

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

**Republic of the Philippines**  
**HOUSE OF REPRESENTATIVES**  
Quezon City, Metro Manila

**FIFTEENTH CONGRESS**  
First Regular Session

House Bill No. 482

---

**Introduced by AKBAYAN Party-List Representatives**  
**Hon. Kaka Bag-ao and Hon. Walden Bello**

---

**EXPLANATORY NOTE**

In the face of the alarming rise of criminality in the country and the government's response to totally eradicate all forms of lawlessness in our midst, there is a strong tendency for law enforcement agencies, in their anti-crime campaign, to dispense with the basic precepts of the Bill of Rights. In our midst, we hear reports of suspected criminals being summarily executed and of detainees being tortured by ingenious means, akin to barbarism, to elicit confessions.

There is, therefore, an urgent need to codify a comprehensive set of safeguards for the protection of every person accused, arrested or under investigation for the commission of a crime pursuant to the Bill of Rights, the pronouncements of the Supreme Court thereon and the rules of procedure and other applicable laws. These safeguards will complement the anti-crime campaign of the government and temper it with built-in procedures to balance the drive vis a vis the basic rights of individuals before the law.

The bill is basically a survey of the existing rules of procedure, jurisprudence and legal opinion that have evolved through the years. The author of this bill acknowledges the respective ponente of the doctrinal pronouncements of the Supreme Court which are incorporated in this proposed legislation.

In addition, the bill contains innovations to effectively ensure the observance of certain rules for the protection of the accused or persons arrested or under investigation for the commission of crime.

The urgent passage of this bill is earnestly sought.

  
**Hon. KAKA BAG-AO**  
Representative, Akbayan Party-list

  
**Hon. WALDEN BELLO**  
Representative, Akbayan Party-list

52 Republic of the Philippines  
53 HOUSE OF REPRESENTATIVES  
54 Quezon City, Metro Manila

55  
56 FIFTEENTH CONGRESS  
57 First Regular Session  
58

59 House Bill No. 482  
60  
61

62  
63  
64 Introduced by AKBAYAN Party-List Representatives  
65 Hon. Kaka Bag-ao and Hon. Walden Bello  
66  
67

68  
69 AN ACT  
70 PROVIDING FOR THE RIGHTS OF THE ACCUSED AND PERSONS UNDER  
71 INVESTIGATION FOR THE COMMISSION OF A CRIME, PROVIDING FOR CIVIL AND  
72 CRIMINAL PENALTIES IN CASE OF VIOLATION THEREOF, AND FOR OTHER  
73 PURPOSES  
74  
75

76  
77 *Be enacted by the Senate and the House of Representatives of the Philippines in Congress*  
78 *assembled:*  
79

80  
81 ARTICLE I  
82 TITLE AND POLICY  
83

84 SECTION 1. *Short Title.* This Act shall be known as the "2007 Omnibus Bill on the  
85 Rights of the Accused and Persons under Investigation for the Commission of Crime" and may  
86 be cited as such.  
87

88 SEC. 2. *Declaration of Policy.* It is the policy of the State to complement the anti-crime  
89 campaign of the law enforcement agencies of the government with a comprehensive set of  
90 safeguards to ensure compliance with the Constitution, the Rules of Court and the  
91 pronouncements of the Supreme Court on the Bill of Rights. It is likewise the policy of the  
92 State to enhance and respect the basic rights of the individual before the law and the courts of  
93 justice with the end in view of achieving a moral, equitable, but effective administration of  
94 criminal justice consistent with due process of law.  
95

96 ARTICLE II  
97 GENERAL PROVISIONS  
98

99 SEC. 3. All persons under investigation for the commission of any crime punishable under  
100 existing laws or those who are actually charged therefor shall have the right to be presumed  
101 innocent and shall be entitled to the rights specified in the Philippine Constitution, international  
102 treaties ratified by the country and those provided in this Act.  
103

104 SEC. 4. These rights shall be available and may be asserted at any stage of the criminal  
105 proceedings inclusive of the arrest and investigation stages.  
106  
107  
108  
109

**ARTICLE III**  
**RIGHTS DURING ARREST**

**SEC. 5.** In case of an arrest with warrant, any person sought to be apprehended by any law enforcement or peace officer shall have the right to ask for the basis of the arrest and to require the arresting officer to show identification papers. A directive issued by the Chief of the enforcement agency to all law enforcement or peace officers regarding particular warrants of arrest issued by particular courts shall be enough to make an arrest. However, the person apprehended shall have the right to ask that a copy of the warrant be exhibited to her/im upon reaching the law enforcement agency's headquarters/sub-station.

Arrests without warrant and those effected by private persons shall be carried out in accordance with Sections 8 and 9, Rule 113 of the Revised Rules of Court with the corresponding right of the person to be arrested to ask the peace officer or the private person, as the case may be, to exhibit identification papers as well as the reason for the arrest in order to prepare an adequate defense.

Failure on the part of the peace officer or private person to comply with the foregoing, when requested to do so, shall be sufficient legal ground for the person sought to be arrested to refuse to go with the arresting officer or private person.

**SEC. 6.** After an arrest has been effected, the arresting officer shall immediately inform the person arrested of her/is right to remain silent and to be assisted by a counsel. Every peace officer shall carry with her/im a warning card containing a recital of these rights both in English and Filipino or dominant dialect of the area in the following manner:

**"WARNING**

*Under the law, you have the following the rights:*

*You have the right to remain silent and not tell us anything. Anything you say will be used against you in court.*

*You have the right to a lawyer of your own choice before any questioning or investigation can take place.*

*If you cannot afford a lawyer, the court gives one free of charge, before questioning.*

*You cannot waive these rights except in writing and in the presence of your lawyer.*

**BABALA**

*Sa ilalim ng batas, narito ang mga karapatan mo:*

*Karapatan mo ang tumahimik at huwag magsalita ng kahit ano.*

*Anuman ang sasabihin mo ay maaring gamitin sa husgado laban sa iyo.*

*Bago ka imbestigahan, karapatan mo ang kumunsulta sa abogadoong gusto mo.*

*Bago ka imbestigahan, kung hindi mo kayang kumuha ng sarili mong abogado, bibigyan ka ng hukuman ng isa nang walang bayad.*

*Maari mo lamang talikdan ang mga karapatang ito sa pamamagitan ng isang kasulatan na isinagawa mo sa tulong at sa harap ng iyong abogado."*

The above rights shall be read by the arresting officer to the person arrested in the language or dialect with which the latter is most familiar. In any case, the officer shall exert all efforts to ensure that the person arrested has fully understood said rights.

The warning shall also be written in big letters and dominantly displayed on the wall of the room where the custodial investigation is conducted so the detained person can easily read them.

**SEC. 7.** If the person arrested has manifested her/is desire to avail of the services of a lawyer but cannot afford one, the arresting officer shall immediately comply with the provisions of Article IV of this Act. In the meantime, no interrogation or questioning of any kind shall be conducted until after the person arrested shall have conferred with her/is lawyer, either

retained or appointed, and has waived the right to remain silent or to counsel in writing and in the presence of such counsel.

**SEC. 8.** No violence or unnecessary force, or display or threat thereof, shall be employed in effecting the arrest. The person arrested shall not be subjected to any undue restraint of liberty other than such as may be reasonably necessary for her/his detention.

**SEC. 9.** The person arrested shall, without any delay, be delivered to the nearest police station or jail having jurisdiction over the place of arrest and in no other place. The arresting officer shall immediately and not later than six (6) hours after the arrest inform the relatives or next-of-kin of the person arrested present at the time of the arrest, or immediately after the arrest, of the site of arrest, of the place where the person arrested will be brought and the exact location thereof. In the absence of relatives or next-of-kin, the court shall be informed of the arrest who shall immediately appoint a counsel for the accused. If requested by the person arrested or her/his relative or next-of-kin, the arresting officer shall allow one (1) relative, next-of-kin or friend to accompany her/im to her/his detention place. In any event, the arresting officer shall enable the person arrested to communicate with her/his relatives or next-of-kin by telephone or other expedient means.

The police station or jail having jurisdiction over the place of arrest shall keep an accurate records-keeping on persons arrested and their case status which shall be open to the public.

At the minimum, all places where persons are kept in custody shall keep accurate records of the following:

- (1) the identity of all person arrested;
- (2) the reasons for the arrest and authority therefor;
- (3) the time of arrest, the time of the taking of an arrested person to the place of custody as well as the time and date of an arrested person's first appearance before a judicial authority;
- (4) the identity of the law enforcement officials concerned; and
- (5) the day and hour of release.

**SEC. 10.** It shall be unlawful for any person to deliver the person arrested or to keep her/im in custody in any place or places other than that designated by law.

It shall likewise be unlawful for any person to employ any form of violence, torture or attack, whether physical or psychological, upon the person or honor of the prisoner, or to keep her/im in secret detention places, solitary confinement or render her/im incommunicado.

**SEC. 11.** Any confession, admission or statement obtained from a person in violation of the preceding sections of this Article shall be inadmissible as evidence against her/im in any proceedings. In addition to his responsibility under existing laws, the offender shall likewise be liable for the damages and criminal liabilities prescribed in this Act.

**SEC. 12.** Preliminary investigation shall be conducted in accordance with Rule 112 of the Revised Rules of Court strictly observing the periods prescribed therein for the submission of affidavits, counter-affidavits, the replies thereto and the resolution of the case after it has been submitted for determination. These periods shall be mandatory and shall not be lengthened during the effectivity of this Act.

The investigating prosecutor may dismiss the case after the lapse of the periods referred to above without any fault on the part of the respondent or if it appears, at any stage of the proceedings, that no sufficient evidence exists to justify the prosecution of the respondent.

**SEC. 13.** An inquest procedure shall immediately be conducted to ascertain whether the accused has committed the crime. An arrested person shall be detained only for such periods of time allowed under Article 125 of the revised Penal Code. Within said periods, a complaint

or information should be filed if warranted by the evidence, otherwise the person arrested shall forthwith be released.

**SEC. 14.** Whether through preliminary investigation or by inquest, the right to be brought before a judicial court shall accrue immediately after arrest. No person shall be kept under pre-trial detention more than what is provided for in Rule 112 of the Revised Rules of Court.

**ARTICLE IV  
RIGHTS DURING CUSTODIAL INVESTIGATION**

**SEC. 15.** Custodial investigation shall refer to the stage where the investigation conducted by law enforcers is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect who had been taken into custody by law enforcement officers who carry out a process of interrogation that lends itself to elicit incriminating statements. It shall also refer to instances when questions are initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of her/is freedom of action in any significant manner. Custodial investigation shall also include any questioning or probe involving a person "invited" by law enforcement officers in connection with an offense s/he is suspected to have committed.

**SEC. 16.** Any person "invited" to shed light on general matters, even before such person is considered a suspect by law enforcement officers, shall have the right to refuse the "invitation" without fear of punishment.

**SEC. 17.** Any person under custodial investigation as defined in Section 1 hereof shall have the right to remain silent and to refuse to answer any question propounded to her/im. In addition, s/he shall have the right to consult and confer with a lawyer preferably of her/is own choice. In the event that said person cannot afford to hire a counsel, one shall be appointed to assist her/him pursuant to the procedure prescribed in Article VI hereof. Under no circumstance shall a person be investigated or undergo confrontation procedures such as line-ups, one man show-ups, and re-enactment of the alleged crime without the presence and assistance of counsel, unless s/he has, in the meantime, executed a written waiver of her/is right to remain silent and to counsel under this Article.

**SEC. 18.** Notwithstanding any incriminating evidence against her/im, the refusal of a person under investigation to make any statement or provide information shall not in any manner be used against or otherwise prejudice her/im, nor shall any inference of guilt arise as a result thereof.

**SEC. 19.** Failure on the part of the prosecution to demonstrate during trial that the accused was informed and afforded the rights mentioned in Section 3 of this Article and was actually not afforded such rights, shall render any information or evidence obtained as a result of the investigation inadmissible as evidence against her/im in any proceedings.

**SEC. 20.** The rights provided in Section 3 hereof cannot be waived or renounced except in writing and in the presence of a counsel. The lawyer engaged by the person under investigation or duly appointed to assist her/im shall diligently discharge her/is duties and explain the full import of the rights and the effect of any waiver thereof.

**SEC. 21.** Any statement procured after a waiver under the immediately preceding section shall be sworn to before the proper administering officer. The latter, before administering the oath, shall ensure the voluntariness of the waiver and cause the confessant to undergo physical examination by an independent physician to determine whether or not force or violence, or threat thereof, was used in eliciting the statement or information.

**SEC. 22.** Any waiver made by any person under custodial interrogation pursuant to Section 6 hereof may be withdrawn at any stage of the investigation and s/he shall again be entitled to the rights provided herein. However, any confession duly made after a valid waiver but before the withdrawal thereof shall remain valid and admissible.

**ARTICLE V**  
**EFFECTIVE RIGHTS TO BAIL AND RELEASE ON RECOGNIZANCE**

**SEC. 23.** All persons under detention, except those charged with offenses punishable by reclusion perpetua or death when evidence of guilt is strong before convictions, shall have the right to bail by sufficient sureties, cash or property bond or shall be released on her/his own recognizance or that of a responsible person as provided in this Article.

**SEC. 24.** The right to bail shall be available notwithstanding the suspension of the privilege of the writ of habeas corpus.

**SEC. 25.** For offenses which are bailable by right, all matters pertaining to bail (reduction, recognizance, humanitarian grounds, health reasons, etc.) shall be resolved within seven (7) days from the date of the filing of the information at a bail hearing, separate and distinct from the trial on the merits. The executive judges of all trial courts shall be required to assign judges on a rotation basis for bail hearing duty. A similar bail hearing shall be held for offenses which are non-bailable by right within thirty (30) days from the filing of the information. At this hearing, the prosecution shall present the evidence which constitutes the main case to qualify it as being "strong" and warranting denial of the right to bail. Failure of the prosecution to terminate the presentation of its evidence within this period shall automatically result in the granting of bail to and the immediate release of the accused. The thirty (30) - day period may be extended only if the defense asks for an opportunity to present rebuttal evidence. For non-bailable offenses, the presiding judge of the court where the case is pending shall sit as bail hearing judge to facilitate the reception of evidence and for purposes of speedy trial.

**SEC. 26.** Excessive amount of bail which has the effect of rendering nugatory the very right itself shall not be required.

In fixing the amount of bail, the court shall be guided by Section 10, Rule 114 of the Revised Rules of Court with due consideration on the financial ability of the accused to post bail or the propriety of her/his release on recognizance.

Upon filing of an information, the court shall, *motu proprio* or upon motion of the accused, judiciously review and pass upon the amount of bail recommended by the government prosecution agency and may modify or alter the same.

**SEC. 27.** A person in custody shall, at the discretion of the court, be released on reduced amount of bail or on her/his own recognizance or that of a responsible person when:

- (1) S/He has been in custody for such period equivalent to at least the minimum of the prescribed principal penalty of imprisonment for the offense with which he is charged, without the application of Act No. 4103 (Indeterminate Sentence Law) or any aggravating and mitigating circumstances; and,
- (2) S/He is charged with a crime for which the law prescribes a maximum imprisonment of not more than six (6) years.

In case a person is charged with two (2) or more offenses, the aggregate of the respective maximum imprisonment attached thereto shall be the basis for the application of this paragraph.

**SEC. 28.** Release on recognizance shall have the same effect and shall be subject to all conditions, rights, responsibilities and duties as if the accused has been released on bail.

The person to whom the body of the accused was released on recognizance shall exercise the rights and assume the duties and responsibilities of a surety under the Rules of Court.

**SEC. 29.** Notwithstanding the provisions of the foregoing sections of this Article, any person in custody against whom no information has yet been filed in court shall have the right to apply for bail or petition to be released on recognizance before any court in the province, city or municipality where s/he is detained.

**SEC. 30.** The filing of bail or a petition or motion to be released on recognizance shall not result in the waiver by the accused of her/his right to question any irregularity attending his arrest nor of his right to avail of any and all remedies under existing laws or rules of procedure.

**SEC. 31.** In the event that bail is denied or granted and the defense or prosecution wishes to challenge the trial court's decision before the appellate courts, a temporary restraining order preventing the release of the accused shall not have more than the usual twenty (20) - day period of effectivity. For this purpose, the appellate court shall give priority to these cases as in habeas corpus.

## **ARTICLE VI**

### **RIGHT TO ADEQUATE AND COMPETENT LEGAL ASSISTANCE**

**SEC. 32.** Every person arrested, charged or under investigation for the commission of an offense shall have the right to a competent counsel in all stages of the proceedings against her/im, commencing from her/is arrest up to her/is final conviction or acquittal.

This right cannot be waived notwithstanding the manifestation of the accused to the contrary.

**SEC. 33.** The accused or the person arrested or under investigation shall have the right to engage the services of a lawyer of her/his own choice and shall be afforded reasonable opportunity to engage one. However, if s/he cannot afford a lawyer, the court shall be immediately notified of the same and shall cause the appointment of an adequate, competent and independent counsel *de officio* to assist and represent her/him in accordance with this article. In no case shall counsel be any of those directly affected by the case, those charged with conducting preliminary investigation or those charged with the prosecution of the crime. Neither shall counsel be a lawyer under the authority, control, influence or supervision of the military, police or prosecuting officials.

**SEC. 34.** The court shall, immediately after notification that a person has been taken into custody or before the start of the investigation, give the latter the opportunity to secure the services of a lawyer of her/his choice. If he cannot afford one, the court shall, without delay, coordinate with the Public Attorney's Office, the Integrated Bar of the Philippines or any public or private lawyers' group or firm for the appointment of a counsel *de officio*.

For purposes of this Act, the Department of Justice, in coordination with the Integrated Bar of the Philippines, shall prepare a list of all lawyers, law firms or lawyers' groups and their respective field or fields of practice or expertise. Copies thereof shall be furnished the executive judges of all courts, the Court of Appeals and the Supreme Court. Said lawyers, law firms and lawyers' groups shall be available for appointment as counsel *de officio*, under pain of disciplinary action as determined by the Supreme Court, in case of unjustified refusal to accept the appointment.

**SEC. 35.** Upon the filing of an information but before arraignment, the court shall inquire whether or not the accused had been duly assisted and represented by a counsel during her/his detention.

If no counsel has yet been appointed, the court shall allow the accused reasonable opportunity to secure the services of a counsel *de parte*. If s/he cannot afford one, the Public Attorney assigned in its sala shall be designated as counsel *de officio*.

In the absence of the latter, or at the discretion of the court depending on the case load of the Public Attorney, the complexity of the legal issues involved, the expertise required or the

gravity of the penalty prescribed for the offense, it shall choose from among the list mentioned in Section 3 above the lawyer or law firm who shall be appointed as counsel *de oficio* to assist and represent the accused. Every law firm with at least five (5) lawyers, shall be required to handle one (1) *de oficio* case every year. Every law firm with at least ten (10) lawyers, shall be required to handle two (2) *de oficio* cases every year. Every law firm with at least fifteen (15) lawyers, shall be required to handle three (3) *de oficio* cases every year.

Notwithstanding, the fact that a counsel *de oficio* has already been appointed, the judge shall designate a new counsel to represent the accused if s/he finds that the original lawyer has not been diligent in handling the defense of the accused, without prejudice to any possible responsibility of the erring lawyer under this Act, her/his oath as a member of the Philippine Bar, the Code of Professional Ethics and the existing laws.

**SEC. 36.** The court shall at all times ensure that the appointed counsel *de oficio* is diligently and adequately representing the accused and may issue such orders as may be necessary for the implementation of this and the preceding section.

**SEC. 37.** The palpable lack of diligence on the part of a duly appointed counsel *de oficio* in handling the defense of the accused shall be a ground for new trial under the Revised Rules of Court, without prejudice to the responsibility of the appointed counsel for disciplinary sanctions.

## **ARTICLE VII RIGHTS DURING DETENTION**

**SEC. 38.** All persons under detention, whether by virtue of a final judgment or of an arrest, whether lawful or unlawful, or during or while awaiting trial, shall be treated humanely and shall not be subjected to any form of physical or psychological harassment, violence, intimidation or threat thereof. S/He shall not be kept in a place other than the ones legally established for the purpose.

Any violation of the foregoing paragraph shall be punished under Article XI of this Act in addition to whatever liabilities the offender may have under existing laws.

**SEC. 39.** In addition to what has been provided in the immediately preceding section, a detainee shall have the following rights:

- (1) The right to be visited by, and confer privately with counsel, whether retained or appointed, at any time of the day, and in urgent cases, of the night. Each place of custody/detention area shall have a special room, free of listening devices, furnished with a table and at least two (2) chairs, where client and counsel may discuss their case confidentially. Prison guards shall not remain within earshot of the conversation, but may view the conversation from afar.
- (2) The right, subject to reasonable regulations, to visitations by and conferences and get-together with her/his immediate family. For purposes of this Act, "immediate family" includes a person's spouse, fiancée or fiancé, parent, child or other ascendants and descendants and relatives by affinity or consanguinity.
- (3) The right to be visited by, confer privately and coordinate with and air grievances to representatives of the Human Rights Commission or any non-governmental organization or by any international non-governmental organization.
- (4) The right to adequate medical and dental attendance, services and periodic examinations to be provided by the Bureau of Prisons in coordination with the Department of Health or other appropriate health agencies of the government. In addition, the prisoner shall have the right to consult or be examined or attended to by any private doctor or dentist of her/his choice at all times. The Bureau and Department are hereby empowered to promulgate the guidelines, policies and rules and regulations to effectuate the provisions of this paragraph and other related provisions of this Act.

- 464 (5) The right to seek spiritual guidance which includes the opportunity to be visited and  
465 counseled by or communicate privately with a priest, clergy, minister, reverend or  
466 representatives of any church or denomination of the prisoner's choice, and to initiate,  
467 organize, attend or otherwise, participate in any religious meetings, prayer rallies,  
468 novenas, mass and similar activities held inside the detention center.  
469
- 470 (6) The right to pursue her/his education, both academic and vocational, while under detention.  
471 The Department of Education, the Commission on Higher Education and the state colleges  
472 and universities shall, in coordination with the Bureau of Prisons, formulate and carry out  
473 programs, training courses and curricula to implement and carry into effect the provisions of  
474 this paragraph.  
475
- 476 (7) The right to sports and development and recreational facilities and programs while under  
477 detention.  
478

479 **SEC. 40.** All detained persons who are not convicted of any crime, who are awaiting trial or  
480 undergoing trial, shall have the right to privacy subject to reasonable regulations. Searches of  
481 pre-trial detainee's living quarters shall be restricted to contraband items and instruments  
482 allegedly to be used for escape. Any papers or documents relating to the detainee's case shall  
483 not be taken. Only authorities having jurisdiction over the place of custody shall be allowed to  
484 search the detainee's quarters.  
485

486 **SEC. 41.** The Bureau of Prisons shall endeavor to formulate guidelines and policies to see to it  
487 that juvenile delinquents, youthful or first time offenders, political prisoners, pre-trial detainees  
488 or detainees not yet convicted and those who committed or are charged with light or minor  
489 felonies are segregated and protected from hardened criminals.  
490

491 The Bureau shall endeavor to curtail riots, free-for-all melee, "kakosa", "mayor" and  
492 "cuerna" system, tattooing, initiation rituals, the use and possession of prohibited drugs,  
493 weapons and other injurious paraphernalia, the commission of lewd and indecent acts, and the  
494 proliferation of "gang-system" inside the detention center and for that purpose, the Bureau  
495 shall promulgate and implement reasonable but effective rules and regulations to achieve the  
496 same.  
497

498 **SEC. 42.** The Bureau shall protect the person, honor and privacy of female prisoners and they  
499 shall be provided with quarters separate from the male prisoners. As much as possible, their  
500 custodians and wardens shall be females.  
501

502 **SEC. 43.** The Bureau or any law enforcement agency holding a person under administrative  
503 detention or custodial investigation shall submit a report within twenty-four (24) hours to the  
504 Commission on Human Rights any incidence of rape and/or death of any prisoner or person  
505 under administrative detention or custodial investigation.  
506

## 507 **ARTICLE VIII**

508

509 **SEC. 44.** In all criminal prosecutions, the accused shall be presumed innocent of the  
510 offense charged until her/his guilt is proved beyond reasonable doubt by admissible, competent  
511 and credible evidence consistent with due process of law.  
512

513 No person shall be convicted unless her/his responsibility for the offense or offenses for  
514 which s/he is indicted is established in accordance with the degree of proof prescribed in this  
515 section.  
516

517 **SEC. 45.** An accused shall have the right to be present and be heard in person and through  
518 counsel at every stage of the proceedings, from preliminary investigation or inquest up to her/his  
519 final conviction or acquittal, as the case may be.  
520

521 The accused may nevertheless waive her/his presence at the trial. The effects of such  
522 waiver shall be governed by Section 1 (c), Rule 115 of the Revised Rules of Court. However,

523 unless the accused herself/himself is a lawyer and desires to handle her/is own defense, the  
524 right to be heard by counsel shall not be waived.

525  
526 **SEC. 46.** Upon motion of the accused, the court shall, without delay, cause the issuance of  
527 such *subpoenas ad testificandum* and *duces tecum* to secure, under penalty of contempt, the  
528 attendance of witnesses and the production of documents and papers material to the defense  
529 of the accused. The court may, at its discretion, require the defense witnesses to post bail to  
530 secure their attendance at the trial, or if they refuse to do so, in order not to frustrate the ends  
531 of justice, order their arrest and detention for as long as their testimonies are required.

532  
533 **SEC. 47.** At the hearing set for the arraignment of the accused, the court shall ensure that the  
534 accused is duly represented by counsel in accordance with Section 4, Article IV hereof.  
535 Thereafter, the court shall, in open court, furnish the accused with a copy of the information  
536 together with a list of prosecution witnesses and exhibits. In addition, the information shall be  
537 read to the accused in the presence of her/is counsel in the language or dialect known to the  
538 accused, the court taking extra efforts to ensure that the latter fully understands the  
539 accusations against her/im before entering her/is plea. The prosecution may, however, be  
540 allowed to present additional witnesses and evidence not listed in the information provided that  
541 the accused shall be afforded reasonable time to study the additional evidence and prepare for  
542 cross-examination in advance of the trial.

543  
544 **SEC. 48.** Before entering her/is plea, the accused may move to quash the information upon  
545 the grounds allowed by law and the court shall resolve said motion with deliberate dispatch.

546  
547 **SEC. 49.** In addition to other grounds under existing law and procedure, the court shall  
548 suspend the arraignment in any of these cases:

- 549  
550 (1) If a motion to quash or motion for re-investigation has been filed; and,  
551 (2) If the possibility of the accused being placed in double jeopardy appears to be well-  
552 founded.

553  
554 **SEC. 50.** The conduct of arraignment and entering of plea shall be governed by Rule 116 of  
555 the Revised Rules of Court unless otherwise provided in this Article.

556  
557 **SEC. 51.** In every criminal proceeding, the accused may altogether refuse to take the witness  
558 stand. S/He may, however, present herself/ himself as witness for her/is defense in which case  
559 s/he may be cross-examined by the prosecution but only on matters taken up during her/is  
560 direct examination.

561  
562 The refusal of the accused to take the witness stand or to answer incriminating  
563 questions propounded to her/im shall not in any manner prejudice her/is defense nor shall any  
564 inference be presumed by reason thereof.

565  
566 The right to self-incrimination may be invoked by the accused personally or through  
567 counsel in the course of the examination.

568  
569 **SEC. 52.** The accused shall have the right to meet face to face, confront and cross-examine  
570 the witnesses against her/im in accordance with Section 6, Rule 132 of the Revised Rules of  
571 Court. Without prejudice to the policy of expeditious disposition of cases, the court shall afford  
572 the accused sufficient opportunity to rebut the testimonies of witnesses against her/im through  
573 cross-examination and other means allowed under the rules of procedure.

574  
575 **SEC. 53.** In addition to the grounds enumerated in Section 13, Rule 119 of the Revised Rules  
576 of Court, the court may, *motu proprio* or upon motion, exclude the public and the members of  
577 the press from the courtroom in the exercise of its duty under Section 10 of this Article.

578  
579 **SEC. 54.** The conviction or acquittal of an accused shall depend, not on her/is appearance,  
580 personality, reputation, previous criminal record and courtroom demeanor or on other external  
581 factors, but on the merits of the prosecution and defense evidence.

To this end, the jail warden or the officer holding the accused in custody, shall ensure, in coordination with the relatives and next-of-kin of the prisoner, that the latter is respectably dressed and groomed when attending court hearings. Unless there is a strong possibility of the accused attempting to escape, the accused shall not be presented before the court in prisoner's uniform or in handcuffs or similar devices designed to restrain freedom of action. The practice of shaving the head of detention prisoners and the inscription of tattoo marks on their bodies shall be prohibited.

**SEC. 55.** In all court hearings, the accused shall be entitled to be accompanied by her/his relatives and friends and seating spaces inside the courtroom shall be reserved for them.

**SEC. 56.** Every accused shall have the right to appeal all cases authorized by law and the applicable rules of procedure.

## **ARTICLE IX**

### **RIGHTS TO EXPEDITIOUS, PUBLIC AND IMPARTIAL DISPOSITION OF CASES**

**SEC. 57.** All persons charged, facing trial, under investigation, arrested or detained for the commission of a crime shall have the right to speedy disposition of their cases and shall be spared from the anxiety and hardship of prolonged proceedings.

**SEC. 58.** Criminal cases, especially those against an accused who is under detention, shall take precedence over other cases in the trial calendar of the court, with the exception of habeas corpus proceedings or those directly involving the liberty of any person.

**SEC. 59.** Trial of criminal cases, once commenced, shall continue from day to day until terminated. This is without prejudice, however, to the right of the accused to prepare for trial in case anew witness or exhibit not listed in the information is allowed to be presented.

All trial courts shall devote at least fifteen (15) hours every working week for hearing criminal cases pending before them.

The prosecution shall diligently prepare its case and its failure to present or to continue in the presentation of its evidence for three (3) consecutive hearing dates shall be a ground for dismissal. The same rule shall apply in case of postponements made at the instance of the prosecution totaling eight (8) hearing dates, although not consecutive. Such dismissal shall be equivalent to an acquittal for purposes of the application of double jeopardy.

## **ARTICLE X**

### **PROHIBITION AGAINST UNNECESSARY PUBLICITY**

**SEC. 60.** Without prejudice to the principle of free press and the public's right to information, public prosecutors and administrative investigation agents shall ensure that their investigations and inquiries are not conducted with unnecessary publicity.

No person arrested or under investigation for the commission of a crime or under detention by virtue of a final judgment or of an arrest, whether lawful or unlawful, or during or while awaiting trial shall be presented to the media with unnecessary inscriptions which may tend to subject her/im to discredit and contempt.

No criminal case or proceedings shall be accorded unnecessary publicity. Nor shall any person under custody or facing trial be unnecessarily subjected to media exposure which may tend to result in a trial by publicity or subject her/im to discredit and contempt.

**SEC. 61.** The court shall protect the accused from unnecessary publicity by controlling the release of information related to the facts and the conduct of the case and shall caution or admonish the litigants and their counsel or any other person from making out-of-court statements bearing on the issues of the case.

**SEC. 62.** Except for compelling reasons involving national interest and public safety and order, no media coverage, press conference, interviews, public forum, broadcasts and other publications sensationalizing an arrest, court hearing or other proceedings shall be conducted. Any person aggrieved or who may be aggrieved by any of these activities shall resort to the proper court for immediate relief.

**SEC. 63.** The effects of unnecessary media publicity on any case, trial or proceedings shall, upon motion by the proper party, be passed upon by the court taking cognizance of the same subject to appellate review. The court shall act and rule and issue such orders, writs or processes in accordance with this Act and the applicable rules.

**SEC. 64.** Whenever sufficient facts exist to show that a publicity campaign is being conducted against the accused and there is reason to believe that such campaign might influence the conduct or outcome of the proceedings, the court shall transfer the venue of the case, postpone the hearings until the deluge of publicity had subsided or issue such orders as it may deem proper to protect the accused.

## **ARTICLE XI RIGHT TO SUFFRAGE**

**SEC. 65.** Any person under custodial investigation or under detention while awaiting trial or final judgment or conviction on her/his case shall have the right to suffrage.

**SEC. 66.** All government officials, to the extent practicable and compatible with their primary responsibilities, shall assist the Commission on Elections (COMELEC) in carrying out this Article. All such officials shall take reasonable measures to expedite, transmit, deliver and return all election matters which the COMELEC may require them to perform.

**SEC. 67.** The COMELEC shall promulgate the provisions of the preceding sections.

## **ARTICLE XII PENAL AND CIVIL SANCTIONS**

**SEC. 68.** Any public or peace officer who violates Sections 4 and 6 of Article III and Section 1 of Article VII of this Act by actually employing force or violence, whether physical or psychological, upon the person or honor of the person arrested or detained shall be punished by imprisonment of not less than ten (10) years and a fine of one hundred thousand pesos (P100,000.00) plus dismissal from office, disqualification to hold any public position and forfeiture of all benefits, without prejudice to whatever liabilities s/he might have under the Revised Penal Code and other existing laws.

**SEC. 69.** Any other violation of the mandatory provisions of this Act shall be punished by an imprisonment of not less than four (4) years but not more than six (6) years or a fine of fifty thousand pesos (P50,000.00), or both imprisonment and fine.

**SEC. 70.** Any person who violates any provision of this Act shall be adjudged to pay actual, moral and exemplary damages and attorney's fees authorized under the Revised Penal Code, the Civil Code and other applicable laws.

## **ARTICLE XIII FINAL PROVISIONS**

**SEC. 71.** The Department of Justice, the Bureau of Jail Management and Penology, the Commission on Human Rights, the Department of Health, the Department of Education, Culture and Sports, a representative each from the Committees on Human Rights of both chamber of Congress and other related agencies of the government shall promulgate such rules and regulations to effectively implement the provisions of this Act.

**SEC. 72.** All persons charged, facing trial, or under investigation for the commission of a crime or under detention or serving sentence by reason thereof shall continue to be entitled to all rights and privileges granted them under Republic Act No. 7438, the Revised Rules of Court and other pertinent laws insofar as they are not in conflict with this Act.

**SEC. 73.** In the event that any provision of this Act is declared unconstitutional, all other provisions or portions hereof not affected by such declaration shall remain valid and effective.

**SEC. 74.** This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

***APPROVED,***