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SENATE

Senate Bill No. 495

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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EXPLANATORY NOTE

Quite a number of criminal cases, including those involving grave penal offenses/felonies, have been dismissed, or the accused were unduly acquitted, due to the failure or deliberate refusal of the prosecution witnesses to appear or testify despite due notice.

In order to prevent such miscarriage of justice in dangerous drugs cases, Section 91 of R.A. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," imposes heavy penalty and fine to "any member of law enforcement agencies or any other government official and employee who, after due notice, fails or refuses intentionally or negligently, to appear as a witness for the prosecution in any proceedings, involving violations of this Act..." The same law likewise penalizes with imprisonment and fine, including perpetual disqualification to hold public office, the immediate supervisor of the erring prosecution witness, if despite due notice to them and to the witness concerned, the former does not exert reasonable effort to present the latter to the court.

As explicitly provided in the new Comprehensive Dangerous Drugs Law, the sanctions imposable in said law against defiant prosecution witnesses, can be applied only in dangerous drugs related cases. As such, said punishment cannot be imposed upon erring prosecution witnesses in other criminal cases, regardless of its gravity.

We see no logic nor reason in limiting the protection from miscarriage of justice to dangerous drugs related cases. Proper disposition of other criminal cases deserve the same concern and protection.

In view of the foregoing considerations, early passage of this bill is earnestly sought.

  
JINGGOY EJERCITO ESTRADA  
Senator

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AN ACT  
PENALIZING MEMBERS OF A LAW ENFORCEMENT AGENCY, OTHER  
GOVERNMENT OFFICIALS OR EMPLOYEES WHO FAIL OR REFUSE TO  
TESTIFY AS PROSECUTION WITNESSES IN ANY CRIMINAL  
PROCEEDINGS AND FOR OTHER PURPOSES

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

**SECTION 1. *Failure or Refusal to Testify as Prosecution Witness in Any Criminal Proceedings*** – Any member of a law enforcement agency or any other government official or employee who, after due notice, fails or refuses deliberately or negligently, to appear and testify in any criminal proceedings without justifiable reason, shall be penalized with imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years and a fine of not less than Five Hundred Thousand Pesos (P500,000.00) with perpetual disqualification to hold public office.

**SEC. 2. *Liability of the Immediate Supervisor*** – The immediate supervisor of the erring prosecution witness shall be penalized with imprisonment of not less than two (2) months and one (1) day but not more than six (6) years and a fine of not less than Ten Thousand Pesos (P10,000.00) but not more than Fifty Thousand Pesos (P50,000.00) and in addition, perpetual absolute disqualification to hold office, if despite due notice to them and to the witness concerned, the former did not exert reasonable effort to present the latter to the court, or fails to institute appropriate administrative action against such subordinate for the latter's failure or refusal to testify.

**SEC. 3. *Limitation*** – The foregoing provisions shall not apply to prosecution witnesses who are called to testify for any violations of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" since they are already covered by the said law.

**SEC. 4. *Effectivity***. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

*Approved,*