

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **5741**



Introduced by REP. Michael L. Romero

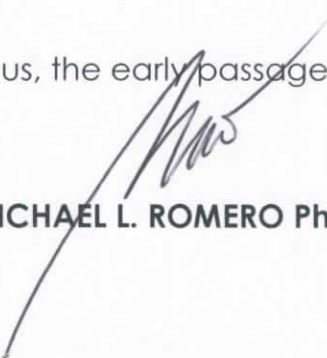
EXPLANATORY NOTE

It is the policy of the republic of the Philippines to hereby protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth.

The State recognizes the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected.

This House Bill seeks to foster protection for individual personal information in information and communications systems in the government and the private sector, providing stiffer provisions, rationalize all existing rules and regulations, and creating a more effective and sufficient data privacy scheme.

Thus, the early passage of this bill is earnestly requested.


MICHAEL L. ROMERO Ph.D

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AN ACT
AMENDING REPUBLIC ACT NO.10173, OTHERWISE KNOWN AS THE
"DATA PRIVACY ACT OF 2012", TO ADOPT A MORE SYSTEMATIC,
COMPREHENSIVE AND EFFECTIVE PROTECTION PROGRAM, TO FOSTER
THE IMPOSITION OF ALL EXISTING POLICIES AND GUIDELINES,
INCREASING ITS PENALTIES AND SANCTIONS, AND FOR OTHER
PURPOSES

*Be it enacted by the Senate and House of Representative of the
Philippines in congress assembled:*

SECTION 1.

Section 25 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

CHAPTER VIII
PENALTIES

SECTION 25. *Unauthorized Processing of Personal Information and Sensitive Personal Information –*

(a) The unauthorized processing of personal information shall be penalized by imprisonment ranging from two **(2)** years to four **(4)** years and a fine of not less than One million pesos **(Php1,000,000.00)** but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.

(b) The unauthorized processing of personal sensitive information shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than One million pesos **(Php1,000,000.00)** but not more than Four million pesos (Php4,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.

SECTION 2.

Section 26 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 26. *Accessing Personal Information and Sensitive Personal Information Due to Negligence –*

(a) Accessing personal information due to negligence shall be penalized by imprisonment ranging from two **(2)** years to four **(4)** years and a fine of not less than One million pesos **(Php1,000,000.00)**

but not more than Three million pesos (**Php3,000,000.00**) shall be imposed on persons who, due to negligence, provided access to personal information without being authorized under this Act or any existing law.

(b) Accessing sensitive personal information due to negligence shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than One million pesos (**Php1,000,000.00**) but not more than Four million pesos (Php4,000,000.00) shall be imposed on persons who, due to negligence, provided access to personal information without being authorized under this Act or any existing law.

SECTION 3.

Section 27 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 27. Improper Disposal of Personal Information and Sensitive Personal Information–

(a) The improper disposal of personal information shall be penalized by imprisonment ranging from one **(1)** year to three **(3)** years and a fine of not less than Three hundred thousand pesos (**Php300,000.00**) but not more than One million pesos (**Php1,000,000.00**) shall be imposed on persons who knowingly or negligently dispose, discard or abandon the personal information of an individual in an area accessible to the public or has otherwise placed the personal information of an individual in its container for trash collection.

b) The improper disposal of sensitive personal information shall be penalized by imprisonment ranging from two **(2)** years to four **(4)** years and a fine of not less than Five hundred thousand pesos **(Php500,000.00)** but not more than Two million pesos **(Php2,000,000.00)** shall be imposed on persons who knowingly or negligently dispose, discard or abandon the personal information of an individual in an area accessible to the public or has otherwise placed the personal information of an individual in its container for trash collection.

SECTION 4.

Section 28 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 28. Processing of Personal Information and Sensitive Personal Information for Unauthorized Purposes –The processing of personal information for unauthorized purposes shall be penalized by imprisonment ranging from three **(3)** years to six **(6)** years and a fine of not less than One million pesos **(Php1,000,000.00)** but not more than Three million pesos **(Php3,000,000.00)** shall be imposed on persons processing personal information for purposes not authorized by the data subject, or otherwise authorized under this Act or under existing laws.

The processing of sensitive personal information for unauthorized purposes shall be penalized by imprisonment ranging from three **(3)** years to seven **(7)** years and a fine of not less than One million pesos **(Php1,000,000.00)** but not more than Three million pesos **(Php3,000,000.00)** shall be imposed on persons processing sensitive personal information for purposes not

authorized by the data subject, or otherwise authorized under this Act or under existing laws.

SECTION 5.

Section 29 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 29. *Unauthorized Access or Intentional Breach* – The penalty of imprisonment ranging from two **(2)** years to four **(4)** years and a fine of not less than One (1) million pesos **(Php1,000,000.00)** but not more than Three million pesos **(Php3,000,000.00)** shall be imposed on persons who knowingly and unlawfully, or violating data confidentiality and security data systems, breaks in any way into any system where personal and sensitive personal information is stored.

SECTION 6.

Section 30 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 30. *Concealment of Security Breaches Involving Sensitive Personal Information* – The penalty of imprisonment of three **(3)** years to six **(6)** years and a fine of not less than One million pesos **(Php1,000,000.00)** but not more than Three million pesos **(Php3,000,000.00)** shall be imposed on persons who, after having knowledge of a security breach and of the obligation to notify the Commission pursuant to Section 20(f) of RA10173, intentionally or by omission conceals the fact of such security breach.

SECTION 7.

Section 31 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 31. *Malicious Disclosure.* – Any personal information controller or personal information processor or any of its officials, employees or agents, who, with malice or in bad faith, discloses unwarranted or false information relative to any personal information or personal sensitive information obtained by him or her, shall be subject to imprisonment ranging from three **(3)** years to six **(6)** years and a fine of not less than One million pesos **(Php1,000,000.00)** but not more than Three million pesos **(Php3,000,000.00)**.

SECTION 8.

Section 32 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 32. *Unauthorized Disclosure* –

(a) Any personal information controller or personal information processor or any of its officials, employees or agents, who discloses to a third party personal information not covered by the immediately preceding section without the consent of the data subject, shall be subject to imprisonment ranging from two **(2)** years to four **(4)** years and a fine of not less than One million pesos **(Php1,000,000.00)** but not more than Three million pesos **(Php3,000,000.00)**.

(b) Any personal information controller or personal information processor or any of its officials, employees or agents, who discloses to a third party sensitive personal information not covered by the immediately preceding section without the consent of the data subject, shall be subject to imprisonment ranging from three (3) years to six **(6)** years and a fine of not less than One million pesos **(Php1,000,000.00)** but not more than Three million pesos **(Php3,000,000.00)**.

SECTION 9.

Section 33 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 33. *Combination or Series of Acts.* – Any combination or series of acts as defined in Sections 25 to 32 shall make the person subject to imprisonment ranging from three (3) years to six (6) years and a fine of not less than Two million pesos **(Php2,000,000.00)** but not more than Five million pesos (Php5,000,000.00).

SECTION 10.

Section 34 of chapter VIII of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 34. *Extent of Liability.* – If the offender is a corporation, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or by their

gross negligence, allowed the commission of the crime. If the offender is a juridical person, the court may suspend or revoke any of its rights under this Act.

If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties prescribed. If the offender is a public official or employee and he or she is found guilty of acts penalized under Sections 27 and 28 of this Act, he or she shall, in addition to the penalties prescribed herein, suffer **perpetual absolute disqualification** from office, as the case may be.

SECTION 11.

Section 41 of chapter IX of Republic Act No. 10173, is hereby amended to read as follows:

CHAPTER IX

MISCELLANEOUS PROVISIONS

SECTION 41. *Appropriations Clause.* – The Commission shall be provided with an initial appropriation of Twenty million pesos (Php20,000,000.00) to be drawn from the national government.

Appropriations for the succeeding years shall be included in the General Appropriations Act (GAA). It shall likewise receive a continuing appropriations of Twenty million pesos (**Php20,000,000.00**) per year, and every year after upon implementation of this Act drawn from the national government.

SECTION 12.

Section 42 of chapter IX of Republic Act No. 10173, is hereby amended to read as follows:

SECTION 42. *Transitory Provision.* – Existing industries, businesses and offices affected by the implementation of this Act shall be given six **(6)** months transitory period from the effectivity of the IRR or such other period as may be determined by the Commission, to comply with the requirements of this Act.

SECTION 13. IMPLEMENTING RULES AND REGULATIONS. – The departments and agencies charged with carrying out the provisions of this Act shall, within sixty **(60)** days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

SECTION 14. REPEALING CLAUSE. – All laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 15. SEPARABILITY CLAUSE. – If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby.

SECTION 16. EFFECTIVITY CLAUSE. – This Act shall take effect after fifteen (15) days from its publication in the Official Gazette or in at least two (2) national newspapers of general circulation whichever comes earlier.

Approved,