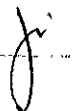


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

SECRET
Office of the Secretary

15 JAN -5 P3 58

SENATE
S. No. 2559

COPIES BY: 

Introduced by Senator Miriam Defensor Santiago

AN ACT
TO ESTABLISH A PRIVACY PROTECTION COMMISSION
EXPLANATORY NOTE

The Constitution, Article 111 provides that:

- Section 3(1). The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.
- (2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

We live in an age of ever-increasing dependence on electronic data storage, communications, and usage. Vast quantities of data are stored electronically and may be instantly transferred electronically from one party to another for business or for other purposes. The nature of such data allows for the increasing possibility that an individual's privacy rights may be violated. Because of the fast pace at which technology is growing, broader societal consequences may not have been reviewed or studied, nor is it clear how the use of such technology will affect existing data systems and their use.

A Privacy Protection Commission should be established to: (1) ensure that privacy rights of Filipino citizens regarding electronic data, and fair information practices and principles are not abused or violated; (2) provide advisory guidance to the public and private sector on matters related to electronic data storage,

communication, and usage; (3) provide the public with a central agency for information and guidance on privacy protection and fair information practices and principles in the public and private sector which includes:

(i) The principle of openness, which provides that the existence of recordkeeping systems and databanks containing information about individuals be publicly known, along with a description of the main purpose and uses of the data;

(ii) The principle of individual participation, which provides that each individual should have the right to see any data about him or herself and to correct any data that is not timely, accurate, or complete;

(iii) The principle of collection limitation, which provides that there should be limits to the collection of personal data, that data should be collected by lawful and fair means, and that data should be collected, where appropriate, with the knowledge and consent of the subject;

(iv) The principle of use limitation, which provides that there are limits to the use of personal data and that data should be used only for purposes specified at the time of collection;

(v) The principle of disclosure limitation, which provides that personal data should not be communicated externally without the consent of the data subject or other legal authority.¹


MIRIAM DEFENSOR SANTIAGO
7p

¹ This bill was originally filed during the Thirteenth Congress, First Regular Session

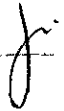
SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

Office of the Secretary

15 JAN -5 P3:58

SENATE
S. No. 2559

RECEIVED BY



Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 TO ESTABLISH A PRIVACY PROTECTION COMMISSION

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

3 SECTION 1. *Short Title.* - This Act shall be known as the "Privacy
4 Protection Act."

5 SECTION 2. *Establishment of a Privacy Protection Commission.* - There is
6 established the Privacy Protection Commission, here called the "Commission."

7 SECTION 3. *Privacy Protection Commission.* -

8 (A) *Membership.* - The Commission shall be composed of five (5) members
9 who shall be appointed by the President, by and with the consent of the Senate,
10 from among members of the public at large who are well qualified for service on
11 the Commission by their knowledge and expertise in:

12 (1) Civil rights and liberties;

13 (2) Law;

14 (3) Social sciences;

15 (4) Computer technology

16 (5) Business; or

1 (6) State and local government.

2 No more than two (2) members of the Commission shall be members of the
3 same political party. One of the members shall be designated Chairperson of the
4 Commission by the President.

5 (B) *Meetings.* - The Chairperson shall preside at all meetings of the
6 Commission, but the Chairperson may designate another member as an acting
7 Chairperson who may preside in the absence of the Chairperson. A quorum for the
8 transaction of business shall consist of at least three (3) members present, except
9 that one member may conduct hearings and take testimony if authorized by the
10 Commission. Each member of the Commission, including the Chairperson, shall
11 have equal responsibility and authority in all decisions and actions of the
12 Commission, shall have full access to all information relating to performance of
13 the duties and responsibilities of the Commission, and shall have one vote. Action
14 of the Commission shall be determined by a majority vote of the members. The
15 Chairperson or acting Chairperson shall see to the faithful execution of the policies
16 and decisions of the Commission and shall report thereon to the Commission from
17 time to time or as far as the Commission may direct.

18 (C) *Terms.* - A member of the Commission shall serve for a term of seven
19 (7) years, except for members first appointed to the Commission:

20 (1) The member designated as Chairperson by the President shall be
21 appointed for a term of seven (7) years;

22 (2) Two (2) members shall be appointed for a term of five (5) years;

23 (3) Two (2) members shall be appointed for a term of three (3) years;

24 and

1 (4) All such terms shall begin on

2 (a) January 1 next following the date of the enactment of this

3 Act; or

4 (b) Such date as designated by the President

5 A member may continue to serve until a successor is confirmed. Members
6 shall be eligible for reappointment for a single additional term.

7 (D) *Vacancies.* - Vacancies in the membership of the Commission shall be
8 filled in the same manner in which the original appointment was made. If there are
9 two (2) or more Commission members in office, vacancies in the membership of
10 the Commission shall not impair the power of the Commission to execute
11 functions and powers of the Commission.

12 (E) *Compensation and Restriction on Other Employment.* - The members of
13 the Commission may not engage in any other employment during their tenure as
14 members of the Commission.

15 (F) *Requests and Recommendations.* - Whenever the Commission submits
16 any budget estimate or request to the President or the Department of Budget and
17 Management, it shall concurrently transmit a copy of that request to Congress.
18 Whenever the Commission submits any legislative recommendation, or testimony,
19 or comments on legislation, to the President or Department of Budget and
20 Management, it shall concurrently transmit a copy of that request to Congress. No
21 officer or government agency shall have any authority to require the Commission
22 to submit its legislative recommendations, or testimony, or comments on
23 legislation, to any officer or government agency for approval, comments, or

1 review, prior to the submission of such recommendations, testimony or comments
2 to Congress.

3 (G) *Seal.* - The Commission shall have an official seal which shall be
4 judicially noted.

5 SECTION 4. *Personnel of the Commission.* -

6 (A) *Executive Director and General Counsel.* - The Commission shall
7 appoint an Executive Director and a General Counsel who shall perform such
8 duties as the Commission may determine. The Executive Director and the General
9 Counsel shall be compensated at a rate to be determined by the President.

10 (B) *Limitation on Employees.* - The Commission is authorized to appoint
11 and fix the compensation of not more than fifty (50) officers and employees, or the
12 full-time equivalent thereof, and to prescribe their functions and duties.

13 (C) *Consultants.* - The Commission may obtain the services of experts and
14 consultants in accordance with law.

15 (D) *Detail of Government Employees.* - Any government employee may be
16 detailed to the Commission without reimbursement, and such detail shall be
17 without interruption or loss of civil service status or privilege.

18 SECTION 5. *Functions of the Commission.* -

19 (A) *In General.* - The Commission shall:

20 (1) Provide leadership and coordination to the efforts of all
21 government departments and agencies to enforce all statutes, Executive
22 Orders, regulation and policies which involve privacy or data protection;

23 (2) Maximize effort, promote efficiency, and eliminate conflict,
24 competition, duplication and inconsistency among the operation, functions

1 and jurisdictions of government departments and agencies responsible for
2 privacy or data protection, data protection right and standards, and fair
3 information practices and principles;

4 (3) Develop model standards, guidelines, regulations, policies and
5 routine uses for and by national and local agencies in implementing the
6 provisions of the Constitution and other laws on privacy;

7 (4) Publish on a regular basis a guide to all laws relating to data
8 protection, for use by record subjects;

9 (5) Publish a compilation of agency system of records notices,
10 including an index and other finding aids;

11 (6) Provide active leadership, guidance, education and appropriate
12 assistance to private sector businesses and organizations, groups,
13 institutions, and individuals regarding privacy, data protection rights and
14 standards, and fair information practices and principles;

15 (7) Develop model privacy, data protection and fair information
16 practices. And principles, standards, guidelines, policies and routine uses of
17 data for use by the private sector; and

18 (8) Upon written request, provide appropriate assistance to the private
19 sector in implementing privacy, data protection and fair information
20 practices, principles, standards, guideline, policies or routine uses of privacy
21 and data protection, and fair information.

22 (B) *Discretionary Functions*. - The Commission may:

23 (1) Issue advisory opinions relating to privacy and data protection
24 practices, principles, standards, guidelines, policies or routine uses of data at

1 the request of a government agency, a data integrity Commission of an
2 agency or business, a court, the Congress, a business or any person;

3 (2) File comments with the Department of Budget and Management
4 and with any agency on any proposal to create or modify system of records;
5 or establish or alter routine uses of such system;

6 (3) Request an agency to stay the establishment or revision of a
7 system of records; a routine use; or an exemption;

8 (4) Review national and local laws, Executive Orders, regulations,
9 directives and judicial decisions and report on the extent to which they are
10 consistent with privacy and data protection rights, and fair information
11 practices and principles;

12 (5) At the request of a national or local agency, a private business, or
13 any person, provide assistance on matters relating to privacy or data
14 protection;

15 (6) Comment on the implication for privacy or data protection of
16 proposed national or local statutes, regulations or procedures;

17 (7) Propose legislation on privacy or data protection;

18 (8) Accept and investigate complaints about violation of privacy or
19 data protection rights, and fair information practices and principles;

20 (9) Participate in any formal or informal administrative proceeding or
21 process where, in the judgment of the Commission, the action being
22 considered would have a material effect on privacy or data protection, either
23 as a result of direct government action or as the result of direct government
24 regulation of others;

1 (10) Petition a government agency to take action on a matter affecting
2 privacy or data protection;

3 (11) Conduct, assist or support research, studies and investigations on
4 the collection, maintenance, use or dissemination of personal information,
5 the implications for privacy and data protection of computer,
6 communications and other technologies, and any other matter relating to
7 privacy or data protection;

8 (12) Assist in the development or implementation of policies designed
9 to provide for the protection of personal information maintained by private
10 sector record keepers;

11 (13) Assist Philippine companies doing business abroad to respond to
12 foreign privacy or data protection laws and agencies;

13 (14) Assist in the coordination of the Philippine privacy and data
14 protection policies with the privacy and data protection policies of foreign
15 countries; and

16 (15) Cooperate and consult with privacy or data protection
17 commissions, boards or agencies of foreign governments.

18 SECTION 6. *Confidentiality of Information.* -

19 (A) *In General.* - Each department, agency and instrumentality of the
20 executive branch of the Government, including each independent agency, shall
21 furnish to the Commission upon request made by the Chairperson, such data,
22 reports and other information as the Commission determines necessary to carry out
23 its functions under this Act.

1 (B) *Confidentiality*. - In carrying out its functions and exercising its powers
2 under this Act, the Commission may accept from any government agency or other
3 person any identifiable personal data if such data is necessary to carry out such
4 powers and functions. In any case in which the Commission accepts any such
5 information, it shall provide all appropriate safeguards to ensure that the
6 confidentiality of such information is maintained and that after completion of the
7 specific purpose for which such information is required, the information is
8 destroyed or returned to the agency or person from which it was obtained.

9 SECTION 7. *Powers of the Commission*. -

10 (A) *In General*. - The Commission may, in carrying out its functions under
11 this Act:

12 (1) Conduct inspections;

13 (2) Sit and act at such times and places;

14 (3) Hold hearings;

15 (4) Take testimony;

16 (5) Require by subpoena the attendance of such witnesses and the
17 production of books, records, papers, correspondence, documents, film and
18 electronic information;

19 (6) Administer such oaths; and

20 (7) Make appropriate and necessary expenditures.

21 (B) *Subpoenas*. - Subpoenas shall be issued only upon an affirmative vote of
22 a majority of all members of the Commission. Subpoenas shall be issued under the
23 signature of the Chairperson or any member of the Commission designated by the

1 Chairperson. Any member of the Commission may administer oaths or
2 affirmations to witness appearing before the Commission.

3 In the case of a disobedience to a subpoena issued under this Act, the
4 Commission may invoke the aid of any Regional Trial Court of the Philippines in
5 requiring compliance with such subpoena. Any Regional Trial Court of the
6 Philippines within the jurisdiction where such person is found or transacts business
7 may, in the case of contumacy or refusal to obey a subpoena issued by the
8 Commission, issue an order requiring such person to appear and testify, and to
9 produce such books, records, papers, correspondence, documents, films and
10 electronic information as may be required. Any failure to obey the order of the
11 court shall be punished by the court as contempt thereof.

12 (C) *Appearances.* - Appearances by the Commission in judicial and
13 administrative proceedings shall be in its own name.

14 (D) *Delegation.* -The Commission may delegate any of its functions to such
15 officers and employees of the Commission as the Commission may designate and
16 may authorize such successive re-delegations of such functions as it may determine
17 desirable.

18 (E) *Administrative Powers.* - In order to carry out provisions of this Act, the
19 Commission may:

20 (1) Enter into contracts or other arrangements with any local
21 government, any agency or department of the government, or with any
22 person, firm, association, or corporation; and

23 (2) Establish advisory committees, in accordance with law.

1 SECTION 8. *Reports and Information.* - In an annual report to the President
2 and Congress, the Commission shall report on its activities in carrying out the
3 provisions of this Act. The Commission shall undertake whatever efforts it may
4 determine to be necessary or appropriate to inform and educate the public of data
5 protection, privacy and fair information rights and responsibilities.

6 SECTION 9. *Appropriations.* To carry out the provisions of this Act, such
7 sum as may be necessary is hereby authorized to be appropriated from the National
8 Treasury. Thereafter, the sum necessary for the continuous operation of the
9 program shall be included in the annual appropriation of the Office of the
10 President.

11 SECTION 10. *Separability Clause.* If any provision or part hereof is held
12 invalid or unconstitutional, the remainder of the law or the provision not otherwise
13 affected shall remain valid and subsisting.

14 SECTION 11. *Repealing Clause.* Any law, presidential decree or issuance,
15 executive order, letter of instruction, administrative order, rule or regulation
16 contrary to, or inconsistent with, the provision of this Act is hereby repealed,
17 modified or amended accordingly.

18 SECTION 12. *Effectivity Clause.* This Act shall take effect fifteen days (15)
19 days after its publication in at least two (2) newspapers of general circulation.

Approved,

/apm12152014