



SENATE
Senate Bill No. **1187**

'19 NOV 25 P3:01

INTRODUCED BY SENATOR LACSON

RECEIVED BY

AN ACT

INSTITUTING ONE PARTY CONSENT, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 4200, OTHERWISE KNOWN AS "AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES" AND REPUBLIC ACT NO. 9372, "OTHERWISE KNOWN AS THE "HUMAN SECURITY ACT OF 2007."

EXPLANATORY NOTE

The provision calling for the inviolability of privacy of communication and correspondence has been in effect since the 1935 Constitution. In the case of *Morfe vs. Mutuc* (G.R. No. 20387, January 31, 1968), the Supreme Court said, "*The right to privacy as such is accorded recognition independently of its identification with liberty; in itself, it is fully deserving of constitutional protection.*"

Adhering to the constitutional mandate of according protection to the right to privacy of communication, Congress in 1965 enacted Republic Act No. 4200 otherwise known as the Anti-Wiretapping Law. Further, when the 1987 Constitution was adopted, the framers took the opportunity to amend the provision on the right to privacy of communication to include the inadmissibility of any evidence obtained in violation thereof.

However, said constitutional provision likewise provide for instances when the privacy of communication and correspondence can be impaired without violating the fundamental law, to wit: upon lawful order of the court or when public safety or order requires otherwise as prescribed by law. Because of the growing threats to public safety and security, Congress has provided for exceptions and allowed the recording and interception of private communications with the limitation that prior judicial authorization is first secured. Although laws such as the Anti-Wiretapping Act and the Human Security

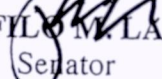
Act of 2009 (RA No. 9372) provide instances allowing law enforcement personnel to intercept and record private communications, the successful prevention, suppression or even early apprehension of said crimes are always at risk considering that judicial authorizations are not granted expeditiously.

To further aid our law enforcement authorities in their obligation to protect the Filipino people, there is a need to provide an alternative option to the rigorous and time consuming process of securing a court order that will still respect and comply with the right to privacy. A review of various legal regimes abroad presents the "One Party Consent" that can be adopted in our jurisdiction in lieu of the stringent "All Party Consent" or the requirement of securing a court order mandated by RA No. 4200 and RA No. 9372.

Consensual monitoring as this term is commonly known in the United States of America is an investigative tool being used to intercept, overhear or record a private conversation by the use of mechanical, electronic or other devices with the consent of at least one, but not all, of the participants. To expound, any law enforcement personnel involved in the investigation of the crimes mentioned in this Act or any consenting person acting under the direction and control of said officer who is a party to a conversation, after securing the requisite written order, may record or intercept a wire, oral or electronic conversation to gather evidence and strengthen an ongoing case build-up.

It should be noted that the exercise thereof will be subject to careful oversight to prevent abuse by members of the law enforcement community in using this investigative technique and to avoid any unwarranted invasion of privacy or perception of impropriety.

Since urgency is paramount when it comes to threats to life and property, support and early passage of the bill is earnestly requested.


PANFILO M. LACSON
Senator



SENATE
Senate Bill No. 1187

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INSTITUTING ONE PARTY CONSENT, AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 4200, OTHERWISE KNOWN AS "AN ACT TO PROHIBIT
AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF
THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES" AND
REPUBLIC ACT NO. 9372, "OTHERWISE KNOWN AS THE "HUMAN
SECURITY ACT OF 2007."

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

1 SECTION 1. *Short Title.* This Act shall be known as the "One Party Consent Act
2 of 2019."

3 SECTION 2. *Single Party Recording by a Law Enforcement Officer.* - The
4 provisions of Republic Act No. 4200 (Anti-Wire Tapping Law) and Republic Act No. 9372
5 (Human Security Act of 2007) to the contrary notwithstanding, it shall be lawful for a law
6 enforcement officer involved in the investigation of the crimes mentioned in Section 3
7 hereof or a person acting under the direction and control of said law enforcement officer,
8 to record or intercept a wire, oral or electronic conversation: *Provided,* That he himself is
9 a party to the conversation or one of the parties to the conversation has given prior consent
10 to such recording and the purpose of such recording is to gather evidence and strengthen
11 the case build up against the malefactors. For purposes of this section, a person is a party
12 to a conversation if the wire, oral or electronic communication is directly conveyed to such
13 person or through telephone or other type of electronic, mechanical or other equipment or
14 device or technology now known or may hereafter be known to science, or is made in the
15 person's immediate presence and is audible to that person regardless of whether the
16 communication is specifically directed to such person.

17 Section 3. *Limitations.* The provisions of this Act shall only apply to cases
18 involving the crimes of treason, rebellion, conspiracy and proposal to commit rebellion,
19 inciting to rebellion, coup d'etat, conspiracy and proposal to commit coup d'etat, sedition,
20 conspiracy to commit sedition, inciting to sedition, kidnapping as defined and penalized by
21 Article 267 of the Revised Penal Code, robbery in band as defined and penalized by articles

1 294, 295, 296, 299 and 302 of the Revised Penal Code, brigandage/highway robbery as
2 defined and penalized by article 306 of the Revised Penal Code and Presidential Decree
3 No. 532, otherwise known as the Anti-Piracy and Anti-Highway Robbery Law of 1974,
4 violations of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous
5 Drugs Act of 2002, violations of Republic Act No. 9160, as amended, otherwise known as
6 the Anti-Money Laundering Act of 2001, violations of Republic Act No. 7080, otherwise
7 known as the Anti-Plunder Law, bribery and corruption of public officials as defined and
8 penalized under Articles 210, 211, 211-A and 212 of the Revised Penal Code, violations
9 of Commonwealth Act No. 616, punishing espionage and other offenses against national
10 security, and violations of Republic Act No. 9372, otherwise known as the Human Security
11 Act of 2007.

12 **SECTION 4. *Request for Authorization.*** - The acts mentioned in Section 2 hereof
13 shall only be allowed if the law enforcement officer and any member/s of his team has been
14 authorized by their respective heads, namely: the Chief PNP in case of the Philippine
15 National Police (PNP), Director-General of the Philippine Drug Enforcement Agency
16 (PDEA), Director of the National Bureau of Investigation (NBI), and Chairman of the Anti-
17 Money Laundering Council (AMLC) or Chairperson of the Anti-Terrorism Council (ATC)
18 in relation to violations of the Republic Act Nos. 9160 and 9372, respectively.

19 **SECTION 5. *Grant of Authorization.*** The written authorization shall be issued
20 upon approval of the request after sufficient proof has been presented to show that (1) that
21 there are reasonable grounds to believe that any of the crimes enumerated in Section 3 has
22 been committed or is being committed or is about to be committed; (2) that there are
23 reasonable grounds to believe that the evidence that will be obtained is essential to the
24 conviction of any person for, or to the solution of, or to the prevention of, any of such
25 crimes; and (3) that there are no other effective means readily available for obtaining such
26 evidence.

27 In addition, the law enforcement officer shall accomplish and complete an
28 Application to Conduct One Party Consent Recording or Intercepting Form that shall
29 provide the following information:

- 30 (a) the reasons for the monitoring;
31 (b) a citation of the principal criminal statute involved;
32 (c) the nature of any danger to the consenting party if there be any;
33 (d) the type of recording or intercepting device to be used;
34 (e) the location where the recording or interception will take place;

- 1 (f) the length of time needed for the recording or interception, but in no event more
2 than 90 days from the day the recording or interception is scheduled to begin;
3 (g) the names of the persons, if known, whose conversation will be recorded or
4 intercepted; and
5 (h) whether the facts of the recording or interception have been discussed with the
6 legal officer of the investigating unit involved, and that said legal officer
7 advised that the consensual recording or interception is appropriate.

8 Requests for renewal of such authorizations must contain all the information
9 required in the original application together with an explanation as to why additional
10 monitoring is needed.

11 **SECTION 6. *Admissibility of Evidence.*** – Any intercepted and/or recorded
12 conversation or any part or parts thereof, or any information or facts contained therein,
13 including their existence, contents, substance, purport, effect or meaning which have been
14 secured in violation of this Act, shall not be admissible and cannot be used as evidence in
15 any judicial, quasi-judicial, legislative or administrative hearing or investigation.

16 **SECTION 7. *Implementing Rules and Regulations.*** – Within ninety (90) days
17 upon the effectivity of this Act, the Secretary of Justice in cooperation with the Secretary
18 of the Interior and Local Government shall promulgate the necessary rules and regulations
19 to effectively implement the provisions of this Act.

20 **SECTION 8. *Repealing Clause.*** – All laws, decrees, executive orders,
21 administrative orders or parts thereof inconsistent with the provisions of this Act is hereby
22 repealed, amended or modified accordingly.

23 **SECTION 9. *Separability Clause.*** If any provision of this Act shall be declared
24 invalid or unconstitutional, the remaining parts or provisions not otherwise affected shall
25 remain in force.

26 **SECTION 10. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after
27 its complete publication in the Official Gazette or in at least two (2) newspapers of general
28 circulation.

29 *Approved,*