

SENATE

Senate Bill No. 3341  
(In Substitution of Senate Bill No. 112)

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Introduced by **Senator Gregorio B. Honasan II**

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AN ACT  
AUTHORIZING THE WIRETAPPING, INTERCEPTION AND RECORDING OF  
COMMUNICATIONS AND SURVEILLANCE OF PUSHERS, MANUFACTURERS,  
IMPORTERS AND FINANCIERS OF DANGEROUS DRUGS, AMENDING FOR THE  
PURPOSE REPUBLIC ACT NO.9165, AND FOR OTHER PURPOSES

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

1           **SECTION 1.** Republic Act No. 9165, otherwise known as the Comprehensive  
2 Dangerous Drugs Act of 2002, is hereby amended by inserting Sections 26-A to 26-I, as  
3 follows:

4                   **“Sec. 26 - A. Wiretapping, Interception and Recording of**  
5                   **Communications and Surveillance.** – The provisions of Republic Act  
6 No. 4200 (Anti-Wire Tapping Law) to the contrary notwithstanding, the  
7 PDEA Director General, the Chief of the PNP, or the NBI Director may  
8 authorize teams of the PDEA, PNP or NBI operatives respectively,  
9 composed of a leader and members for each team, to submit ex-parte  
10 applications for the issuance of written orders from special divisions of the  
11 Court of Appeals, to wiretap, intercept, listen to and record, with the use of  
12 any mode, form, kind or type of electronic or other equipment or device or  
13 with the use of any other suitable ways and means for that purpose,  
14 communications, messages, conversations, discussions, or spoken or  
15 written words, or to surveil or track, with the use of surveillance  
16 equipment or tracking devices, the movement and activities of any person,  
17 against whom the existence of probable cause is established to have  
18 violated Sec. 4, Sec. 5 or Sec. 8. of this Act.

19                   **Sec. 26 - B. Issuance of Judicial Order.** – The written order of the  
20 authorizing division of the Court of Appeals to wiretap, intercept, listen to  
21 and record communications, messages, conversations, discussions, or  
22 spoken or written words, or to surveil or track the movement or activities of  
23 any person against whom the existence of probable cause is established  
24 to have violated Sec. 4, Sec. 5 or Sec. 8 of this Act shall only be issued  
25 and granted upon ex-parte examination under oath or affirmation of the  
26 applicant and the witnesses he may produce to establish: (a) that there is  
27 probable cause to believe based on personal knowledge of facts or  
28 circumstances that any of the said crimes under Sec. 4, Sec. 5 or Sec. 8

1 of this Act has been committed, or is being committed, or is about to be  
2 committed; (b) that there is probable cause to believe based on personal  
3 knowledge of facts or circumstances that evidence which is essential to  
4 the conviction of the person against whom the existence of probable  
5 cause is established to have violated Sec. 4, Sec. 5 or Sec. 8 of this Act  
6 will be obtained, or that evidence which is essential to the solution or  
7 prevention of any such crimes will be obtained; and, (c) that there are no  
8 other effective means readily available for acquiring such evidence.

9 **Sec. 26 - C. Effective Period of Judicial Authorization.** - Any  
10 Order granted by the authorizing division of the Court of Appeals shall only  
11 be effective for the length of time specified in the written order of the  
12 authorizing division of the Court of Appeals, which shall not exceed a  
13 period of thirty (30) days from the date of receipt of the written order of the  
14 authorizing division of the Court of Appeals by the applicant PDEA, PNP  
15 or NBI official or agent.

16 The authorizing division of the Court of Appeals may extend or  
17 renew the said authorization for another non-extendible period, which shall  
18 not exceed thirty (30) days from the expiration of the original period:  
19 *Provided*, That the authorizing division of the Court of Appeals is satisfied  
20 that such extension or renewal is in the public interest: *Provided, further*,  
21 That the ex parte application for extension or renewal, which must be filed  
22 by the original applicant, has been duly authorized in writing by the PDEA  
23 Director General, the Chief of the PNP, or the NBI Director, as the case  
24 may be.

25 In case of death, physical disability, resignation or cessation from  
26 office of the original applicant to file the application for extension or  
27 renewal, the one next-in-rank to the original applicant among the members  
28 of the team named in the original written order of the authorizing division  
29 of the Court of Appeals shall file the application for extension or renewal:  
30 *Provided*, That the applicant PDEA, PNP or NBI official shall have thirty  
31 (30) days after the termination of the period granted by the authorizing  
32 division of the Court of Appeals as provided in the preceding paragraphs  
33 within which to file the appropriate case before the Public Prosecutor's  
34 Office for any violation of Sec. 4, Sec. 5 or Sec. 8 of this Act.

35 If no case is filed within the thirty (30)-day period, the authorizing  
36 division of the Court of Appeals and the PDEA Director General, the Chief  
37 of the PNP, or the NBI Director, as the case may be shall immediately  
38 notify the against whom the person the written order of wiretapping,  
39 interception, recording, surveillance or tracking was issued of the  
40 termination of the said wiretapping, interception, recording, surveillance or  
41 tracking and deliver to him all the tapes, discs, recordings, notes,  
42 memoranda, summaries, excerpts and all copies thereof made pursuant to  
43 the order of the authorizing division of the Court of Appeals.

44 **Sec. 26 - D. Classification and Contents of the Order of the**  
45 **Court of Appeals.** - The written order granted by the authorizing division  
46 of the Court of Appeals as well as its order, if any, to extend or renew the  
47 same, the original application of the applicant, including his application to  
48 extend or renew, if any, and the written authorizations of the PDEA  
49 Director General, the Chief of the PNP, or the NBI Director shall be  
50 deemed and are hereby declared as classified information. The written  
51 order of the authorizing division of the Court of Appeals shall specify the

1 following: (a) the identity, such as name and address, if known, of the  
2 person whose communications, messages, conversations, discussions, or  
3 spoken or written words are to be wiretapped, intercepted, listened to and  
4 recorded or whose movement and activities are to be surveilled and  
5 tracked and, in the case of radio, electronic, or telephonic (whether  
6 wireless or otherwise) communications, messages, conversations,  
7 discussions, or spoken or written words, the electronic transmission  
8 systems and/or the telephone numbers to be wiretapped, intercepted,  
9 listened to, recorded, surveilled or tracked and their locations; (b) the  
10 identity (name and unit) of the PDEA, PNP or NBI team leader, including  
11 the individual identity (names and unit) of the members of his team,  
12 judicially authorized to wiretap, intercept, listen to, and record the  
13 communications, messages, conversations, discussions, or spoken or  
14 written words and to surveil and track the movement and activities; (c) the  
15 offense or offenses committed, or being committed, or sought to be  
16 prevented; and, (d) the length of time within which the authorization shall  
17 be used or carried out.

18 **Sec. 26 - E. Custody of Intercepted and Recorded**  
19 **Communications.** – All tapes, discs, recordings, notes, memoranda,  
20 summaries, excerpts and all copies thereof made pursuant to the order of  
21 the authorizing division of the Court of Appeals, shall, within forty-eight  
22 (48) hours after the expiration of the period fixed in the written order of the  
23 authorizing division of the Court of Appeals or within forty-eight (48) hours  
24 after the expiration of any extension or renewal granted by the authorizing  
25 division of the Court of Appeals, be deposited with the authorizing Division  
26 of the Court of Appeals in a sealed envelope or sealed package, as the  
27 case may be, and shall be accompanied by a joint affidavit of the applicant  
28 PDEA, PNP or NBI official and the members of his team.

29 In case of death, physical disability, resignation or cessation from  
30 office of the applicant to execute the required affidavit, the one next-in-  
31 rank to the applicant among the members of the team named in the  
32 written order of the authorizing division of the Court of Appeals shall  
33 execute with the members of the team the required joint affidavit.

34 Any public officer who, without authority, removes, conceals, or  
35 destroys any of the above-mentioned tape, disc, recording, note,  
36 memorandum, summary, or excerpts and any copy thereof shall be liable  
37 under Article 226 of the Revised Penal Code.

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39 Any public officer who, without authority, reveals any of the above-  
40 mentioned materials or any information thereon shall be liable under  
41 Article 229 of the Revised Penal Code.

42 **Sec. 26 - F. Contents of Joint Affidavit.** – The joint affidavit of the  
43 PDEA, PNP, or NBI team leader and the individual members of his team  
44 shall identify the following: (a) All tapes, discs, recordings, notes,  
45 memoranda, summaries, excerpts and all copies made in connection  
46 therewith; (b) the dates and times covered by each of such materials; (c)  
47 the number of tapes, discs, recordings, notes, memoranda, summaries,  
48 excerpts and all copies made in connection therewith that have been  
49 included in the deposit; and (d) the date of the original written  
50 authorization granted by the PDEA Director General, the Chief of the PNP,  
51 or the NBI Director to the applicant to file the ex parte application as well

1 as the date of any extension or renewal of the original written authority  
2 granted by the authorizing division of the Court of Appeals.

3 The joint affidavit shall also certify under oath that no duplicates or  
4 copies of the whole or any part of any of such tapes, discs, and  
5 recordings, and that no duplicates or copies of the whole or any part of  
6 any of such notes, memoranda, summaries, and excerpts, have been  
7 made, or, if made, that all such duplicates and copies are included in the  
8 sealed envelope or sealed package, as the case may be, deposited with  
9 the authorizing division of the Court of Appeals.

10 **Sec. 26 - G. Disposition of Deposited Material.** – The sealed  
11 envelope or sealed package and the contents thereof, which are  
12 deposited with the authorizing division of the Court of Appeals, shall be  
13 deemed and are hereby declared classified information, and the sealed  
14 envelope or sealed package shall not be opened and its contents  
15 (including the tapes, discs, and recordings and all the excerpts and  
16 summaries thereof and the notes and memoranda made in connection  
17 therewith) shall not be divulged, revealed, read, replayed, or used as  
18 evidence unless authorized by written order of the authorizing division of  
19 the Court of Appeals, which written order shall be granted only upon a  
20 written application of the Department of Justice or the PDEA Director  
21 General, the Chief of the PNP, or the NBI Director filed before the  
22 authorizing division of the Court of Appeals.

23 **Sec. 26 - H. Evidentiary Value of Deposited Materials.** –  
24 Evidence obtained pursuant to Sections 26-A to 26-G of this Act shall not  
25 be used in the prosecution of any other offense or felony other than to  
26 prosecute violations of Sec. 4, Sec. 5 and/or Sec. 8 of this Act.

27 **Sec. 26 - I. Designation of Special Divisions of the Court of**  
28 **Appeals.** – The Dangerous Drugs Board shall request the Supreme Court  
29 to designate at least one special division of the Court of Appeals each for  
30 Luzon, Visayas, and Mindanao to implement Sections 26-A to 26-H of this  
31 Act.”

32 **Sec. 2. Separability Clause.** - If for any reason any part or provision of this Act  
33 is declared unconstitutional or invalid, the other parts or provisions hereof which are not  
34 affected thereby shall remain and continue to be in full force and effect.

35 **Sec. 3. Repealing Clause.** - All laws, decrees, executive orders, rules or  
36 regulations or parts thereof, inconsistent with the provisions of this Act are hereby  
37 repealed, amended, or modified accordingly.

38 **Sec. 4. Effectivity.** — This Act shall take effect after fifteen (15) days following  
39 its publication in the Official Gazette or in two (2) newspapers of general circulation.

*Approved,*