

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

House Bill No. **7795**



Introduced by **Rep. MARIO VITTORIO "MARVEY" A. MARIÑO**
5th District, Batangas

EXPLANATORY NOTE

Section 21 of Republic Act No. 9165, as amended, or the Dangerous Drugs Act provides for the proper procedure to be followed by police officers in the seizure, confiscation, custody, and disposition of dangerous drugs. This is also referred to as the *chain of custody rule*. *Chain of Custody* means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.¹ Compliance with Section 21 ensures that the integrity and identity of the seized drugs are duly preserved and removes unnecessary doubts concerning the identity of the evidence.

Much attention has been given to the *chain of custody rule* under Section 21 of the Dangerous Drugs Act. Neglect, however, can be found in the safekeeping of the confiscated drugs, particularly of the representative samples required by law to be retained until final disposition of the case. Seized illegal drugs still find their way out of the facilities of the Philippine Drug Enforcement Agency (PDEA), the agency in charge of the custody of dangerous drugs, instruments/paraphernalia and equipment which have been confiscated. In fact, there are certain "ninja cops" or the erring police officers who recycle, resell seized drugs, or plant evidence against innocent individuals that add to the continuing drug problem in the Philippines.

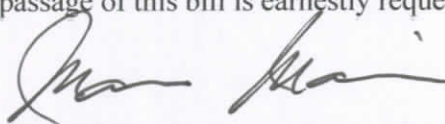
Thus, this bill seeks to further amend Section 21 of the Dangerous Drugs Act and provide for the immediate destruction of the seized illegal drugs as well as the retained representative sample/s to prevent further recycle, resell of dangerous drugs, or planting of evidence by erring police officers.

The measure also proposes to allow the admissibility of duly authenticated and dated photographs of seized dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, without need to further present the actual objects as evidence. This bill also requires that the Regional Trial Court (RTC) issue a certification of compliance with Section 21 and that the representative sample/s

¹ Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002

destroyed or burned is the same drug seized, confiscated, or retained. Consequently, such certification by the RTC shall likewise be admissible as evidence in lieu of the representative sample/s.

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

A handwritten signature in black ink, appearing to read 'Mario Mariño', written in a cursive style.

MARIO VITTORIO "MARVEY" A. MARIÑO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

House Bill No. **7795**

Introduced by **Rep. MARIO VITTORIO "MARVEY" A. MARIÑO**
5th District, Batangas

**AN ACT PROVIDING FOR THE IMMEDIATE DESTRUCTION
OF THE CONFISCATED, SEIZED AND/OR SURRENDERED
DANGEROUS DRUGS, PLANT SOURCES OF DANGEROUS
DRUGS, AND CONTROLLED PRECURSORS AND ESSENTIAL
CHEMICALS, AMENDING FOR THE PURPOSE REPUBLIC ACT
NO. 9165, AS AMENDED**

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

SECTION 1. Section 21 of Republic Act No. 9165, as amended by Republic Act
No. 10670 is hereby further amended to read as follows:

*"Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered
Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and
Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. –*
The PDEA shall take charge and have custody of all dangerous drugs, plant sources of
dangerous drugs, controlled precursors and essential chemicals, as well as
instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or
surrendered, for proper disposition in the following manner:

1. The apprehending team having initial custody and control of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizure: Provided, further, That noncompliance of these requirements under justifiable grounds, as long as the seized item/s is/are PROPERLY SEIZED, RECORDED, PHOTOGRAPHED, AUTHENTICATED, AND ITS*

INTEGRITY AND EVIDENTIARY VALUE PRESERVED ~~properly preserved~~ by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items;

2. Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination.
3. A CERTIFICATION OF THE FORENSIC LABORATORY EXAMINATION RESULTS, WHICH SHALL BE DONE UNDER OATH BY THE FORENSIC LABORATORY EXAMINER, INDICATING THEREIN THE KIND OF DANGEROUS DRUGS SEIZED, ITS CHEMICAL COMPOSITION, VOLUME, WEIGHT, AND OTHER RELEVANT INFORMATION, SHALL BE ISSUED WITHIN TWENTY-FOUR (24) HOURS; *PROVIDED*, THAT A REPRESENTATIVE SAMPLE, DULY EXAMINED, WEIGHED, RECORDED, AND CERTIFIED BY THE FORENSIC LABORATORY EXAMINER TO BE THE EXACT SAMPLE OF THE DANGEROUS DRUGS SEIZED, SHALL BE RETAINED AND SUBMITTED IN EVIDENCE TO THE PDEA
4. WITHIN TWENTY-FOUR (24) HOURS FROM THE ISSUANCE OF THE CERTIFICATION OF THE FORENSIC LABORATORY EXAMINATION RESULTS, THE PDEA WILL IMMEDIATELY PROCEED WITH THE DESTRUCTION OR BURNING OF THE SEIZED DRUGS, EXCEPT THE REPRESENTATIVE SAMPLE MENTIONED IN THE PRECEDING PARAGRAPH, IN THE PRESENCE OF THE ACCUSED OR THE PERSON/S FROM SUCH ITEMS WERE CONFISCATED AND/OR SEIZED, OR HIS/HER REPRESENTATIVE OR COUNSEL, THE FORENSIC LABORATORY EXAMINER, A REPRESENTATIVE FROM THE MEDIA AND THE DOJ, CIVIL SOCIETY GROUPS AND ANY ELECTED PUBLIC OFFICIAL: *PROVIDED*, THAT THE PHOTOGRAPHS TAKEN BY THE APPREHENDING TEAM OR OFFICER SHALL BE CERTIFIED BY THE PDEA TO BE THE TRUE AND CORRECT SEIZED DRUG/S AND PHOTOGRAPHS OF THE EVIDENCE PROPERLY SEIZED AND SUBSEQUENTLY DESTROYED; *PROVIDED, FURTHER*, THAT A FINAL CERTIFICATION BY FORENSIC LABORATORY EXAMINER SHALL BE ISSUED INDICATING THAT THE DRUG/S SEIZED AND SUBSEQUENTLY DESTROYED ARE THE SAME DRUG/S SEIZED, EXAMINED, WEIGHED, AND RECORDED IN THE PREVIOUS PARAGRAPH. THE BOARD SHALL DRAW UP THE GUIDELINES ON THE MANNER OF PROPER DISPOSITION AND DESTRUCTION OF SUCH ITEM/S;
5. The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the AUTHENTICATED PHOTOGRAPHS OF THE EVIDENCE in the custody of the PDEA AND THE FINAL CERTIFICATION OF THE FORENSIC LABORATORY

EXAMINATION RESULTS, shall be submitted to the court having jurisdiction over the case: *PROVIDED*, THAT AFTER THE PRESENTATION OF THE REPRESENTATIVE SAMPLE/S AS EVIDENCE IN COURT, SAID SAMPLE/S SHALL BE DESTROYED OR BURNED IN THE MANNER PRESCRIBED IN THE PREVIOUS PARAGRAPH: *PROVIDED*, *FINALLY*, THAT THE COURT SHALL ISSUE A CERTIFICATION OF COMPLIANCE WITH SECTION 21 AND THAT THE REPRESENTATIVE SAMPLE/S SUBSEQUENTLY DESTROYED OR BURNED IS THE SAME DRUG PROPERLY SEIZED, CONFISCATED, AND RETAINED BY THE PDEA;

4. The alleged offender of his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused or is UNABLE TO the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;
5. Transitory Provision: (a) Within twenty-four (24) hours from the effectivity of this Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the Court, DOJ, Department of Health (DOH) and the accused and/or his/her counsel, and (b) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH."

SECTION 2. *Implementing Rules and Regulations.* – To effectively implement the provisions of Section 21, the Philippine Drug Enforcement Agency (PDEA) shall issue the necessary guidelines on the IRR for the purpose in consultation with the Department of Justice (DOJ) and relevant sectors to curb increasing drug cases.

SECTION 3. *Separability Clause* – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 4. *Repealing Clause.* – All laws, decrees, executive orders, memorandum circulars inconsistent with the provisions of this Act are hereby amended, repealed or modified accordingly.

SECTION 5. *Effectivity.* – This act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,