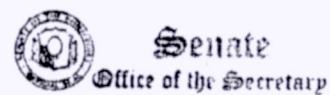


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

'19 AUG 28 A10:50

S. No. 977

RECEIVED BY: J

Introduced by SENATOR MANUEL LITO M. LAPID

**AN ACT
AMENDING REPUBLIC ACT NO. 4200, ENTITLED "AN ACT TO PROHIBIT
AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF
THE PRIVACY OF COMMUNICATION AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Section 3, Article III (Bill of Rights) of the 1987 Constitution enshrines the inviolability of the privacy of communication and correspondence, except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law. To safeguard this constitutional right, Republic Act No. 4200 or the "Anti-Wiretapping Law" was enacted. Essentially, it defined wiretapping as an act by "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 dictograph or detectaphone or walkie-talkie or tape recorder, or however otherwise described." However, new technologies and means of communication have already emerged since the enactment of the law in 1965. Therefore, it is imperative that RA 4200 be amended and updated in order to expand its scope to cover such new methods of committing wiretapping.

This proposed measure aims to respond to this need of amending and updating the more than fifty-year old Anti-Wiretapping Law by placing in the law

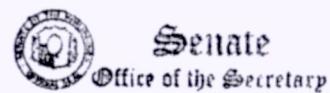
the catch-all, encompassing language of "**WITH THE USE OF ANY ELECTRONIC, MECHANICAL, DIGITAL OR ANALOG PHONE SYSTEM, OR SIMILAR DEVICES**" and "**any ORAL, WIRE, RADIO, DIGITAL OR ELECTRONIC PRIVATE** communication." Thus, any future devices or methods will be covered by the law. This bill also widens the exemptions and instances wherein law enforcement agencies may conduct wiretapping upon lawful order of the court. Once enacted, this amendatory law will certainly contribute in the government's drive to curb criminality and violence in our society.

In view of this, early passage of this bill is sought.



MANUEL "LITO" M. LAPID
Senator

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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AN ACT

**AMENDING REPUBLIC ACT NO. 4200, ENTITLED "AN ACT TO PROHIBIT
AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE
PRIVACY OF COMMUNICATION AND FOR OTHER PURPOSES**

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

1 Section 1. Section 1 of Republic Act No. 4200 is hereby amended to read as
2 follows:

3 "Section 1. It shall be unlawful for any person, not being
4 authorized by all the parties to any **ORAL, WIRE, RADIO,**
5 **DIGITAL OR ELECTRONIC** private communication [or
6 spoken word], to tap [any wire or cable, or by using any other
7 device or arrangement, to secretly overhear,] intercept[,] or
8 record such communication [or spoken word by using a
9 device commonly known as a dictaphone or dictagraph or
10 dictaphone or walkie-talkie or tape recorder, or however
11 otherwise described:] **WITH THE USE OF ANY**
12 **ELECTRONIC, MECHANICAL, DIGITAL OR ANALOG**
13 **PHONE SYSTEM, OR SIMILAR DEVICES.**

14 It shall also be unlawful for any person, be he a
15 participant or not in the act or acts penalized in the next
16 preceding sentence, to knowingly possess any tape record,

1 wire record, disc record, or any other such record, or copies
2 thereof, of any **ORAL, WIRE, RADIO, DIGITAL OR**
3 **ELECTRONIC PRIVATE** communication [or spoken word]
4 secured either before or after the effective date of this Act in
5 the manner prohibited by this law; or to replay the same for
6 any other person or persons; or to communicate the contents
7 thereof, either verbally or in writing, or to furnish
8 transcriptions thereof, whether complete or partial, to any
9 other person: *Provided*, That the use of such record or any
10 copies thereof as evidence in any civil, criminal investigation
11 or trial of offenses mentioned in section 3 hereof, shall not be
12 covered by this prohibition."

13 Sec. 2. Section 2 of Republic Act No. 4200 is hereby amended to read as
14 follows:

15
16
17 "Section 2. Any person who willfully or knowingly does
18 or who shall aid, permit, or cause to be done any of the acts
19 declared to be unlawful in the preceding section or who
20 violates the provisions of the following section or of any order
21 issued thereunder, or aids, permits, or causes such violation
22 shall, upon conviction thereof, be punished by imprisonment
23 for not less than six months [or more than six years] **TO A**
24 **MAXIMUM OF SIX (6) YEARS IMPRISONMENT**
25 **WITHOUT THE BENEFIT OF PROBATION**, and with the
26 accessory penalty of perpetual absolute disqualification from
27 public office if the offender be a public official at the time of
28 the commission of the offense, and, if the offender is an alien
29 he shall be subject to deportation proceedings **AFTER**
30 **SERVICE OF SENTENCE.**"

31

1 Sec. 3. Section 3 of Republic Act No. 4200 is hereby amended to read as
2 follows:

3 "Section 3. Nothing contained in this Act, however, shall
4 render it unlawful or punishable for any peace officer[,] **OR**
5 **LAW ENFORCER** who is authorized by a written order of the
6 Court, to execute any of the acts declared to be unlawful in
7 the two preceding sections in cases involving the crimes of
8 treason, espionage, provoking war and disloyalty in case of
9 war, piracy, mutiny in the high seas, rebellion, conspiracy and
10 proposal to commit rebellion, inciting to rebellion, **COUP**
11 **D'ETAT, CONSPIRACY AND PROPOSAL TO COMMIT**
12 **COUP D'ETAT**, sedition, conspiracy to commit sedition,
13 inciting to sedition, kidnapping as defined by the Revised
14 Penal Code, **ROBBERY IN BAND AS DEFINED AND**
15 **PENALIZED BY ARTICLES 294, 295, 296, 299 AND 302**
16 **OF THE REVISED PENAL CODE AND PRESIDENTIAL**
17 **DECREE NO. 532, OTHERWISE KNOWN AS THE "ANTI-**
18 **PIRACY AND ANTI-HIGHWAY ROBBERY LAW OF**
19 **1974", VIOLATION OF REPUBLIC ACT NO. 9165,**
20 **OTHERWISE KNOWN AS THE 'COMPREHENSIVE**
21 **DANGEROUS DRUGS ACT OF 2002', AS AMENDED,**
22 **VIOLATION OF REPUBLIC ACT NO. 3019, OR THE**
23 **'ANTI-GRAFT AND CORRUPT PRACTICES ACT",**
24 **SYNDICATED ILLEGAL RECRUITMENT AS DEFINED**
25 **AND PUNISHED UNDER REPUBLIC ACT NO. 8042, OR**
26 **THE 'MIGRANT WORKERS AND OVERSEAS FILIPINOS**
27 **ACT OF 1995", AS AMENDED, VIOLATIONS OF**
28 **REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS**
29 **THE 'ANTI-MONEY LAUNDERING ACT OF 2001', AS**
30 **AMENDED**, and violations of Commonwealth Act No. 616,
31 punishing espionage and other offenses against national

1 security: *Provided*, That such written order shall only be
2 issued or granted upon written application and the
3 examination under oath or affirmation of the applicant and
4 the witnesses he may produce and a showing: (1) that there
5 are reasonable grounds to believe that any of the crimes
6 enumerated hereinabove has been committed or is being
7 committed or is about to be committed: *Provided, however*,
8 That in cases involving the offenses of rebellion, conspiracy
9 and proposal to commit rebellion, inciting to rebellion,
10 sedition, conspiracy to commit sedition, [and] inciting to
11 sedition, **COUP D'ETAT, CONSPIRACY AND PROPOSAL**
12 **TO COMMIT COUP D'ETAT**, such authority shall be granted
13 only upon prior proof that a rebellion, acts of sedition **OR**
14 **CONSPIRACY AND PROPOSAL TO COMMIT COUP**
15 **D'ETAT**, as the case may be, have actually been or are being
16 committed; (2) that there are reasonable grounds to believe
17 that evidence will be obtained essential to the conviction of
18 any person for, or to the solution of, or to the prevention of,
19 any of such crimes; and (3) that there are no other means
20 readily available for obtaining such evidence."

21 "The order granted or issued shall specify: (1) the
22 identity of the person or persons whose communications,
23 conversations, discussions, or spoken words are to be
24 overheard, intercepted, or recorded and, in the case of
25 telegraphic or telephonic communications, the telegraph line
26 or the telephone number involved and its location; (2) the
27 identity of the peace officer authorized to overhear, intercept,
28 or record the communications, conversations, discussions, or
29 spoken words; (3) the offense or offenses committed or
30 sought to be prevented; and (4) the period of the
31 authorization. The authorization [shall be effective for the

1 period specified in the order which shall not exceed sixty (60)
2 days from the date of issuance of the order, unless extended
3 or renewed by the court upon being satisfied that such
4 extension or renewal is in the public interest.] **MAY BE**
5 **EXTENDED OR RENEWED FOR ANOTHER NINETY (90)**
6 **DAYS FROM THE EXPIRATION OF THE ORIGINAL**
7 **PERIOD, SUBJECT TO RENEWAL: PROVIDED, THAT**
8 **THE COURT IS SATISFIED THAT SUCH EXTENSION OR**
9 **RENEWAL IS IN THE PUBLIC INTEREST: PROVIDED,**
10 **FURTHER, THAT THE APPLICATION FOR EXTENSION**
11 **OR RENEWAL IS FILED BY THE ORIGINAL APPLICANT**
12 **OR IN CASE OF PHYSICAL OR MENTAL DISABILITY OR**
13 **DEATH, A MEMBER OF THE TEAM NAMED IN THE**
14 **ORIGINAL ORDER OF THE AUTHORIZATION."**

15 "All recordings made under court authorization shall,
16 within [forty-eight hours] **TEN (10) DAYS** after the
17 expiration of the period fixed in the order, be deposited with
18 the court in a sealed envelope or sealed package, and shall
19 be accompanied by an affidavit of the peace officer granted
20 such authority stating the number of recordings made, the
21 dates and times covered by each recording, the number of
22 tapes, discs, or records included in the deposit, and certifying
23 that no duplicates or copies of the whole or any part thereof
24 have been made, or if made, that all such duplicates or copies
25 are included in the envelope or package deposited with the
26 court. **IT SHALL BE UNLAWFUL FOR ANY PERSON,**
27 **POLICE OR LAW ENFORCEMENT OFFICIAL TO OMIT**
28 **OR EXCLUDE FROM THE AFFIDAVIT ANY ITEM OR**
29 **PORTION ABOVEMENTIONED.** The envelope or package
30 so deposited shall not be opened, or the recordings replayed,
31 or used in evidence, or their contents revealed, except upon

order of the court, which shall not be granted except upon motion, with due notice and opportunity to be heard to the person or persons whose conversation or communications have been recorded."

"ANY RECORDING AUTHORIZED BY WRITTEN ORDER OF THE COURT SHALL NOT BE ADMISSIBLE IN EVIDENCE AGAINST ANY PERSON WHO IS A PARTY TO THE COMMUNICATION, CONVERSATION, DISCUSSION, OR SPOKEN WORD WHICH ARE OVERHEARD, INTERCEPTED, OR RECORDED, IF THE PERSON'S IDENTITY IS NOT SPECIFIED IN SUCH WRITTEN ORDER AS REQUIRED IN THE SECOND PARAGRAPH OF THIS SECTION. THE NAME AND PERSONAL CIRCUMSTANCES OF SUCH PERSON, OR ANY OTHER INFORMATION WHICH TEND TO ESTABLISH THE PERSON'S IDENTITY SHALL NOT BE DISCLOSED TO THE PUBLIC."

"ANY PERSON, POLICE OR LAW ENFORCEMENT OFFICER WHO VIOLATES ANY OF THE ACTS PRESCRIBED IN THE PRECEDING PARAGRAPHS SHALL SUFFER THE PENALTY OF NOT LESS THAN SIX (6) MONTHS TO SIX (6) YEARS OF IMPRISONMENT."

"The court referred to in this section shall be understood to mean the [Court of First Instance] **REGIONAL TRIAL COURT** within whose territorial jurisdiction the acts for which authority is applied for are to be executed."

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

1 "SEC. 3-A. IT SHALL LIKEWISE BE UNLAWFUL FOR
2 PUBLIC TELECOMMUNICATION ENTITIES AND OTHER
3 SIMILAR ENTERPRISES ENGAGED IN THE BUSINESS
4 OF VOICE AND DATA TRANSMISSION THROUGH
5 WIRE, RADIO, DIGITAL OR ELECTRONIC MEANS, TO
6 RETAIN FOR MORE THAN THREE (3) YEAR RECORDS
7 OF VOICE AND DATA, WHICH ARE NO THE SUBJECT
8 OF ANY PENDING CASE, INCLUDING INFORMATION
9 ON THE IDENTITY OF THE PARTIES, ORIGIN,
10 DESTINATION, DATE, TIME AND DURATION OF THE
11 COMMUNICATION UNLESS OTHERWISE ORDERED BY
12 A COURT OF COMPETENT JURISDICTION FOR
13 PURPOSES ALLOWED UNDER SECTION 3 OF THIS
14 ACT."

15
16 "ANY PERSON WHO WILLFULLY OR KNOWINGLY
17 VIOLATES THE PROHIBITION HEREIN PRESCRIBED
18 OR WHO AIDS, PERMITS, OR CAUSES SUCH
19 VIOLATION SHALL, UPON CONVICTION THEREOF, BE
20 PUNISHED BY IMPRISONMENT OF NOT LESS THAN
21 SIX (6) YEARS BUT NOT MORE THAN TWELVE (12)
22 YEARS AND A FINE OF ONE MILLION PESOS
23 (P1,000,000.00), AND WITH THE ACCESSORY
24 PENALTY OF PERPETUAL ABSOLUTE
25 DISQUALIFICATION FROM PUBLIC OFFICE IF THE
26 OFFENDER IS A PUBLIC OFFICIAL AT THE TIME OF
27 THE COMMISSION OF THE OFFENSE: *PROVIDED*,
28 THAT IF THE PERSON WHO COMMITS THE VIOLATION
29 IS AN ALIEN, THE PERSON SHALL BE SUBJECT TO
30 DEPORTATION PROCEEDINGS AFTER SERVICE OF
31 SENTENCE."

32

1 Sec. 5. *Separability Clause.* - Should any provision of this Act or any
2 part thereof be declared invalid, the other provisions, insofar as they are
3 separate from the invalid one, shall remain in full force and effect.

4

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

8

9 Sec. 7. *Effectivity.* – This Act shall take effect fifteen (15) days after its
10 publication in the Official Gazette or in a newspaper of general circulation.

11

12 *Approved,*

13

14