

JAN 20 2018

SENATE
S. No. 3007

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Introduced by Senator Ramon "Bong" Revilla, Jr.

EXPLANATORY NOTE

The Police Power is one of the fundamental and inherent powers of the State. The police power regulates not only the property but, more importantly, the liberty of private persons, and virtually all the people. The exercise of the police power lies in the discretion of the legislative department. It may be exercised as long as the activity or the property sought to be regulated has some relevance to the public welfare. As laid down in a number of cases, the only limitations in the exercise of the police power is that its exercise is required by the interests of the public generally, as distinguished from those of a particular class and that the means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals.¹

Conversely, Sec. 5 Article II of the 1987 Constitution provides:

“Sec. 5. The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.”

The recent controversy involving the so-called “Alabang Boys” stirred much public attention. Needless to say, the public is once again of the opinion that shows distrust in the current system of administration of justice. However, the “Alabang Boys” scandal is but one of the numerous drug-related cases that to this day remain unsolved, not to mention all those other cases which the government failed to prosecute by reason of mismanagement or the lack or insufficiency of material resources to do so. Allegations of graft and corruption in the conduct of investigations also abound.

As the public’s confidence in the justice system plays a vital role in maintaining a democratic State, it is of paramount importance that drug-related offenses be prosecuted to its conclusion, lest we allow the country to be under the claws of narco-politics. The protection of the general welfare of the people necessitates the prevention and eradication of the proliferation of dangerous drugs which can only be achieved through an effective machinery of prosecuting and bringing to justice these drug-related offenders. However, by reason of the backlog of cases and numerous complaints being filed with prosecutors, there results a delay in the administration of justice. Hence, the need of a specialized prosecuting arm for drug-related offenses.

For the purpose of carrying out its duties and powers, Section 83 of Republic Act 9165, otherwise known as the Dangerous Drugs Act of 2002, gave the Philippine Drug Enforcement Agency (PDEA) legal and prosecution services. Since the prosecution of drug-related offenses is already within the mandate of the PDEA, what is left to be done

¹ Cruz, Constitutional Law (2007), Central Book Supply, Inc.

is to define the scope of its legal and prosecutorial powers, which this bill amending R.A. 9165 intends to do.

Providing for a machinery to quickly dispose of cases involving violations of the R.A. 9165 shall not only result in the immediate prosecution of the said offenses and the unclogging of court dockets but will most definitely redound to the benefit of the general welfare of the people and will restore the public's trust and confidence in our justice system.

By contrast, since Section 16 of the 1987 Constitution also provides that "All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.", any person accused of violating R.A. 9165 shall be benefitted to this end by reason of the speedy administration of justice, thus striking a balance between protection of private rights and those of the general public.

Passage of this bill is therefore earnestly sought.



RAMON "BONG" REVILLA, JR.

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

OFFICE OF THE SECRETARY

9 JUN 20 1 8

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Introduced by Senator Ramon "Bong" Revilla, Jr.

AN ACT EXPANDING THE JURISDICTION OF THE PHILIPPINE DRUG ENFORCEMENT AGENCY, DEFINING THE PROSECUTORIAL POWERS PROVIDED THERETO, AND AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002

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

SECTION 1. Section 82 of R.A. 9165, otherwise known as the Comprehensive Drugs Act of 2002, is hereby amended to read as follows:

Sec. 82. *Creation of the Philippine Drug Enforcement Agency (PDEA).* – To carry out the provisions of this Act, the PDEA, which serves as the implementing arm of the Board, and shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in this Act.

The PDEA shall be headed by a Director General with the rank of Undersecretary, who shall be responsible for the general administration and management of the Agency. The Director General of the PDEA shall be appointed by the President of the Philippines and shall perform such other duties that may be assigned to him/her. He/she must **BE A MEMBER OF THE PHILIPPINE BAR AND MUST HAVE ENGAGED IN THE PRACTICE OF LAW FOR AT LEAST TEN (10) YEARS, AND MUST** possess adequate knowledge, training and experience in the field of dangerous drugs, and in any of the following fields: law enforcement, [law,] medicine, criminology, psychology or social work.

The Director General of the PDEA shall be assisted in the performance of his/her duties and responsibilities by two (2) deputies director general with the rank of Assistant Secretary; one for Operations and the other one for Administration. The two (2) deputies director general shall likewise be appointed by the President of the Philippines upon recommendation of the Board. The two (2) deputies director general shall possess the same qualifications as those of the Director General of the PDEA. The Director General and the two (2) deputies director general shall receive the compensation and salaries as prescribed by law.

A SPECIAL PROSECUTOR'S OFFICE SHALL BE CREATED WHICH SHALL BE UNDER THE CONTROL AND SUPERVISION OF THE PDEA. THE SPECIAL PROSECUTOR'S OFFICE OF THE PDEA SHALL HAVE EXCLUSIVE JURISDICTION OVER CASES INVOLVING VIOLATIONS OF THIS ACT WHICH ARE NON-BAILABLE. FOR THIS PURPOSE, SPECIAL PROSECUTORS SHALL ALSO BE APPOINTED BY THE PRESIDENT OF PHILIPPINES UPON RECOMMENDATION BY THE BOARD. THE SPECIAL PROSECUTORS MUST BE A MEMBER OF THE PHILIPPINE BAR AND MUST HAVE ENGAGED IN THE PRACTICE OF LAW FOR AT LEAST FIVE (5) YEARS.

Sec. 2. Section 84 (h) of R.A. 9165 is also amended to read as follows:

Sec. 84. Powers and Duties of the PDEA. – The PDEA shall:

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(h) Prepare for prosecution or cause the filing of appropriate criminal and civil cases for violation of all laws on dangerous drugs, controlled precursors and essential chemicals, and other similar controlled substances, and assist, support and coordinate with other government agencies for the proper and effective prosecution of the same, **PROVIDED, THAT THE PDEA SPECIAL PROSECUTORS OFFICE SHALL HAVE EXCLUSIVE JURISDICTION TO CONDUCT PRELIMINARY INVESTIGATION AND PROSECUTE VIOLATIONS OF THIS ACT IN CASES INVOLVING OFFENSES WHICH ARE NOT BAILABLE;**

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Sec. 3. Section 90 of R.A. 9165 is likewise amended to read as follows:

Sec. 90. The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.

The DOJ shall designate special prosecutors to exclusively handle cases involving violations of this Act. **IN CASES FALLING WITHIN THE EXCLUSIVE JURISDICTION OF THE PDEA SPECIAL PROSECUTORS, IT SHALL EXERCISE THE SAME POWERS AND FUNCTIONS AS THOSE OR AS MAY HEREINAFTER BE PROVIDED BY LAW, RULES AND REGULATIONS TO PUBLIC PROSECUTORS IN THE CONDUCT OF INVESTIGATIONS AND PROSECUTION OF OFFENSES WHICH ARE NON-BAILABLE.**

The preliminary investigation of cases filed under this Act shall be terminated within a period of thirty (30) days from the date of their filing.

When the preliminary investigation is conducted by a public prosecutor **OVER CASES WITHIN ITS JURISDICTION** and a

probable cause is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. **WHEN THE PRELIMINARY INVESTIGATION IS CONDUCTED BY THE PDEA SPECIAL PROSECUTORS OVER OFFENSES WITHIN THEIR EXCLUSIVE JURISDICTION AND A PROBABLE CAUSE IS ESTABLISHED, IT SHALL FILE AN INFORMATION IN COURT WITHIN THE SAME PERIOD AS PROVIDED FOR PUBLIC PROSECUTORS.** [If the preliminary investigation is conducted by a judge and a probable cause is found to exist, the corresponding information shall be filed by the proper prosecutor within forty-eight (48) hours from the date of receipt of the records of the case.]

MOTIONS FOR RECONSIDERATION OF RESOLUTIONS BY THE PDEA SPECIAL PROSECUTOR SHALL BE WITHIN THE EXCLUSIVE JURISDICTION OF THE DIRECTOR GENERAL OF THE PDEA, WHICH SHALL BE FILED WITHIN A NON-EXTENDIBLE PERIOD OF FIFTEEN (15) DAYS FROM THE RECEIPT OF SUCH RESOLUTION. SUCH MOTION FOR RECONSIDERATION MAY BE ENTERTAINED ONLY ON THE FOLLOWING GROUNDS:

- (A) IF THERE IS *PRIMA FACIE* EVIDENCE OF ABUSE OF DISCRETION ON THE PART OF THE SPECIAL PROSECUTOR;**
- (B) IF THE RESOLUTION WAS RENDERED THROUGH FRAUD OR COERCION, INCLUDING GRAFT AND CORRUPTION;**
- (C) IF MADE PURELY ON QUESTIONS OF LAW;**
- (D) IF SERIOUS ERRORS IN THE FINDINGS OF PROBABLE CAUSE ARE RAISED WHICH WOULD CAUSE GRAVE OR IRREPARABLE DAMAGE OR INJURY TO THE ACCUSED/RESPONDENT.**

THE MOTION FOR RECONSIDERATION SHALL BE RESOLVED BY THE DIRECTOR GENERAL OF PDEA NOT LATER THAN THIRTY (30) DAYS AFTER THE FILING OF THE LAST PLEADING ALLOWED BY LAW OR THE RULES.

MOTIONS FOR RECONSIDERATION FROM THE RESOLUTION OF THE DIRECTOR GENERAL OF THE PDEA MAY LIKEWISE BE FILED WITH THE DOJ SECRETARY WITHIN A NON-EXTENDIBLE PERIOD OF FIFTEEN (15) DAYS, WHICH MUST BE RESOLVED NOT LATER THAN THIRTY (30) DAYS FROM ITS FILING.

Trial of the case under this Section shall be finished by the court not later than sixty (60) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case for resolution.

Sec. 4. Separability Clause. – If for any reason any section or provision of this Act, or any portion thereof, or the application of such section, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Act shall not be affected by such declaration and shall remain in force and effect.

Sec. 5. Repealing Clause. – All laws, decrees, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

Sec. 6. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,