

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3256



Introduced by Representative Ferdinand L. Hernandez

AN ACT IMPOSING THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 9346, ENTITLED "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES", AND FURTHER AMENDING ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS "THE REVISED PENAL CODE", AND REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002"

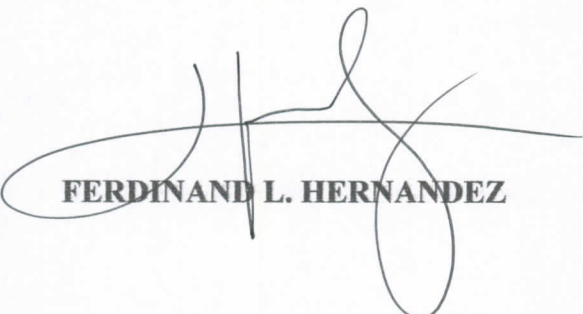
EXPLANATORY NOTE

The rise in criminality in recent years has necessitated the imposition of stricter measures for deterring the commission of crimes. Specifically, the commission of heinous crimes has increased at an alarming rate.

In the previous Congress, there have been initiatives to bring back the imposition of the death penalty to punish heinous crimes. The death penalty should serve as a strong deterrence against the further commission of these crimes, such as murder and rape.

This bill, which was approved on 3rd Reading in the 17th Congress, seeks to re-impose the death penalty on heinous crimes, as well on drug offenses, in order to curb criminality and restore public security.

Considering the rationale stated above, the approval of this Bill is earnestly sought.


FERDINAND L. HERNANDEZ

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

SECTION 1. Short Title. – This Act shall be known as the "Death Penalty Law".

SEC. 2. Declaration of Policy. – It is the declared policy of the State to foster peace and order, and ensure obedience to its authority, to protect life, liberty and property and to promote the general welfare which are essential for the enjoyment by all the people of the blessings of democracy in a just and humane society.

Towards this end, and in the interest of justice, public order and the rule of law, and the need to rationalize and harmonize the penal sanctions, the Congress finds compelling reasons to impose the death penalty on heinous crimes committed by offenders who are a continuous threat to society.

SEC. 3. Imposition of Death Penalty; Heinous Crimes Defined. – The death penalty is hereby imposed on crimes defined under this Act as heinous for being grievous, odious and hateful offenses, which by reason of their inherent or manifest wickedness, viciousness, atrocity and perversity are repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and orderly society.

Accordingly, Act No. 3815, as amended, otherwise known as "The Revised Penal Code", and Republic Act No. 9165, as amended, otherwise known as the "Comprehensive Dangerous

Drugs Act of 2002”, are hereby amended for the purpose of imposing the death penalty on heinous crimes enumerated under this Act.

SEC. 4. Sections 4, 5, 6, 8, 11, 25, 27, and 29 of Republic Act No. 9165, as amended, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002”, are hereby amended to read as follows:

“SEC. 4. Importation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of [life imprisonment] RECLUSION PERPETUA TO DEATH and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall import or bring into the Philippines any dangerous drug, regardless of the quantity and purity involved, including any and all species of opium poppy or any part thereof or substances derived therefrom evenfor floral, decorative and culinary purposes.

“X X X.”

“SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drug and/or Controlled Precursors and Essential Chemicals. – The penalty of [life imprisonment] RECLUSION PERPETUA TO DEATH and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

“X X X.”

“SEC. 6. Maintenance of a Den, Dive or Resort. – The penalty of [life imprisonment] RECLUSION PERPETUA TO DEATH and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive or resort where any dangerous drug is used or sold in any form.

“X X X.”

“SEC. 8. Manufacture of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of [life imprisonment] RECLUSION PERPETUA TO DEATH and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any

person, who, unless authorized by law, shall engage in the manufacture of any dangerous drug.

“X X X.”

“SEC. 11. Possession of Dangerous Drugs. – The penalty of [life imprisonment] RECLUSION PERPETUA and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

“(1) 10 grams or more of opium;

“(2) 10 grams or more of morphine;

“(3) 10 grams or more of heroin;

“(4) 10 grams or more of cocaine or cocaine hydrochloride;

“(5) 50 grams or more of methamphetamine hydrochloride or ‘shabu’;

“(6) 10 grams or more of marijuana resin or marijuana resin oil;

“(7) 500 grams or more of marijuana; and

“(8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine

(MDMA) or ‘ecstasy’, paramethoxyamphetamine (PMA),

trimethoxyamphetamine (TMA), lysergic acid diethylamine

(LSD), gamma hydroxybutyrate (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93,

Article XI of this Act.

“Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

“(1) [Life imprisonment] RECLUSION PERPETUA and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or ‘shabu’ is ten (10) grams or more but less than fifty (50) grams;

“X X X.”

“SEC. 25. Qualifying Aggravating Circumstances in the Commission of a Crime by an Offender Under the Influence of Dangerous Drugs. – Notwithstanding the provisions of any law to the contrary, a positive finding for the use of dangerous drugs shall

be a qualifying aggravating circumstance in the commission of a crime by an offender, and the application of the penalty provided for in the Revised Penal Code shall be applicable.

“IF THE CRIME COMMITTED BY SUCH PERSON UNDER THE INFLUENCE OF DANGEROUS DRUGS IS PUNISHABLE BY RECLUSION TEMPORAL OR HIGHER, THE PENALTY TO BE IMPOSED SHALL BE RECLUSION PERPETUA TO DEATH:

“PROVIDED, THAT THE LABORATORY EXAMINATION OR DRUG TEST IS STRICTLY CONDUCTED PURSUANT TO ARTICLE III OF THIS ACT:

“PROVIDED, FURTHER, THAT THE COMPLAINT OR INFORMATION SHALL ALLEGE WITH PARTICULARITY THAT THE ACCUSED WAS UNDER THE INFLUENCE OF DANGEROUS DRUGS AT THE TIME OF THE COMMISSION OF THE OFFENSE:

“PROVIDED, FINALLY, THAT ONCE A COMPLAINT OR INFORMATION HAS BEEN FILED, NO AMENDMENT TO INCLUDE THE ALLEGATION THAT THE ACCUSED WAS UNDER THE INFLUENCE OF DANGEROUS DRUGS AT THE TIME OF THE COMMISSION OF THE OFFENSE SHALL BE ALLOWED.”

“SEC. 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed. – The penalty of [life imprisonment] RECLUSION PERPETUA TO DEATH and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.

“Any elective local or national official found to have benefited

from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or -controlled corporations.”

“SEC. 29. Criminal Liability for Planting of Evidence. – Any person who is found guilty of ‘planting’ any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of [life imprisonment] RECLUSION PERPETUA TO DEATH.”

SEC. 5. Article 47 of the Revised Penal Code, as amended, is further amended to read as follows:

“ART. 47. IN WHAT CASES THE DEATH PENALTY SHALL NOT BE IMPOSED; AUTOMATIC REVIEW OF THE DEATH PENALTY CASES. – THE DEATH PENALTY SHALL NOT BE IMPOSED WHEN THE GUILTY PERSON IS BELOW EIGHTEEN (18) YEARS OF AGE AT THE TIME OF THE COMMISSION OF THE CRIME OR IS MORE THAN SEVENTY (70) YEARS OF AGE OR UPON THE AUTOMATIC REVIEW OF THE CASE BY THE COURT OF APPEALS OR, WHERE APPLICABLE, BY THE SUPREME COURT EN BANC, THE REQUIRED MAJORITY VOTE IS NOT OBTAINED FOR THE IMPOSITION OF THE DEATH PENALTY.

“IN ALL CASES WHERE THE DEATH PENALTY IS IMPOSED, THE RECORDS SHALL BE FORWARDED BY THE TRIAL COURT TO THE COURT OF APPEALS OR THE SUPREME COURT EN BANC, WITHIN TWENTY (20) DAYS BUT NOT EARLIER THAN FIFTEEN (15) DAYS AFTER PROMULGATION OF THE JUDGMENT OR NOTICE OF DENIAL OF ANY MOTION FOR NEW TRIAL OR RECONSIDERATION. THE TRANSCRIPT SHALL ALSO BE FORWARDED WITHIN TEN (10) DAYS FROM THE FILING THEREOF BY THE STENOGRAPHIC REPORTER. NO NOTICE OF APPEAL SHALL BE REQUIRED FOR THE PERFECTION OF AN AUTOMATIC APPEAL.”

SEC. 6. Article 81 of the Revised Penal Code, as amended, is hereby further amended to read as follows:

"ART. 81. WHEN AND HOW THE DEATH PENALTY IS TO BE EXECUTED. – THE DEATH SENTENCE SHALL BE EXECUTED WITH PREFERENCE TO ANY OTHER AND SHALL CONSIST IN PUTTING THE PERSON UNDER SENTENCE TO DEATH BY ANY OF THE FOLLOWING METHODS:

"(A) HANGING;

"(B) FIRING SQUAD; OR

"(C) LETHAL INJECTION.

"THE DEATH SENTENCE SHALL BE EXECUTED UNDER THE AUTHORITY OF THE DIRECTOR OF THE BUREAU OF CORRECTIONS WHO SHALL TAKE STEPS TO ENSURE THAT THE EXECUTION UNDER ANY OF THE ABOVE METHODS IS SUFFICIENT TO CAUSE THE INSTANTANEOUS DEATH OF THE CONVICT.

"PURSUANT TO THIS, ALL PERSONNEL INVOLVED IN THE HANGING, FIRING SQUAD AND IN THE ADMINISTRATION OF THE LETHAL INJECTION SHALL BE TRAINED PRIOR TO THE PERFORMANCE OF SUCH TASK.

"THE AUTHORIZED PHYSICIAN OF THE BUREAU OF CORRECTIONS, AFTER THOROUGH EXAMINATION, SHALL OFFICIALLY MAKE A PRONOUNCEMENT OF THE CONVICT'S DEATH AND SHALL CERTIFY THERETO IN THE RECORDS OF THE BUREAU OF CORRECTIONS.

"THE DEATH SENTENCE SHALL BE CARRIED OUT NOT EARLIER THAN ONE (1) YEAR NOR LATER THAN EIGHTEEN (18) MONTHS AFTER THE JUDGMENT HAS BECOME FINAL AND EXECUTORY, WITHOUT PREJUDICE TO THE EXERCISE BY THE PRESIDENT OF EXECUTIVE CLEMENCY POWERS AT ALL TIMES."

SEC. 7. Duty of Prosecutor When Filing Information Involving Heinous Offenses. –

Upon the filing of an information involving any offense punishable by death, the public prosecutor shall furnish copies of said information to the Commission on Human Rights, which is mandated to give notice to interested parties including, but not limited to, the Integrated Bar of the Philippines and religious or civic organizations.

SEC. 8. Creation of Special Panel of Senior Government Lawyers for Cases on Appeal Where the Death Penalty is Imposed. – After a judgment of conviction by a Regional Trial Court sentencing the accused to the penalty of death had been rendered, the Chief Public Attorney shall convene a special panel composed of senior Public Attorneys to handle the

automatic appeal or to assist the accused in death penalty cases, without prejudice to the exercise by the Office of the Solicitor General of its mandate as the People's Tribune to avoid a miscarriage of justice.

The Solicitor General or the Chief Public Attorney may recommend to the Office of the President the reprieve or the suspension of the execution of the death sentence.

SEC. 9. Implementing Rules and Regulations. – Within thirty (30) days from the approval of this Act, the Secretary of Justice shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 10. Separability Clause. – If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 11. Repealing Clause. – Republic Act No. 9346, entitled “An Act Prohibiting the Imposition of the Death Penalty in the Philippines” is hereby repealed. Act No. 3815 and Republic Act No. 9165 are hereby amended accordingly. All other laws, rules, regulations, orders, circulars and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 12. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,