

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3627



Introduced by Representatives Enrico A. Pineda
and Michael Odylon L. Romero, Ph.D.

EXPLANATORY NOTE


The advent of the Hello Garci controversy did not only expose the propensity of the people in power to perpetuate themselves in office through election rigging, but more importantly, it exposed the reality that our lines of communication are never secured from the prying eyes or ears of certain personalities whose motives, though doubtful, are certainly evil.

We can never live in a society of limited freedom where we are always mindful that what we say or do are being watched. Privacy is a guaranteed right and our laws should be designed to facilitate if not protect the same. But it must be done in harmony with the need to secure public order and the safety of the general public. In this light, this bill proposes to increase the penalties for acts violating one's privacy and likewise, widens the scope of criminal acts where wiretapping may be allowed so as a much secure and safe society may be guaranteed.

This measure also proposes to update the description of wiretapping equipment which was limited then to an era more than fifty years ago. Moreso, this proposal recognizes that these monitoring and recording technologies are readily available to public telecommunication entities, thus, this measure looks to prohibit them from keeping records of voice and data communications passing through their system thereby making said act criminal.

Early passage of this bill is earnestly sought.


ENRICO A. PINEDA


MICHAEL ODYLON L. ROMERO, PH.D.

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **3627**

Introduced by Representatives Enrico A. Pineda
and Michael Odylon L. Romero, Ph.D.

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

AN ACT
AMENDING 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

Sec. 1. Section 1 of Republic Act No. 4200 otherwise known as An Act to prohibit and Penalize Wire Tapping and Other Related Violations of the Privacy of Communication is hereby amended to read as follows;

"Section 1. It shall be unlawful for any person, not being authorized by all the parties to any [private communication or spoken word, to tap any wire or cable, or by using any other device or arrangement, to secretly overhear, intercept, or record such communication or spoken word by using a device commonly known as a dictaphone or dictagraph or dictaphone or walkie-talkie or tape recorder, or however otherwise described] **ORAL, WIRE, RADIO, DIGITAL OR ELECTRONIC PRIVATE COMMUNICATION, TO TAP, INTERCEPT OR RECORD SUCH COMMUNICATION WITH THE USE OF ANY ELECTRONIC, MECHANICAL OR OTHER SIMILAR DEVICE.**

It shall also be unlawful for any person, be he a participant or not in the act or acts penalized in the next preceding sentence, to knowingly possess any tape record, wire record, disc record, or any other such record, or copies thereof, of any [communication or spoken word] **ORAL, WIRE, RADIO, DIGITAL OR ELECTRONIC PRIVATE COMMUNICATION** secured either before or after the effective date of this Act in the manner prohibited by this law; or to replay the same for any other person or persons; or to communicate the contents thereof, either verbally or in writing, or to furnish transcriptions thereof, whether complete or partial, to any other person: *Provided, That the use of such record or any copies thereof as evidence in any civil, criminal investigation or trial of offenses mentioned in section 3 hereof, shall not be covered by this prohibition.*"

Sec. 2. Section 2 of the same Act is hereby amended to read as follows;

"Section 2. Any person who willfully or knowingly does or who shall aid, permit, or cause to be done any of the acts declared to be unlawful in the preceding section or who violates the provisions of the following section or of any order issued thereunder, or aids, permits, or causes such violation shall, upon conviction thereof, be punished by imprisonment for not less [than six months or more than six years] **SIX YEARS OR MORE THAN TWELVE YEARS AND A FINE OF ONE MILLION PESOS (P1,000,000.00)**, and with the accessory penalty of perpetual absolute disqualification from public office if the offender be a public official at the time of the commission of the offense, and, if the offender is an alien he shall be subject to deportation proceedings **AFTER SERVICE OF SENTENCE.**"

Sec. 3. Section 3 of the same Act is hereby amended to read as follows;

"Section 3. Nothing contained in this Act, however, shall render it unlawful or punishable for any peace officer, who is authorized by a written order of the Court, to execute any of the acts declared to be unlawful in the two preceding sections in cases involving the crimes of treason, espionage, provoking war and disloyalty in case of war, piracy, mutiny in the high seas, rebellion, conspiracy and proposal to commit rebellion, inciting to rebellion, sedition, conspiracy to commit sedition, inciting to sedition, kidnapping as defined by the Revised Penal Code, [and] violations of Commonwealth Act No. 616, punishing espionage and other offenses against national security, **DRUG TRAFFICKING AS PENALIZED UNDER REPUBLIC ACT NO. 9165, HUMAN TRAFFICKING AS DEFINED UNDER REPUBLIC ACT NO. 9208, ILLEGAL RECRUITMENT AS DEFINED UNDER**, : *Provided*, That such written order shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and a showing: (1) that there are reasonable grounds to believe that any of the crimes enumerated hereinabove has been committed or is being committed or is about to be committed: *Provided, however*, That in cases involving the offenses of rebellion, conspiracy and proposal to commit rebellion, inciting to rebellion, sedition, conspiracy to commit sedition, [and] inciting to sedition, **DRUG TRAFFICKING, HUMAN TRAFFICKING AND ILLEGAL RECRUITMENT**, such authority shall be granted only upon prior proof that a rebellion or acts of sedition, as the case may be, have actually been or are being committed; (2) that there are reasonable grounds to believe that evidence will be obtained essential to the conviction of any person for, or to the solution of, or to the prevention of, any of such crimes; and (3) that there are no other means readily available for obtaining such evidence."

Sec. 4. A new section to be known as Section 3A shall be inserted to read as follows;

"SECTION 3A. IT SHALL LIKEWISE BE UNLAWFUL FOR PUBLIC TELECOMMUNICATION ENTITIES AND OTHER SIMILAR ENTERPRISES ENGAGED IN THE

BUSINESS OF VOICE AND DATA TRANSMISSION THROUGH WIRE, RADIO, DIGITAL OR ELECTRONIC MEANS, TO RETAIN RECORDS OF VOICE AND DATA PASSING THROUGH THEIR SYSTEM INCLUDING INFORMATION ON THE IDENTITY OF THE PARTIES, ORIGIN, DESTINATION, DATE, TIME AND DURATION OF THE COMMUNICATION UNLESS OTHERWISE ORDERED BY A COURT OF COMPETENT JURISDICTION FOR PURPOSES ALLOWED UNDER SECTION 3 OF THIS ACT. VIOLATION OF THIS PROVISION SHALL CAUSE FOR THE PROSECUTION OF THE OFFICERS AND PERSONNEL RESPONSIBLE FOR THE SAME."

Sec. 5. *Separability Clause.* – Should any provision of this Act or any part thereof be declared invalid, the other provisions, insofar as they are separable from the invalid ones, shall remain in full force and effect.

Sec. 6. *Repealing Clause.* – All laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

Sec. 7. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Adopted.