

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

SIXTEENTH CONGRESS
First Regular Session

House Bill No. 2385



Introduced by **HON. GWENDOLYN F. GARCIA**

EXPLANATORY NOTE

The bane, nay, the curse of our law enforcers and prosecutors in their war against crime, even after they have apparently won it by the identification and apprehension of the perpetrators on the basis of confessions of co-principals or accomplices or the affidavits of material witnesses is the ever-present spectre of retraction or recantation of the statements of the conspirator or witness before or after the case is filed with the court. Thus, our law enforcers and prosecutors find, much to their dismay, that their patient and painstaking efforts and even sacrifices in surveillance and detective work and in developing and building up an air-tight case against the criminal offenders, have woefully gone to waste. What is more painful is the fact that more often than not, these retractions or recantations have been obtained through force and intimidation, coercion, bribery or trickery.

This inherent flaw in our criminal justice system – where it takes a long time, lasting up to several months, from apprehension to prosecution and trial, provides a window of opportunity for criminal offenders to work on witnesses against them in order to make them recant and repudiate their incriminating statements.

This bill attempts to shorten the time lag between apprehension and trial so that, hopefully, the criminal offenders will not have the time to work on the witnesses. This can be done by preserving and perpetuating the testimony of the witness as quickly as possible, that is, even before the case is filed in court so that whatever happens to the witness afterwards – even if he recants or repudiates his testimony – it can still be used against the criminal offenders and thus a miscarriage of justice is avoided.

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

HON. GWENDOLYN F. GARCIA

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

SIXTEENTH CONGRESS
First Regular Session

House Bill No. **2385**

Introduced by **HON. GWENDOLYN F. GARCIA**

AN ACT
PROVIDING FOR THE SPEEDY AND EFFECTIVE PERPETUATION OF THE
TESTIMONY OF A VITAL WITNESS IN THE PROSECUTION FOR A CRIMINAL
OFFENSE SO AS TO PREVENT ITS SUBSEQUENT RECATANTION OR
SUBSTANTIAL ALTERATION

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

SECTION 1. This Act shall be known and cited as the "Anti-Recantation Act of 2007."

SEC. 2. Whenever a co-principal, accomplice, or accessory in the commission of a criminal offense punishable by *reclusion temporal* or higher, or any other material witness thereto, declares in an affidavit or similar document, that some other person or persons participated in the commission, so that from his affidavit, he appears to be a vital witness in the prosecution of the criminal offense, it shall be the duty of the police or other investigating officer who obtained the affidavit to transmit the same, within three (3) days from its execution, to the City or Provincial Prosecutor that has jurisdiction over the preliminary investigation of said offense. The police or investigating officer concerned shall retain a duplicate original of the affidavit.

SEC. 3. If, in the judgment of the Prosecutor, taking into consideration all the circumstances and personalities involved, there is reasonable ground to believe that any of the following exists:

- (a) the life or well-being of the witness is endangered;
- (b) the witness may be forced, intimidated, coerced or unduly or wrongfully persuaded to recant or substantially alter his declaration;
- (c) the witness is about to depart from the Philippines or is seriously ill that he may not be available during the trial of the case arising from the crime referred to in the affidavit;

the Prosecutor concerned shall within three (3) days from receipt of the affidavit, file a verified petition with the nearest Regional Trial Court for the perpetuation of the testimony of the witness.

SEC. 3. The petition shall state the grounds relied upon and shall further state the following:

- (a) the name and address of the witness;
- (b) the name and address of the person or persons implicated in the commission of the offense hereinafter referred to as the prospective accused;

(c) the necessity for the perpetration of the testimony of the witness.

The petition shall be accompanied by a certified true copy of the affidavit and such other documents as the Prosecutor may deem appropriate.

SEC. 4. If the petition is sufficient in form and substance, the Court shall forthwith issue an order setting the date and time of the hearing of the petition which shall not be more than ten (10) days from the filing of the petition and directing that the prospective accused implicated in the affidavit must appear at the hearing in order that he can meet the witness face to face and further cross-examine the latter on his testimony in connection with his affidavit. The witness and the prospective accused directed to appear at the hearing shall be given notice of the order at least three (3) days before the hearing. A copy of the petition and the accompanying affidavit shall be served together with the notice.

Upon the filing of the petition and during its pendency, the court may adopt measures that would insure the safety and security of the witness and secure his appearance at the hearing.

SEC. 5. At the hearing, the witness, with the assistance of counsel, shall be examined by the Prosecutor on the basis of his affidavit. If the witness repudiates his affidavit or recants his statements therein or gives testimony contradicting or altering substantially the tenor of his affidavit, the proceeding shall be terminated and the petition dismissed without prejudice to the prosecution of the witness for perjury. If the witness affirms in substance the correctness and veracity of the statements in his affidavit, the prospective accused shall be directed to proceed, through counsel, to cross-examine the witness, in the same manner as in the trial of a criminal case. Failure or refusal on his part to attend the hearing or to conduct the cross-examination shall be considered a waiver and he cannot be heard to complain against the regularity or validity of the proceeding in any criminal action arising from or connected with the testimony of the witness taken at said proceeding. After the cross-examination or in case of waiver thereof, the Court shall order the proceeding terminated and closed. The witness, if under confinement, shall thereupon be ordered discharged, unless there are other just and valid reasons for his continued confinement.

SEC. 6. The testimony of the witness taken in the manner prescribed above, cannot be subsequently repudiated or recanted by the witness and shall be admitted in evidence in the criminal case arising from or connected therewith without necessity of presenting said witness and the latter shall not be compelled to testify anew on the subject matter of his testimony.

SEC. 7. Any provision of law, decree, executive order, or the Rules of Court inconsistent with this Act is hereby repealed or amended accordingly.

SEC. 8. 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,