted pending court
23 disposition of the charges against them.

24 **SEC. 4. Reporting of Death Information.** – The BuCor, the BJMP, wardens of the
25 provincial jails and heads of youth detention homes and youth rehabilitation centers
26 shall submit the following:

27 *(a) Report to the Executive.* – A monthly report to the DOJ, DILG, DSWD on the
28 deaths of PDLs or CICLs; *Provided,* That in case the PDL or CICL has been charged or
29 convicted of a heinous crime or crimes punishable by death, reclusion perpetua, or life
30 imprisonment, the BuCor, BJMP, wardens of the provincial jails and heads of youth
31 detention homes and youth rehabilitation centers shall notify the DOJ, DILG and DSWD
32 immediately upon the death of the PDL or CICL, through both modern and traditional
33 communication means and devices.

34 *(b) Report to The Supreme Court.* - A report to the Supreme Court through the
35 Office of the Court Administrator, immediately upon the death of PDLs and CICLs
36 charged or convicted of a heinous crime or crimes punishable by death, reclusion
37 perpetua, or life imprisonment.

1 (c) *Report to Commission on Human Rights.* – The reports required under
2 paragraphs (a) and (b) of this Section shall likewise be submitted to the Commission on
3 Human Rights.

4 **SEC. 5. *Information Required.*** – The reports required under Section 4 shall
5 contain information that includes:

- 6
7 (1) the name, gender, race, ethnicity, and age of the deceased;
8 (2) the date, time, and location of death;
9 (3) the law enforcement agency that detained, arrested, or was in the process of
10 arresting the deceased;
11 (4) a brief description of the circumstances surrounding the death; and
12 (5) other details as may be required by the implementing rules and regulations.

13 **SEC. 6. *Automatic Investigation.*** – The DOJ, through the National Bureau of
14 Investigation (NBI), shall conduct *motu proprio* automatic investigation of PDLs and
15 CICLs who died under suspicious circumstances.

16 Suspicious deaths in custody must be investigated promptly by the DOJ, through
17 the NBI, regardless of whether the relatives of the deceased requested it. The main
18 purpose of the investigation is to clarify the circumstances surrounding the death of
19 the PDLs and CICLs.

20 The investigation must seek, at least, to:

- 21 (1) Obtain and preserve physical and documentary evidence in connection
22 with the death of the PDL and CICL;
23 (2) Identity possible witnesses and record their statements;
24 (3) Identify the deceased;
25 (4) Determine the extent of involvement of all those implicated in the death;
26 (5) Establish the cause, manner, place and time of death, as well as any
27 pattern of practice that may have caused it;
28 (6) Differentiate between natural death, accidental death, suicide, and
29 homicide.

30
31 The scene of death should be regarded as potentially a crime scene, especially if the
32 death was unexpected or under suspicious circumstances.

33
34 The families of the PDL or CICL should be kept abreast of the progress and findings of
35 the investigation.

36
37 The body of the deceased shall be returned to the next of kin in a manner that is fully
38 respectful of the dignity of the deceased, upon completion of all post-mortem
39 examinations essential to the investigation.

1 **SEC. 7. Confirmatory Cause of Death and Autopsy.** – A thorough autopsy, by a
2 representative of the Department of Health (DOH), is mandatory in cases where the
3 deceased PDL or CICL has been charged or convicted of a heinous crime or crimes
4 punishable by death, reclusion perpetua, or life imprisonment, or one who died
5 unexpectedly or under suspicious circumstances.

6 A complete death certificate shall be issued to the next of kin as soon as possible
7 after the death.

8 **SEC. 8. Disposition of Cadaver in times of Public Health Emergency.** — The
9 mandatory cremation of the cadaver of a PDL or CICL when public health requires as
10 determined by the DOH, shall be witnessed by the relatives of the deceased, not
11 exceeding four (4), if any, a representative of the DOH, and, as may be applicable, a
12 representative of the DOJ, DILG, or DSWD; *Provided*, That in case the PDL or CICL has
13 been charged or convicted of a heinous crime or crimes punishable by death, reclusion
14 perpetua, or life imprisonment, the cremation shall also be witnessed members of the
15 media, not exceeding ten (10).

16 **SEC. 9. Notification of Kin of Sick or Dead PDL.** — Whenever a PDL or a CICL is
17 critically ill or dies, the prison medical officer shall report the matter to the
18 Superintendent who in turn shall notify the inmate's family, immediately, by the fastest
19 means of communication available. Failure to comply with the legal duty herein
20 required shall render the Superintendent or such other officer in charge liable to civil
21 damages.

22 **SEC. 10. Violations and Penalties.** – (a) *Non-Reporting.* Any official, head or
23 officer-in-charge of the bureaus, penal institutions, and detention and rehabilitation
24 centers who violates Section 4 of this Act and/or any responsible officer who
25 participated in the commission of the crime or who shall have knowingly permitted the
26 omission shall, upon conviction by final judgment, suffer the penalty of imprisonment of
27 not less than six (6) years but not more than twelve (12) years and a fine of not less
28 than Five Hundred Thousand pesos (P500,000.00) but not more than One Million pesos
29 (P1,000,000.00), at the discretion of the proper court.

30 (b) *False Reporting.* In addition to the penalties prescribed in Articles 223, 224
31 and 225 of the Revised Penal Code, as amended, any person who shall make or cause
32 to be made a false or fictitious report of the death of a living PDL or a CICL with the
33 intent of letting the PDL or CICL escape shall be guilty of false reporting and shall be
34 punished by:

35 (1) Life imprisonment in case the PDL or CICL has been convicted of a
36 heinous crime or is sentenced to life imprisonment, reclusion perpetua, or

1 death and a fine of not less than Two million pesos (P2,000,000.00) but
2 not more than Five million pesos (P5,000,000.00).

3
4 (2) Imprisonment of not less than twelve (12) years but not more than fifteen
5 (15) years in case the PDL or CICL has been convicted of any crime other
6 than those stated in subsection (b)(1) and a fine of not less than One
7 million pesos (P1,000,000.00) but not more than Three million pesos
8 (P3,000,000.00).

9
10 (3) Imprisonment of not less than six (6) years but not more than twelve (12)
11 years in case the PDL or CICL has not yet been convicted by final
12 judgment and a fine of not less than Five hundred thousand pesos
13 (P500,000.00) but not more than One million pesos (P1,000,000.00).

14 Any person who participated in or facilitated the commission of the false
15 reporting or who shall have knowingly permitted the commission thereof shall be liable
16 as principals and shall suffer the penalties imposed in subsection (b) hereof.

17 **SEC. 11. *Implementing Rules and Regulations.*** – Within one hundred twenty
18 days (120) days from the effectivity of this Act, the DOJ and DILG shall jointly
19 promulgate the rules and regulations necessary for the effective implementation of this
20 Act.

21 **SEC 12. *Separability Clause.*** – If any provision of this Act is declared
22 unconstitutional, the same shall not affect the validity and effectivity of the other
23 provisions thereof

24 **SEC 13. *Repealing Clause.*** – All laws, decrees, and orders inconsistent with the
25 provisions of this Act shall be considered amended or modified accordingly.

26 **SEC. 14. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days
27 following its publication in the Official Gazette or in two (2) national newspapers of
28 general circulation.

29 *Approved,*