

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Third Regular Session

House Bill No. 10547



Introduced by **MAGDALO Party-List Representative**

HON. MANUEL DG. CABOCHAN III

EXPLANATORY NOTE

About 5,200 inmates at the New Bilibid Prison (NBP) die annually due to overcrowding, disease, and violence.¹ A peer-reviewed report has shown that most of these deaths are not fully reported which raises concerns about the firm commitment of the government to provide adequate protection to inmates and to promote accountability and transparency as well.² During the recent COVID-19 pandemic, most of the prison deaths have no clear causes as they were not tested for the coronavirus. Among these so-called deaths included high-profile inmates that have raised public concerns on a possible death fraud trade and "body-switching" scheme occurring inside the NBP.³

In July 2020, the Department of Justice confirmed that nine high-profile NBP inmates died of COVID-19.⁴ It included Jaybee Sebastian, Benjamin Marcelo, Zhang Zhu Li, Jimmy Kinsing Hung, Francis Go, Jimmy Yang, Eugene Chua, Ryan Ong, and Amin Imam Buratong. According to the Bureau of Corrections, there have been deaths due

¹ CNN. More than 5,000 inmates die at this prison every year. Information retrieved from <https://edition.cnn.com/2019/10/04/asia/philippines-inmate-deaths-intl-hnk-scli/index.html>. Dated October 18, 2019

² Human Rights Watch. Philippines: Prison Deaths Unreported Amid Pandemic. Information retrieved from <https://www.hrw.org/news/2020/04/28/philippines-prison-deaths-unreported-amid-pandemic#>. Dated April 28, 2020

³ Rappler. Gordon to include death fraud trade in Senate Bilibid probe. Information retrieved from <https://www.rappler.com/nation/gordon-to-include-death-fraud-trade-bilibid-probe>. Dated July 22, 2020

⁴ Inquirer. DOJ confirms death of high profile Bilibid inmate Jaybee Sebastian. Information retrieved from <https://newsinfo.inquirer.net/1309458/doj-confirms-death-of-high-profile-bilibid-inmate-jaybee-sebastian>. Dated July 20, 2020

to COVID-19 but declined to identify these due to the Data Privacy Act of 2012. However, high-profile inmates such as Jaybee Sebastian had become public figures on account of their previous association with certain national issues, therefore, exempting him from the abovementioned law.⁵ Likewise, there is a justified public interest and benefit to release information regarding these suspicious deaths.

Hence, this proposed measure seeks to mandate the reporting of deaths and illnesses of persons deprived of liberty (PDL) and detained children in conflict with the law. It shall investigate all suspicious deaths of PDL to ensure the proper implementation of justice.

In view of the foregoing, the immediate passage of this measure is earnestly sought.



MANUEL DG. CABOCHAN III

Representative

Magdalo Para sa Pilipino Party-List

⁵ Section 5 (C) of the Implementing Rules and Regulations of the Data Privacy Act of 2012 states that the Data Privacy Act of 2012 and IRR shall not apply to special cases such as to personal information that will be processed for research purpose, intended for a public benefit, subject to the requirements of applicable laws, regulations, or ethical standards

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AN ACT
MANDATING THE REPORTING OF DEATHS AND ILLNESSES OF PERSONS
DEPRIVED OF LIBERTY AND DETAINED CHILDREN IN CONFLICT WITH
LAW, PENALIZING NON-REPORTING AND FALSE REPORTING OF DEATHS
THEREOF, AND FOR OTHER PURPOSES

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

1 SECTION 1. *Short Title.*— This Act shall be known as the "Death in Custody
2 Reporting Act".

3
4 Sec. 2. *Declaration of Policy.*— It is the declared policy of the State to ensure
5 that the execution of sentences is properly and completely served, within the bounds
6 of law. Furthermore, it is in the interest of the State to investigate all suspicious
7 deaths of persons in custody to ensure the proper dispensation of justice. For this
8 purpose, sufficient mechanisms for proper monitoring of deaths in custody shall be
9 in place.

1 Sec. 3. *Definition of Terms.*— As used in this Act:

- 2 (a) *Child in conflict with the law (CICL)* refers to a detained child who is,
3 accused of, or adjudged as, having committed an offense under Philippine
4 laws;
- 5 (b) *Persons Deprived of Liberty (PDL)* refers to a person who has been
6 arrested, held in lawful custody, detained, or imprisoned awaiting or
7 pending trial or in execution of a lawful sentence;
- 8 (c) *Jail* refers to a place of confinement for inmates under investigation or
9 undergoing trial, or serving short-term sentences. Jails include provincial,
10 district, city and municipal jails managed and supervised by the Provincial
11 Government and the Bureau of Jail Management and Penology (BJMP),
12 respectively, which are both under the Department of the Interior and Local
13 Government (DILG);
- 14 (d) *Prison* refers to the national prisons or penitentiaries managed and
15 supervised by the Bureau of Corrections (BuCor), an agency under the
16 Department of Justice (DOJ);
- 17 (e) *Suspicious circumstances* refers to any circumstance which would lead a
18 reasonable man — based on his skills, experience, and/or understanding
19 of the circumstances — that there is a possibility that the death of a PDL
20 or CICL is fictitious or caused by unlawful means;
- 21 (f) *Youth Detention Home* refers to a 24-hour child-caring institution managed
22 by accredited local government units (LGUs) and licensed and/or accredited
23 non-government organizations (NGOs) providing short-term residential
24 care for CICL who are awaiting court disposition of their cases or transfer
25 to other agencies or jurisdictions; and
- 26 (g) *Youth Rehabilitation Center* refers to a 24-hour residential care facility
27 managed by the Department of Social Welfare and Development (DSWD),
28 LGUs, licensed and/or accredited NGOs monitored by the DSWD, which
29 provides care, treatment and rehabilitation services for CICL. Rehabilitation
30 services are provided under the guidance of a trained staff where residents
31 are cared for under a structured therapeutic environment with the end view
32 of reintegrating them into their families and communities as socially

1 functioning individuals. Physical mobility of residents of said centers may
2 be restricted pending court disposition of the charges against them.
3

4 *Sec. 4. Reporting of Death Information.*— The BuCor, the BJMP, wardens of
5 the provincial jails and heads of youth detention homes and youth rehabilitation
6 centers shall submit the following:

7 (a) Report to the Executive. – A monthly report to the DOJ, DILG, DSWD on
8 the deaths of PDLs or CICLs; Provided, That in case the PDL or CICL has
9 been charged or convicted of a heinous crime or crimes punishable by
10 death, reclusion perpetua, or life imprisonment, the Bucor, BJMP, wardens
11 of the provincial jails and heads of youth detention homes and youth
12 rehabilitation centers shall notify the DOJ, DILG and DSWD immediately
13 upon the death of the PDL or CICL, through both modern and traditional
14 communication means and devices.

15 (b) Report to The Supreme Court. – A report to the Supreme Court through
16 the Office of the Court Administrator, immediately upon the death of PDLs
17 and CICLs charged or convicted of a heinous crime or crimes punishable
18 by death, reclusion perpetua, or life imprisonment.

19 (c) Report to Commission on Human Rights. — The reports required under
20 paragraphs (a) and (b) of this Section shall likewise be submitted to the
21 Commission on Human Rights.
22

23 *Sec. 5. Information Required.*— The reports required under Section shall
24 contain information that includes:

25 (a) the name, gender, race, ethnicity, and age of the deceased;

26 (b) the date, time, and location of death;

27 (c) the law enforcement agency that detained, arrested, or was in the process
28 of arresting the deceased;

29 (d) a brief description of the circumstances surrounding the death; and

30 (e) other details as may be required by the implementing rules and regulations.
31

1 Sec. 6. *Automatic Investigation.*— The DOJ, through the National Bureau of
2 Investigation (NBI), shall conduct motu proprio automatic investigation of PDLs and
3 CICLs who died under suspicious circumstances.
4

5 Suspicious deaths in custody must be investigated promptly by the DOJ,
6 through the NBI, regardless of whether the relatives of the deceased requested it.
7 The main purpose of the investigation is to clarify the circumstances surrounding the
8 death of the PDLs and CICLs. The investigation must seek, at least, to:

- 9 (a) Obtain and preserve physical and documentary evidence in connection with
10 the death of the PDL and CICL;
11 (b) Identity possible witnesses and record their statements;
12 (c) Identify the deceased;
13 (d) Determine the extent of involvement of all those implicated in the death;
14 (e) Establish the cause, manner, place and time of death, as well as any
15 pattern of practice that may have caused it; and
16 (f) Differentiate between natural death, accidental death, suicide, and
17 homicide.
18

19 The scene of death should be regarded as potentially a crime scene, especially
20 if the death was unexpected or under suspicious circumstances. The families of the
21 PDL or CICL should be kept abreast of the progress and findings of the investigation.
22 The body of the deceased shall be returned to the next of kin in a manner that is fully
23 respectful of the dignity of the deceased, upon completion of all post-mortem
24 examinations essential to the investigation.
25

26 Sec. 7. *Confirmatory Cause of Death and Autopsy.*— A thorough autopsy, by
27 a representative of the Department of Health (DOH), is mandatory in cases where
28 the deceased PDL or CICL has been charged or convicted of a heinous crime or crimes
29 punishable by death, reclusion perpetua, or life imprisonment, or one who died
30 unexpectedly or under suspicious circumstances. . A complete death certificate
31 shall be issued to the next of kin as soon as possible after the death.
32

1 *Sec. 8. Disposition of Cadaver in Times of Public Health Emergency.*— The
2 mandatory cremation of the cadaver of a PDL or CICL when public health requires as
3 determined by the DOH, shall be witnessed by the relatives of the deceased, not
4 exceeding four (4), if any, a representative of the DOH, and, as may be applicable, a
5 representative of the DOJ, DILG, or DSWD; Provided, That in case the PDL or CICL
6 has been charged or convicted of a heinous crime or crimes punishable by death,
7 reclusion perpetua, or life imprisonment, the cremation shall also be witnessed
8 members of the media, not exceeding ten (10).

9
10 *Sec. 9. Notification of Kin of Sick or Dead PDL.*— Whenever a PDL or a CICL is
11 critically ill or dies, the prison medical officer shall report the matter to the
12 Superintendent who in turn shall notify the inmate's family, immediately, by the
13 fastest means of communication available. Failure to comply with the legal duty
14 herein required shall render the Superintendent or such other officer in charge liable
15 to civil damages.

16
17 *Sec. 10. Violations and Penalties.*—

18 (a) Non-Reporting. Any official, head or officer-in-charge of the bureaus, penal
19 institutions, and detention and rehabilitation centers who violates Section
20 4 of this Act and/or any responsible officer who participated in the
21 commission of the crime or who shall have knowingly permitted the
22 omission shall, upon conviction by final judgment, suffer the penalty of
23 imprisonment of not less than six (6) years but not more than Twelve (12)
24 years and a fine of not less than Five Hundred Thousand pesos
25 (P500,000.00) but not more than One Million pesos (P1,000,000.00) at the
26 discretion of the proper court.

27 (b) False Reporting. In addition to the penalties prescribed in Articles 223, 224
28 and 225 of the Revised Penal Code, as amended, any person who shall
29 make or cause to be made a false or fictitious report of the death of a living
30 PDL or a CICL with the intent of letting the PDL or CICL escape shall be
31 guilty of false reporting and shall be punished by:

- 1 (1) Life imprisonment in case the PDL or CICT has been convicted of a
2 heinous crime or is sentenced to life imprisonment, reclusion perpetua,
3 or death and a fine of not less than Two million pesos (P2,000,000.00)
4 but not more than Five million pesos (P5,000,000.00)
- 5 (2) Imprisonment of not less than Twelve (12) years but not more than
6 fifteen (15) years in case the PDL or CICT has been convicted of any
7 crime other than those stated in subsection (b)(I) and a fine of not less
8 than One million pesos (P1,000,000.00) but not more than Three million
9 pesos (P3,000,000.00).
- 10 (3) Imprisonment of not less than six (6) years but not more than twelve
11 (12) years in case the PDL or CICT has not yet been convicted by final
12 judgment and a fine of not less than Five hundred thousand pesos
13 (P500,000.00) but not more than One million pesos (P1,000,000.00)
- 14

15 Any person who participated in or facilitated the commission of the false
16 reporting or who shall have knowingly permitted the commission thereof shall be liable
17 as principals and shall suffer the penalties imposed in subsection (b) hereof.

18

19 *Sec. 11. Implementing Rules and Regulations.*— The DOJ and DILG shall within
20 ninety days (90) days from the effectivity of this Act, promulgate the rules and
21 regulations to effectively implement the provisions of this Act.

22

23 *Sec. 12. Separability Clause.*— If any portion or provision of this Act is declared
24 unconstitutional, the remainder of this Act or any provisions not affected thereby shall
25 remain in force and effect.

26

27 *Sec. 13. Repealing Clause.*— Any law, presidential decree or issuance,
28 executive order, letter of instruction, rule or regulation inconsistent with the
29 provisions of this Act is hereby repealed or modified accordingly.

30

31 *Sec. 14. Effectivity.*— This Act shall take effect fifteen (15) days following its
32 complete publication in the Official Gazette or a newspaper of general circulation.

Approved,