

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



15 NOV -4 P4 :36

SENATE
S. B. No. 3001

RECEIVED BY: J.

Introduced by Senator Miriam Defensor Santiago

AN ACT
ENSURING THE FREE EXERCISE BY THE PEOPLE OF THEIR RIGHT
PEACEABLY TO ASSEMBLE AND PETITION THE GOVERNMENT

EXPLANATORY NOTE

The Constitution, Article 3, Section 4, provides:

No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

Freedom of assembly is one of the cornerstones of democracy and a well-functioning civil society. Together with the rights of expression and association, it is at the heart of classic fundamental rights because they form the basis for people's societal influencing and organization. As such, they have been ensured in the Universal Declaration of Human Rights and in many general or group-related Conventions on human rights.

However, such right, though fundamental and constitutionally protected, is not absolute. Reasonable "time, place and manner" regulations may be necessary to further significant governmental interests. The nature of a place, "the pattern of its normal activities, dictate the kinds of regulations of time, place, and manner that are reasonable." *Cox v. Louisiana*, 379 U.S. 559 (1965); *Adderley v. Florida*, 385 U.S. 39 (1966). For instance, making a speech in a library would certainly infringe upon the convenience and welfare of others, but that same speech should be perfectly appropriate in a park.

Restrictions on the exercise of this right are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. These restrictions may be placed if they are prescribed by law.

In the Philippines, Batas Pambansa Bilang 880 (B.P. Blg. 880) entitled, "An Act Ensuring the Free Exercise by the People of their Right to Peaceably Assemble and Petition the Government and for other purposes" provides the policy framework by which all local ordinances and issuance of permits for assemblies must be guided. The law, however, is deficient in two aspects. First, while it recognizes the right of demonstrators to assemble and petition the government, it does not take into account the protection of the unwilling listener. Second, it does not contain any provisions on "public events" - those amusements, contests, performances and other comparable events that are open to the public, which, though not considered as public assemblies, must still be regulated.

This bill seeks to address the deficiencies of B.P. Blg. 880.

B.P. Blg. 880 leaves residents vulnerable to harassment in the guise of free speech. The U.S. Supreme Court, whose decisions have certainly influenced our own interpretation of constitutional issues, has had the opportunity to address cases where the right to peaceably assemble was weighed against residential privacy. In the case of *Carey v. Brown*, 447 U.S. 455, the Court held that:

The State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society. "Our prior decisions have often remarked on the unique nature of the home, "the last citadel of the tired, the weary, and the sick," *Gregory v. Chicago*, 394 U.S. 111, 125 (1969) (Black, J., concurring), and have recognized that "[p]reserving the sanctity of the home, the one retreat to which men and women can repair to escape from the tribulations of their daily pursuits, is surely an important value."

This bill seeks to address the mass or concerted action that is narrowly directed at

the household, not the public. The type of picketers or rallyists banned by the new section are those who do not seek to disseminate a message to the general public, but to intrude upon the targeted resident, and to do so in an especially offensive way.

The protection of the unwilling listener is an important aspect of residential privacy. The home should offer security from those who seek to enforce their opinions and conduct upon other persons. "That we are often 'captives' outside the sanctuary of the home and subject to objectionable speech ... does not mean we must be captives everywhere." *Rowan v. Post Office Dept.*, 397 U.S. 728, 738 (1970). Instead, a special benefit of the privacy all citizens enjoy within their own walls, which the State may legislate to protect, is an ability to avoid intrusions.

The reason for the second deficiency is that the authors of B.P. Blg. 880 focused on the regulation of public assemblies and, hence, failed to take into consideration other forms of assemblies such as "public events" or amusements, contests, performances and other comparable events not considered public assemblies, which must necessarily be regulated to ensure public order. This bill addresses the problems by incorporating provisions regulating such public events.¹


MIRIAM DEFENSOR SANTIAGO
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¹ This bill was first filed in the Thirteenth Congress, Second Regular Session.

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

CHAPTER 1 - GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the "Public Assembly Code."

SECTION 2. *Declaration of Policy.* - The constitutional right of the people to peaceably assemble and petition the government for redress of grievances is essential and vital to the strength and stability of the State. To this end, the State shall ensure the free exercise of such right without prejudice to the rights of others to life, liberty and equal protection of the law.

SECTION 3. *Definition of Terms.* - For purposes of this Act:

(A) "Public assembly" shall mean any rally, demonstration, march, parade, procession or any other form of mass or concerted action held in a public place for the purpose of presenting a lawful cause; or expressing an opinion to the general public on any particular issue; or protesting or influencing any state of affairs whether political, economic or social; or petitioning the government for redress of grievances.

The processions, rallies, parades, demonstrations, public meetings and assemblages for religious purposes shall be governed by local ordinances: Provided, that

1 the declaration of policy as provided in Section 2 of this Act shall be faithfully observed.

2 The definition shall not include picketing and other concerted action in strike areas
3 by workers and employees resulting from a labor dispute as defined by the Labor Code
4 and by the Batas Pambansa Bilang 227. It shall also not include political meetings or
5 rallies held during any election campaign period as provided in Batas Pambansa Bilang
6 880, Section 4.

7 (B) "Public event" shall be defined as amusements, contests, performances and
8 other comparable events that are open to the public, but not considered to be public
9 assemblies.

10 If participation in an event requires an invitation or membership in a given
11 organization, the provisions of this Act on public events shall apply thereto, unless the
12 event, owing to the number of participants, the type of the event and other specific
13 circumstances, is considered to be of a private nature.

14 The definition shall not include official events arranged by public corporations,
15 nor to the events of religious communities where these are arranged for the purpose of
16 public worship in the community's own premises or in a comparable place.

17 (C) "Public place" shall include any highway, boulevard, avenue, road, street,
18 bridge or other thoroughfare, park, plaza, square, and/or any open space of public
19 ownership where the people are allowed access.

20 (D) "Maximum tolerance" shall mean the highest degree of restraint that the
21 military, police, and other peace-keeping authorities shall observe during a public
22 assembly or in the dispersal of the same.

23 (E) "Modification of permit" shall include the change of the place and time of
24 the public assembly, rerouting of the parade or street march, the volume of loud-speakers
25 or sound system and similar changes.

1 (C) The mayor may undertake the measures referred to in this section without
2 negotiating with the arranger of the public assembly if such arranger cannot be reached.

3 SECTION 7. *Meeting Equipment.* – Banners, insignia, loudspeakers, and other
4 regular meeting equipment may be used, and temporary constructions erected. The
5 arranger shall see to it that no danger and unreasonable inconvenience or damage is
6 thereby caused to the participants, bystanders, or the surrounding area.

7 CHAPTER 3 - PUBLIC EVENTS

8 SECTION 8. *Arrangement of Public Events.* – Any private person with full legal
9 capacity may arrange a public event. A person without full legal capacity may arrange a
10 public event with persons with full legal capacity.

11 SECTION 9. *Consent of the Owner or Holder of the Venue of the Event.* – The
12 arranger of a public event shall obtain the consent of the owner or holder of the venue of
13 the event for it to be used for this purpose. Such owner or holder may also restrict the use
14 of such a place for assembly purposes if it is to be anticipated that the arrangement of the
15 event will cause unreasonable inconvenience to the owner or holder, or unreasonable
16 damage to the surrounding area.

17 SECTION 10. *Prohibition of a Public Event.* – The mayor of the place where the
18 public event is sought to be held may prohibit the arrangement of such event if other
19 measures are not enough and it is evident that:

20 (A) The event is illegal or its arrangement essentially violates this Act or the
21 orders issued by virtue of this Act;

22 (B) Order and security cannot be maintained in the event;

23 (C) The arrangement of the event will endanger health or cause damage to
24 property; or

1 (D) The arrangement of the event will cause significant inconvenience to
2 bystanders and damage to the surrounding area.

3 SECTION 11. *Liability Insurance.* – If the arrangement of the event may
4 cause reasonable damage to persons or property, the mayor may order it to be a
5 prerequisite of the arrangement of the public event that the arranger has adequate
6 insurance to cover any possible liability for damages.

7 CHAPTER 4 - APPLICATION PERMITS

8 SECTION 12. *Permit When Required and When Not Required.* – A written permit
9 shall be required for any person to organize and hold a public assembly or event in a
10 public place.

11 However, no permit shall be required if the public assembly shall be done or made
12 in a freedom park duly established by law or ordinance or in private property, in which
13 case only the consent of the owner or the one entitled to its legal possession is required,
14 or in the campus of a government-owned and operated educational institution which shall
15 be subject to the rules and regulations of said educational institution.

16 SECTION 13. *Prohibition of Focused Public Assembly in Residential Areas.* – No
17 permit shall be granted for public assemblies which shall be held before or about the
18 residence or dwelling of a particular individual

19 SECTION 14. *Application Requirements.* – All applications for permits shall
20 comply with the following guidelines:

21 (A) The applications shall be in writing and shall include the names of the
22 leaders or organizers; the purpose of such public assembly; the date, time and duration
23 thereof, and place or streets to be used for the intended activity; and the probable number
24 of persons participating, the transport and the public access systems to be used.

1 (B) The application shall incorporate the duty and responsibility of applicant
2 under Chapters 2 and 3.

3 (C) The application shall be filed at least five (5) working days before the
4 scheduled public assembly, with the office of the mayor of the city or municipality in
5 whose jurisdiction the intended activity is to be held.

6 (D) Upon receipt of the application, which must be duly acknowledged in
7 writing, the office of the city or municipal mayor shall cause the same to immediately be
8 posted at a conspicuous place in the city or municipal building.

9 SECTION 15. *Action to be Taken on the Application.* –

10 (A) It shall be the duty of the mayor, or any official acting in his behalf, to issue
11 or grant a permit unless there is clear and convincing evidence that the public assembly
12 will create a clear and present danger to public order, public safety, public convenience,
13 public morals or public health.

14 (B) The mayor, or any official acting in his behalf, shall act on the application
15 within two (2) working days from the date the application was filed, failing which, the
16 permit shall be deemed granted. Should for any reason, the mayor, or any official acting
17 in his behalf, refuse to accept the application for a permit, the application shall be
18 posted by the applicant on the premises of the office of the mayor and shall be deemed to
19 have been filed.

20 (C) If the mayor is of the view that there is imminent and grave danger of a
21 substantive evil warranting the denial or modification of the permit, he shall immediately
22 inform the applicant who must be heard on the matter.

23 (D) The action on the permit shall be in writing and served on the application
24 within twenty-four hours.

25 (E) If the mayor, or any official acting in his behalf, denies the application or
26 modifies the terms thereof in his permit, the applicant may contest the decision in an

1 appropriate court of law.

2 (F) If case suit is brought before the Metropolitan Trial Court, the Municipal
3 Trial Court, the Municipal Circuit Trial Court, or the Regional Trial Court, its decisions
4 may be appealed to the appropriate court within forty-eight (48) hours after receipt of the
5 same. No appeal bond and record on appeal shall be required. A decision granting such
6 permit or modifying it in terms satisfactory to the applicant shall be immediately
7 executory.

8 (G) All cases filed in court under this section shall be decided within twenty-
9 four (24) hours from date of filing. They shall be immediately endorsed to the executive
10 judge for disposition or, in his absence, to the next in rank.

11 (H) For all cases, any decision may be appealed to the Supreme Court.
12 Telegraphic appeals to be followed by formal appeals are allowed.

13 SECTION 16. *Use of Public Thoroughfare.* – Should the proposed public
14 assembly involve the use, for an appreciable length of time, of any public highway,
15 boulevard, avenue, road or street, the mayor or any official acting in his behalf may, to
16 prevent grave public inconvenience, designate the route thereof which is convenient to
17 the participants or reroute the vehicular traffic to another direction so that there will be no
18 serious or undue interference with the free flow of commerce and trade.

19 CHAPTER 5 - MAINTENANCE OF ORDER

20 SECTION 17. *Responsibility of the Permit Applicant or Arranger.* – It shall be the
21 duty and responsibility of the permit applicant, arranger or other leaders and organizers of
22 a public assembly or event to take all reasonable measures and steps to the end that the
23 intended public assembly or event shall be conducted peacefully in accordance with the
24 terms of the permit. These shall include but not be limited to the following:

25 (A) To inform the participants of their responsibility under the permit;

1 (B) To police the ranks of the demonstrators in order to prevent non-
2 demonstrators from disrupting the lawful activities of the public assembly;

3 (C) To confer with local government officials concerned and law enforcers to
4 the end that the public assembly or event may be held peacefully;

5 (D) To see to it that the public assembly or event undertaken shall not go
6 beyond the time stated in the permit; and

7 (E) To take positive steps that demonstrators or participants do not molest any
8 person or do any act unduly interfering with the rights of other persons not participating
9 in the public assembly or event.

10 SECTION 18. *Non-interference by Law Enforcement Authorities.* – Law
11 enforcement agencies shall not interfere with the holding of a public assembly. However,
12 to adequately ensure public safety, a law enforcement contingent under the command of a
13 responsible police officer may be detailed and stationed in a place at least one hundred
14 (100) meters away from the area of activity ready to maintain peace and order at all
15 times.

16 SECTION 19. *Police Assistance When Requested.* – It shall be imperative for law
17 enforcement agencies, when their assistance is requested by the leaders or organizers, to
18 perform their duties always mindful that their responsibility to provide proper protection
19 to those exercising their right peaceably to assemble and the freedom of expression is
20 primordial. Towards this end, law enforcement agencies shall observe the following
21 guidelines:

22 (A) Members of the law enforcement contingent who deal with the
23 demonstrators shall be in complete uniform with their nameplates and units to which they
24 belong displayed prominently on the front and dorsal parts of their uniform and must
25 observe the policy of “maximum tolerance”;

1 (B) The members of the law enforcement contingent shall not carry any kind of
2 firearms but may be equipped with baton or riot sticks, shields, crash helmets with visor,
3 gas masks, boots or ankle high shoes with shin guards;

4 (C) Tear gas, smoke grenades, water cannons, or any similar anti-riot device
5 shall not be used unless the public assembly is attended by actual violence or serious
6 threats of violence, or deliberate destruction of property.

7 SECTION 20. *Interruption and Dispersal of Public Assembly with Permit.* – No
8 public assembly with a permit shall be dispersed. However, when an assembly becomes
9 violent, the police may disperse such public assembly as follows:

10 (A) At the first sign of impending violence, the ranking officer of the law
11 enforcement contingent shall call the attention of the permit applicant, arranger leaders
12 and organizers of the public assembly and ask the latter to prevent any possible
13 disturbance. The latter shall interrupt or order it to disperse, if continuing the
14 assembly would cause immediate danger to the safety of the people, property or the
15 surrounding area;

16 (B) If actual violence starts to a point where rocks or other harmful objects
17 from the demonstrators or participants are thrown at the police or at the non-
18 demonstrators or non-participants, or at any property causing damage to such property,
19 the ranking officer of the law enforcement contingent shall audibly warn the participants
20 that if the disturbance persists, the public assembly or event will be dispersed;

21 (C) If the violence or disturbances prevailing as stated in the preceding
22 subparagraph should not stop or abate, the ranking officer of the law enforcement
23 contingent shall audibly issue a warning to the participants of the public assembly or
24 event, and after allowing a reasonable period of time to lapse, shall immediately order it
25 to disperse;

26 (D) No arrest of any permit applicant, arranger, leader, organizer or participant

1 shall also be made during the public assembly unless he violates during the assembly a
2 law, statute, ordinance or any provision of this Act. Such arrest shall be governed by the
3 Penal Code, Article 125.

4 (E) Isolated acts or incidents of disorder or breach of the peace during the
5 public assembly shall not constitute a group for dispersal.

6 SECTION 21. *Prevention, Interruption and Dispersal of a Public Event with a*
7 *Permit.* – Under the circumstances enumerated in Section 10 of the Act, the applicant or
8 arranger of a public event shall cancel or interrupt the event or order it to disperse. Under
9 the same circumstances, the ranking officer of the law enforcement contingent has the
10 right to prevent or interrupt the public event or order it to disperse, if other measures have
11 not proven adequate. The provisions of the preceding section shall also apply to public
12 events.

13 SECTION 22. *Dispersal of Public Assembly or Event without Permit.* – When the
14 public assembly is held without a permit where a permit is required, the said public
15 assembly may be peacefully dispersed.

16 CHAPTER 6 - SANCTIONS

17 SECTION 23. *Prohibited Acts.* – The following shall constitute violations of this
18 Act:

19 (A) The holding of any public assembly as defined in this act by any leader or
20 organizer without having first secured that written permit where a permit is required from
21 the office concerned, or the use of such permit for such purposes in any place other than
22 those set out in said permit; provided, that no person can be punished or held criminally
23 liable for participating in or attending an otherwise peaceful assembly;

24 (B) Arbitrary and unjustified denial or modification of a permit in violation of

1 the provisions of this act by the mayor or any other official acting in his behalf;

2 (C) The unjustified and arbitrary refusal to accept or acknowledge receipt of
3 the application for a permit by the mayor or any official acting in his behalf;

4 (D) Obstructing, impeding, disrupting or otherwise denying the exercise of the
5 right to peaceful assembly;

6 (E) The unnecessary firing of firearms by a member of any law enforcement
7 agency or any person to disperse the public assembly;

8 (F) Acts in violation of Section 20 hereof;

9 (G) The following acts, if committed within one hundred (100) meters from the
10 area of activity of the public assembly or on the occasion thereof:

11 (1) The carrying of a deadly or offensive weapon or device such as
12 firearm, pillbox, bomb, and the like;

13 (2) The carrying of a bladed weapon and the like;

14 (3) The malicious burning of any object in the streets or thoroughfares;

15 (4) The carrying of firearms by members of the law enforcement unit
16 or participants in the public assembly or event;

17 (5) The interfering with or intentionally disturbing the holding of a public
18 assembly by the use of a motor vehicle, its horns and loud sound systems.

19 SECTION 24. *Penalties.* – Any person found guilty and convicted of any of the
20 prohibited acts defined in the immediately preceding section shall be punished as follows:

21 (A) Violation of subparagraph (A) shall be punished by imprisonment of one
22 month and one day to six months;

23 (B) Violations of subparagraphs (B), (C), (D), (E), (F), and item 4, subparagraph
24 (G) shall be punished by imprisonment of six months and one day to six years;

25 (C) Violation of item 1, subparagraph (G) shall be punished by imprisonment
26 of six months and one day to six years without prejudice to prosecution under

1 Presidential Decree No. 1866;

2 (D) Violations of item 2, item 3, or item 5 of subparagraph (G) shall be
3 punished by imprisonment of one day to thirty days.

4 CHAPTER 7- MISCELLANEOUS PROVISIONS

5 SECTION 25. *Freedom Parks.* – Every city and municipality in the country shall
6 within six months after the effectivity of this act establish or designate at least one
7 suitable "freedom park" or mall in their respective jurisdictions which, as far as
8 practicable, shall be centrally located within the poblacion where demonstrations and
9 meetings may be held at any time without the need of any prior permit.

10 In the cities and municipalities of Metropolitan Manila, the respective mayors
11 shall establish the freedom parks within the period of six months from the effectivity of
12 this Act.

13 SECTION 26. *Separability Clause.* – If any provision, or part hereof, is held
14 invalid or unconstitutional, the remainder of the law or the provision not otherwise
15 affected shall remain valid and subsisting.

16 SECTION 27. *Repealing Clause.* – Any law, presidential decree or issuance,
17 executive order, letter of instruction, administrative order, rule or regulation contrary to
18 or inconsistent with the provisions of this act is hereby repealed, modified or amended
19 accordingly.

20 SECTION 28. *Effectivity.* – This act shall take effect fifteen (15) days after its
21 publication in at least two (2) newspapers of general circulation.

Approved,

/at30Oct15