

10 11 2017

SENATE

Senate Bill No. 46

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INTRODUCED BY SENATOR VICENTE C. SOTTO III

EXPLANATORY NOTE

The enactment of Republic Act No. 9165, otherwise known as "The Comprehensive Dangerous Drugs Act of 2002" serves to address the country's growing problem on illegal drugs. Many manufacturers, sellers and users of illicit drugs have been arrested and tried under the said law.

However, the arrest and trial of suspected drug traffickers did not fully stop the proliferation of illegal drug distribution in the country because only a few drug traffickers were convicted in courts. Many manufacturers and peddlers of illegal drugs were freed based on technicality for alleged failure of law enforcers to secure the integrity of the seized drugs after a search or buy-bust operation. As a result, many drug traffickers were back in the streets to continue the operation of their illegal drug trade, contributing to more incidents of drug abuse which are strongly connected to the commission of other heinous crimes.

The alleged failure of law enforcers to secure the integrity of the seized illegal drugs is linked closely to a failure to follow the procedure laid down in Section 21 of Republic Act No. 9165 concerning the inventory, custody and control of seized illegal drugs. It is required under Section 21(a) of the said law that inventory and photograph of illegal drugs should be done immediately upon their seizure and confiscation at the place where the search or buy-bust operation was conducted and in the presence of persons who are required to attend in the inventory and photograph of seized illegal drugs.

Numerous drug trafficking activities can be traced from the operations of highly organized and powerful local and international syndicates. The presence of such syndicates that have the resources and capability to mount a counter-assault to apprehending law enforcers makes the requirement of Section 21(a) impracticable for law enforcers to comply with. It makes the place of seizure extremely unsafe for the proper inventory and photograph of seized illegal drugs.

Section 21(a) of Republic Act No. 9165 needs to be amended to address the foregoing situation where the safety of the law enforcers and other persons required to be present in the inventory and photograph of seized illegal drugs and the preservation of the very existence of seized illegal drugs itself are threatened by an immediate retaliatory action of drug syndicates at the place of seizure. The place where the seized drugs may be inventoried and photographed has to include a location where the seized drugs as well as the persons who are required to be present during the inventory and photograph are safe and secured from extreme danger.

It is proposed that the physical inventory and photograph of seized illegal drugs be allowed to be conducted either in the place of seizure or at the nearest police station or office of the apprehending law enforcers. The proposal will provide effective measure to further ensure the integrity of seized illegal drugs since a safe location makes it more probable for an inventory and photograph of seized illegal drugs to be properly conducted, thereby reducing the incidents of dismissal of drug cases due to technicalities.

In view thereof, earnest approval of this bill is requested.


VICENTE C. SOTTO III
Senator

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
FIRST REGULAR SESSION)

OFFICE OF THE SECRETARY

19 01 01 A.M. 2007

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AN ACT AMENDING SECTION 21 OF REPUBLIC ACT No. 9165, OTHERWISE KNOWN AS "THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002".

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

SECTION 1. Section 21 (a) of Republic Act No. 9165, otherwise known as "The Comprehensive Dangerous Drugs Act of 2002," is hereby amended to read as follows:

" SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof; **PROVIDED, THAT THE PHYSICAL INVENTORY AND PHOTOGRAPH SHALL BE CONDUCTED AT THE PLACE WHERE THE ARREST OR SEARCH WAS MADE, OR AT THE NEAREST POLICE STATION OR AT THE NEAREST OFFICE OF THE APPREHENDING OFFICER/TEAM, WHICHEVER IS PRACTICABLE; PROVIDED, FURTHER, THAT NON-COMPLIANCE WITH THESE REQUIREMENTS UNDER JUSTIFIABLE GROUNDS, AS LONG AS THE INTEGRITY AND THE EVIDENTIARY VALUE OF THE SEIZED ITEMS ARE PROPERLY PRESERVED BY THE APPREHENDING OFFICER/TEAM, SHALL NOT RENDER VOID AND INVALID SUCH SEIZURES OF AND CUSTODY OVER SAID ITEMS;**

SECTION 2. Repealing Clause. All laws, executive orders, rules and regulations or any part thereof inconsistent herewith are deemed repealed, modified or amended accordingly.

SECTION 3. Separability Clause. In case any provision of this Act is declared unconstitutional or invalid, the other provisions hereof which are not affected thereby shall continue in full force and effect.

SECTION 4. Effectivity - This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Approved.