



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE BILL NO. 08

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HOUSE OF REPRESENTATIVES	
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Introduced by **REPRESENTATIVES RODOLFO C. FARIÑAS,**
PANTALEON D. ALVAREZ, ROLANDO G. ANDAYA, JR.,
MICHAEL JOHN R. DUAVIT, CARLOS O. COJUANGCO, ELISA T. KHO,
RANEO E. ABU, BENHUR L. SALIMBANGON, KARLO ALEXEI B. NOGRALES,
DANILO E. SUAREZ, and RODEL M. BATOCABE

EXPLANATORY NOTE

This bill seeks to institutionalize a system that will strengthen and streamline the criminal investigation process for speedy administration of criminal justice.

This bill was filed by Honorable Niel C. Tupas, Jr. during the Sixteenth Congress and was referred to the Committee on Justice. A similar bill was also filed in the Senate authored by Honorable Aquilino Pimentel III as Senate Bill No. 2670.

In the Philippines, effective prosecution of criminal cases is difficult to obtain because of flawed and misguided preliminary investigations. The outcome of a case depends upon the quality of the evidence presented to the court and the quality of evidence depends upon investigations from its earliest stage. However, the present system of our criminal investigations has proven to be ineffective. Most of the criminal prosecutions fail due to several irregularities in the investigation process such as unreasonable delay on the part of the law enforcers, mishandling, absence or failure to preserve the evidence, unlawful arrests, use of torture to force persons to confess to crimes they did not commit, intimidation and harassment of witnesses, dereliction and other incidents prejudicial to the proper prosecution of the case. Also, under the present system, public prosecutors do not have a role in the investigation process itself. They only rely on the reports and evidence submitted by the investigators. Hence, they lack the capacity to evaluate or validate all facts submitted by the police.

Under this bill criminal investigation process will be streamlined into two simple steps: first, the criminal investigation stage where the police and the investigating prosecutor coordinate closely to gather evidence and build the case, and during the end of which a *prima facie* determination of the propriety of filing an information is made by the investigating prosecutor without need of adversarial proceedings; and second, the preliminary hearing stage where the trial judge evaluates the evidence of all parties and resolves all other pre-trial incidents in one

proceeding until the determination is made using the standard of preponderance of evidence whether a full-blown criminal trial is warranted.

This measure makes the criminal investigations process simple, expeditious and efficient.

In view of the foregoing, approval of this bill is earnestly sought.



PANTALEON D. ALVAREZ

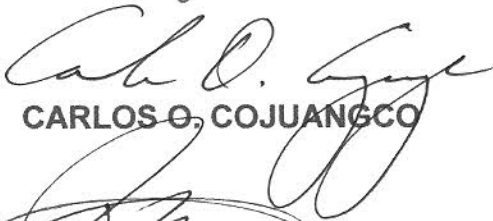


RODOLFO C. FARIÑAS


(HB No. 08)



ROLANDO G. ANDAYA, JR.



CARLOS O. COJUANGCO



RANEO E. ABU



DANILO E. SUAREZ



KARLO ALEXEI B. NOGRALES



MICHAEL JOHN R. DUAVIT



ELISA T. KHO



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Introduced by **REPRESENTATIVES RODOLFO C. FARIÑAS,**
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AN ACT
INSTITUTIONALIZING A CRIMINAL INVESTIGATION SYSTEM, REPEALING
FOR THE PURPOSE REPUBLIC ACT NO. 5180, ENTITLED "AN ACT
PRESCRIBING A UNIFORM SYSTEM OF PRELIMINARY INVESTIGATION BY
PROVINCIAL AND CITY FISCALS AND THEIR ASSISTANTS AND BY STATE
ATTORNEYS OR THEIR ASSISTANTS," AS AMENDED

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

1 SECTION 1. **Short Title.** – This Act shall be known as the "*Criminal*
2 *Investigation Act.*"

3 SEC. 2. **Declaration of Policy.** – It is hereby declared the policy of the State to
4 ensure the speedy, effective, efficient and economical conduct of criminal investigation by
5 enhancing the cooperation and coordination of law enforcements and prosecution
6 agencies, streamlining the process of preliminary investigations and eliminating
7 bureaucratic layers that cause undue delays in the criminal justice process.

8 SEC. 3. **Definition of Terms.** – As used in this Act:

9 a) *Criminal investigation system* refers to the entire process of
10 investigating the commission of a crime and determining whether there is sufficient
11 cause to file a criminal case in court and hold a respondent for trial. It is composed
12 of two (2) stages: the criminal investigation stage and the preliminary hearing stage;

13 b) *Criminal investigation* refers to the fact-finding inquiry conducted by law
14 enforcement officers, under the direction of the investigating prosecutor, where
15 evidence is gathered with a view to determining whether a crime has been
16 committed and whether a criminal information needs to be filed in court;

1 c) *Investigating prosecutor* refers to the Prosecutor General, regional
2 prosecutors, state prosecutors, provincial prosecutors, city prosecutors and their
3 respective deputies and assistants and prosecution attorneys who have the authority
4 to prosecute crimes within their respective jurisdictions. It also refers to the
5 Ombudsman, special prosecutors, their deputies and assistants, graft investigators
6 and prosecution officers, in cases falling under the jurisdiction of the Office of the
7 Ombudsman;

8 d) *Law enforcement officer* refers to agent or personnel of the Philippine
9 National Police, National Bureau of Investigation, Office of the Ombudsman,
10 Philippine Drug Enforcement Agency, Bureau of Immigration, Bureau of Customs,
11 Anti-Money Laundering Council, Securities and Exchange Commission, Bureau of
12 Internal Revenue, Philippine Coast Guard and other agencies which have the legal
13 authority to enforce laws or investigate the commission of crimes.

14 e) *Preliminary hearing* refers to the proceedings conducted before the trial
15 judge after a criminal information has been filed in court, during which the
16 complainant and the respondent present their respective evidence to establish
17 whether the case requires a full-blown criminal trial.

18 f) *Prima facie evidence* refers to evidence which, if unexplained or
19 uncontradicted, is sufficient to sustain the proposition it supports or to establish the
20 facts.

21 g) *Preponderance of evidence* refers to the standard of proof where the
22 evidence of one side is deemed by the court to be more convincing, of more
23 probative weight and more worthy of belief, than that which was offered in opposition
24 to it.

25 h) *Proof beyond reasonable doubt* refers to the standard of proof which
26 produces moral certainty, or that which produces conviction in an unprejudiced mind.

27 i) *Trial judge* refers to the judge in whose court a criminal information is
28 filed after the conclusion of the criminal investigation and who conducts the
29 preliminary hearing and thereafter decides whether the case is to be dismissed or is
30 to proceed in trial.

31 SEC. 4. ***Criminal Investigation System Principles.*** – The criminal
32 investigation system shall be governed by the following principles:

33 a) The criminal investigation system shall be conducted in a speedy,
34 effective, efficient and economical manner, with a view to facilitating the resolution of
35 criminal cases, should they eventually reach the courts, through the systematic and
36 proper gathering of evidence and forensic data, and accurate determination of
37 perpetrators and their respective liabilities.

38 b) The criminal investigation system shall be composed of the criminal
39 investigation stage and preliminary hearing stage. During both stages, the primary
40 aim of the investigating prosecutor and the trial judge is to determine whether there
41 is sufficient evidence establishing the commission of a crime and linking the
42 respondent to its commission, enough to justify the conduct of a full-blown criminal
43 trial.

1 c) All criminal investigations shall be under the direct control and
2 supervision of an investigating prosecutor. Law enforcers shall take guidance from
3 and cooperate closely with the investigating prosecutor in the process of conducting
4 criminal investigations, especially in matters concerning compliance with laws and
5 rules of procedure, evidence-gathering and case-build up and preparation.

6 d) Upon the conclusion of a criminal investigation, the investigating
7 prosecutor shall determine whether there is *prima facie* evidence that a crime has
8 been committed, of which the respondent is probably guilty and should subsequently
9 stand trial. The investigating prosecutor, in making such a determination, shall rely
10 on the substance of the complaint or report and the evidence gathered during the
11 criminal investigation stage. The conduct of a criminal investigation is an executive
12 function, it is neither judicial nor quasi-judicial and is not adversarial in nature.

13 e) Upon the filing of a criminal information, the trial judge to whose court it
14 was raffled shall conduct a preliminary hearing and exert all effort to determine, by
15 preponderance of evidence, whether there is sufficient cause for the respondent to
16 stand trial. All remedies available to either parties at the preliminary hearing stage
17 may be availed of, but the trial judge shall not grant the same in a manner that would
18 result in unnecessary delays.

19 f) All preliminary hearings shall be adversarial in nature, with the trial
20 judge relying on the submissions, arguments and counter-arguments of the
21 complainant and the respondent to arrive at a decision. The trial judge may be
22 allowed to take an active part in the process and direct the course of the preliminary
23 hearing by employing inquisitorial measures such as ordering the oral examination of
24 witnesses or the production of additional evidence, if these help in the weighing of
25 the merits of both parties' evidence.

26 g) Except when there is a clear showing of grave abuse of discretion
27 amounting to lack or excess of jurisdiction, the criminal investigation system, at any
28 stage, shall not be restrained or enjoined by any court.

29 **SEC. 5. *Criminal Investigation Initiation.*** – A criminal investigation may be
30 initiated through the following modes:

31 a) *Upon a report received by a law enforcement agency.* – A law
32 enforcement agency may receive reports of a crime from private individuals and
33 intelligence assets, referrals or recommendations from other government agencies.
34 In such cases, the law enforcement agency shall immediately coordinate with an
35 investigating prosecutor to determine the course of the criminal investigation.

36 b) *Upon the instance of an investigating prosecutor.* – An investigating
37 prosecutor may initiate a criminal investigation when:

38 1. A report or recommendation has been received regarding the
39 commission of a crime.

40 2. The investigating prosecutor initiates an investigation to gather
41 evidence on high incident crimes and other identified priority crimes. In this
42 case, the conduct and direction of the criminal investigation shall be

determined by the investigating prosecutor, with the assistance of law enforcers.

c) *Upon the instance of an aggrieved party who files a criminal complaint.*

– An aggrieved party may formally file a criminal complaint in the prosecution office, accusing another person of committing a crime. In such cases, the conduct and direction of the criminal investigation shall be determined by the investigating prosecutor with the assistance of law enforcers.

SEC. 6. Criminal Investigation Procedure. – a) In cases where no criminal complaint is filed and the criminal investigation commences upon the instance of the law enforcer or the investigating prosecutor, as provided in Section 5 (a) of this Act, the following rules shall apply:

1. All reports of a crime received by a law enforcer shall immediately be communicated to an investigating prosecutor, who shall lead the criminal investigation and direct its course, with the full cooperation and assistance of law enforcers.

2. If a report is received by an investigating prosecutor from any other office or agency or if the investigating prosecutor initiates the investigation to gather evidence on high incident crimes and other identified priority crimes, coordination with the appropriate law enforcement agency shall be immediately established in order to commence the criminal investigation.

b) In cases where a criminal complaint is filed and the criminal investigation commences upon the assistance of a private offended party, as provided in Section 5 (c) of this Act, the following rules apply:

1. The investigating prosecutor, taking cognizance of a criminal complaint, shall ensure that the complaint contains the following:

- i. Statement of facts constituting the crime;
- ii. Allegation of the commission of a crime, with reference to the laws allegedly violated;
- iii. Names of persons being accused and their addresses;
- iv. Affidavits of witnesses;
- v. Supporting documents and other evidence relevant to the crime;
- vi. Signature of the complainant; and
- vii. Complainant's certification of non-forum shopping.

2. The complaint shall be sworn to by the complainant before the investigating prosecutor, who shall certify that the same represents the complainant's voluntary act and was fully understood by the complainant.

3. The investigating prosecutor shall immediately coordinate with the appropriate law enforcement agency to enlist law enforcers who shall participate in the criminal investigation. The investigating prosecutor shall lead the criminal investigation and direct its course with the full cooperation and assistance of the law enforcers.

1 c) The investigating prosecutor, as far as practicable, shall immediately
2 proceed to the scene of the crime in order to supervise the investigation and ensure
3 the compliance of all evidence-gathering techniques with applicable laws and rules,
4 including rules on chain of custody over evidence.

5 d) During the criminal investigation, the investigating prosecutor shall
6 exercise the following powers:

7 1. Initiate, manage and supervise all incidents of the criminal
8 investigation in coordination with law enforcers;

9 2. Perform all acts necessary to ensure the integrity of the criminal
10 investigation process and its compliance with relevant laws and rules;

11 3. Take custody of and preserve all relevant evidence and ensure
12 the integrity of the chain of custody over evidence at all stages of the criminal
13 investigation;

14 4. Supervise intelligence-gathering, surveillance and other
15 methods of investigation in relation to the crime;

16 5. Apply for warrants of arrest, search and seizure and such other
17 processes as may be necessary in the course of the criminal investigation;
18 and

19 6. Direct law enforcers to submit inventories, reports, findings and
20 other documents in connection with the criminal investigation.

21 e) During the criminal investigation, law enforcers shall exercise the
22 following powers:

23 1. Conduct investigation, surveillance, intelligence-gathering,
24 forensic examination and other criminal investigative techniques under the
25 authority of the investigating prosecutor and pursuant to the criminal
26 investigation plan;

27 2. Recommend to the investigating prosecutor the application for
28 warrants of arrest, search and seizure in the course of the criminal
29 investigation;

30 3. Request for guidance and counsel from the investigating
31 prosecutor, especially on points of law and legal procedure;

32 4. Serve warrants of arrest, search and seizure as issued by the
33 proper courts;

34 5. Locate and secure witnesses and procure their sworn
35 statements in connection with the crime being investigated;

36 6. Locate and secure object evidence related to the criminal
37 investigation and turn over the same to the investigating prosecutor consistent
38 with chain of custody rules; and

1 7. Prepare and sign reports, inventories and other papers
2 necessary for the documentation of the criminal investigation. The same shall
3 not be released to any third party except with the written clearance of the
4 investigating prosecutor.

5 f) The investigating prosecutor shall determine whether the criminal
6 investigation should be terminated. Upon its termination, the law enforcers assigned
7 shall submit a case file containing all relevant statements of fact, inventory of
8 evidence, affidavits, background information of persons connected with the criminal
9 investigation and other relevant facts to aid in the investigating prosecutor's
10 determination of a *prima facie* case.

11 g) Within thirty (30) days, the investigating prosecutor shall determine,
12 based on the case file, whether there is a *prima facie* evidence that a crime has been
13 committed, warranting the filing of a criminal information against the person or
14 persons criminally responsible.

15 h) The finding of the investigating prosecutor shall be contained in a
16 criminal investigation report. A criminal investigation report finding the existence of a
17 *prima facie* evidence of a crime shall include a criminal information naming the
18 person or persons to be accused and their respective crimes.

19 i) The criminal investigation report of an investigating prosecutor shall be
20 approved or disapproved by the head of the prosecution office. In case the criminal
21 investigation report is disapproved, the head of the prosecution office may reverse
22 the findings of the investigating prosecutor and (1) proceed to dismiss the case, or
23 (2) direct the filing of the criminal information in court, without need of further
24 reinvestigation. The final decision of approval or disapproval by the head of the
25 prosecution office shall be embodied in a resolution.

26 j) If a criminal investigation results in the dismissal of the case, the
27 aggrieved party may seek reconsideration within five (5) days from the promulgation
28 of the resolution. No further appeals shall be available.

29 k) If a criminal investigation results in the finding of *prima facie* evidence,
30 the criminal information shall be filed in court not later than five (5) days from the
31 promulgation of the resolution.

32 **SEC. 7. Preliminary Hearing; General Rules.** – The following general rules
33 shall apply to all preliminary hearings:

34 a) No motion for reinvestigation shall be entertained at the stage of the
35 preliminary hearing except on the ground of newly-discovered evidence.

36 b) During the preliminary hearing, the trial judge shall have the power to
37 issue compulsory processes, resolve preliminary legal issues that do not prejudice
38 the case and issue hold departure orders, temporary restraining orders, freeze
39 orders and other ancillary remedies.

40 c) The preliminary hearing shall be summary in nature and shall rely
41 primarily on the written submission, argument and counter-argument of the parties,
42 unless the trial judge, upon motion of either party or *motu proprio*, decides to take an

1 active part in the proceedings employ inquisitorial measures such as ordering the
2 oral examination of any of the parties or witnesses, or the production of additional
3 evidence, in order to clarify contentious matters.

4 d) Except for meritorious circumstances, preliminary hearing shall be
5 concluded within a maximum of three (3) trial settings but shall not be longer than
6 fifteen (15) days.

7 **SEC. 8. *Preliminary Hearing Procedure.*** – Upon the filing of the criminal
8 information in the proper court, the following procedure shall apply:

9 a) The criminal information shall be raffled to a trial judge, who shall
10 promptly issue a subpoena to the complainant and the respondent, ordering them to
11 appear in court for the preliminary hearing of the case. The respondent, together
12 with the subpoena, shall be furnished a copy of the criminal information, criminal
13 complaint and its supporting documents in cases where a criminal complaint was
14 filed, the criminal investigation report and the resolution.

15 b) The complainant shall be represented by the investigating prosecutor
16 who shall present the case of the complainant to the trial judge with reference to the
17 criminal complaint and its supporting documents in cases where a criminal complaint
18 was filed, the criminal investigation report, the resolution and such other relevant
19 documents as may assist the trial judge.

20 c) The respondent shall be represented by counsel and given the
21 opportunity to interpose a defense. The respondent shall file a reply which shall
22 contain all the substance of the defense together with the affidavits of witnesses and
23 such other supporting documents as may be necessary to establish the case.

24 d) If a subpoena is returned unserved or if, despite due notice, the
25 respondent fails to appear in court, the trial judge shall issue an order of default and
26 proceed with the preliminary hearing *ex parte*, receiving only the evidence adduced
27 by the prosecution. In *ex parte* preliminary hearing, the trial judge may *motu proprio*
28 order the prosecution to present witnesses for oral examination by the trial judge or
29 produce additional.

30 e) Upon termination of the preliminary hearing, the trial judge shall have
31 five (5) days to determine, using the standard of preponderance of evidence,
32 whether there is sufficient cause for the respondent to stand trial. If no sufficient
33 cause is found, the case shall be dismissed. Otherwise, the trial judge shall order
34 that the case proceed to trial, and issue a warrant of arrest against the respondent, if
35 proper.

36 f) Either party may request reconsideration of the decision of the trial
37 judge within (5) days from its promulgation. No further appeal shall be available.

38 **SEC. 9. *Implementing Rules and Regulations.*** – Within sixty (60) days
39 from the promulgation of this Act, an inter-agency committee composed of a member
40 of the Supreme Court and representatives from the Department of Justice and law
41 enforcement agencies shall issue implementing rules and regulations to govern the
42 implementation of this Act.

1 SEC. 10. ***Separability Clause***. – If any provision of this Act shall be declared
2 unconstitutional, any other provision not affected thereby shall remain in full force
3 and effect.

4
5 SEC. 11. ***Repealing Clause***. – Republic Act No. 5180, Presidential Decree
6 No. 77 and Presidential Decree No. 911 are hereby repealed. All other laws,
7 decrees, orders, rules and regulations or parts thereof inconsistent with this Act are
8 hereby repealed or modified accordingly.

9 SEC. 12. ***Effectivity***. – This Act shall take effect fifteen (15) days after its
10 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved.