

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

NINETEENTH CONGRESS
Second Regular Session

House Bill No. **8862**



Introduced by

HON. YEDDA MARIE K. ROMUALDEZ

and

HON. JUDE A. ACIDRE

AN ACT
ALLOWING SINGLE-PARTY CONSENSUAL MONITORING BY LAW
ENFORCEMENT OFFICERS

EXPLANATORY NOTE

Article III, Section 3(1) of the 1987 Constitution provides that “the privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law”. This bill is being proposed as an exception to the inviolability of the privacy of communication as certain matters concerning public safety need to be addressed.

The State seeks to maintain law and order, protect the life, liberty, and property of its citizens, and shall enact policies that will aid the government to ensure the maintenance of a lawful society such as empowering its law enforcement agencies with the technological tools needed to be effectively perform its functions.

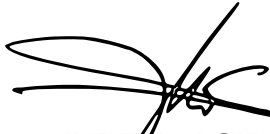
This bill seeks to allow our law enforcement officers conducting an investigation, acting under prior consent and supervision from his immediate superiors, to record oral conversations between law enforcement officers and

the persons subject of their investigations provided that the former are parties to such conversations. Allowing these recordings to be used as evidence will empower the law enforcement agencies and ensure to achieve not only a successful prosecution and conviction of criminals but also a low incidence of criminality.

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



Rep. YEDDA MARIE K. ROMUALDEZ
Representative, Tingog Sinirangan



Rep. JUDE A. ACIDRE
Representative, Tingog Sinirangan

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

Section 1. *Short Title.* – This Act shall be known as the “*Consensual Monitoring by Law Enforcement Officers Act of 2023.*”

Section 2. *Declaration of Policy.* – The State seeks to maintain law and order, protect the life, liberty, and property of its citizens, and shall enact policies that will aid the Government to ensure the maintenance of a lawful society such as empowering its law enforcement agencies with the technological tools needed to effectively perform its functions as protectors of the people.

Section 3. *Definition of Terms.* As used in this Act, the terms:

- (a) “*Law enforcement agency*” shall refer to the Philippine National Police (PNP), the National Bureau of Investigation (NBI), and the Philippine Drug Enforcement Agency (PDEA);

- (b) “*Law enforcement officer*” shall refer to the duly authorized operatives of the aforementioned law enforcement agencies;
- (c) “*Consensual Monitoring*” shall refer to the interception by an electronic device of any communication via information and communication technology (ICT) tools primarily: landline phones, smartphones, and cross platform messaging applications available through smartphones such as but not limited to Viber, Telegram, WhatsApp, Instagram, Facebook Messenger, Signal, Skype, Slack, WeChat, Snapchat, Wire, and Line, where a law enforcement officer who is a party to the oral communication has given prior consent to the monitoring or recording;
- (d) “*Information and communications technology tools*” shall refer but not limited to the following; landline telephones, smartphones, internet-capable devices, computer systems, and other similar devices;
- (e) “*Prior consent*” shall refer to a written letter submitted by the law enforcer seeking permission for the consensual monitoring to his immediate superior who shall accede to the said request in a written manner as well;
- (f) “*Immediate Supervisor*”
 - i. For the Philippine National Police – it shall mean one of the following: city director for highly urbanized cities, chief of police for municipal police offices, district director for the National Capital Region police offices, and regional or provincial directors for national support units whichever properly applies;
 - ii. For the National Bureau of Investigation – it shall refer to any of the following: regional director, chief of the division in the central office, or the division chief in a specific regional jurisdiction; and
 - iii. For the Philippine Drug Enforcement Agency – it shall refer to just one of the following: regional officer for the various regional offices, provincial officer for the various provincial

offices, district officer for the various district in the National Capital Region, and for the purposes of the non-component highly urbanized cities, immediate superior shall refer to the head of this city offices once they are constituted.

Section 4. *Consensual Monitoring by Law Enforcement Officers.* –

A law enforcement officer shall apply to his immediate superior to record an oral conversation by any information and communications technology tools wherein he is one of the parties in a conversation.

For purposes of this section, a law enforcement officer is a party to the oral conversation if the oral communication is directed to such person through any information and communications technology tools, primarily telephones or smartphones, or cross platforms messaging applications.

Section 5. *Factors that Justify the Application for Consensual Monitoring.* – An application for consensual monitoring by a law enforcement officer shall be allowed if his application letter contains the following:

- a. the reason/s for the monitoring;
- b. a citation of the criminal statute involved for which the monitoring is conducted as an investigative tool;
- c. the location of the monitoring device;
- d. the physical location where the monitoring will take place;
- e. the duration or length of time of the monitoring, which shall not exceed sixty (60) days from the date the monitoring commenced; and
- f. the name of the person/s to be monitored.

Section 6. *Reapplication Process.* – If there is a need for the monitoring to continue beyond sixty (60) days, the law enforcement officer who has originally applied for the authorization, may submit an extension of another sixty (60) days. He must attach the original application that requires an extension as well as the authority of the previously approved request. Likewise,

he must state reason/s that warrants the extension. If the law enforcement officer who originally requested for the authority to monitor is not with the unit anymore, the immediate officer of the unit that requested the monitoring can designate a new officer. The monitoring process can only be extended twice for a total of 180 days.

Section 7. *Authorization Procedure for the Conduct of Consensual Monitoring.* – For purposes of this Act, all law enforcement officers who shall record oral conversations should strictly abide by the following procedure:

- a. Submit a written application to his immediate supervisor specifically stating the factors stated under Section 5;
- b. The said application must expressly indicate that he is giving his consent to monitor their conversation.;
- c. Submit the said application in two (2) copies – one for his immediate superior and one for his case file. Both must indicate the date and time when it was approved, with the signature of the approving authority;
- d. A scanned copy of the approved application must be sent via email and kept in the unit's email address for record purposes to indicate the time stamp. This must be done within regular business hours of the day when the approval was given. Failure to do so shall invalidate the approval; and
- e. The procedure stated under letters a, b, and c shall apply in submitting an application for extension.

Section 8. *Safekeeping of the Recorded Oral Conversation.* – Law enforcement agencies shall maintain the oral records of all conversations they have recorded in accordance with this Act. They shall carefully keep a list arranged in a chronological order with the indicated time stamps. This list should be updated on a monthly basis.

In no way should a recorded conversation be deleted once it has been recorded already.

Section 9. *Repealing Clause.* – All laws, presidential decrees, letters of instruction, executive orders, rules, and regulations, in so far as they are inconsistent with this Act are hereby repealed or amended.

Section 10. *Separability Clause.* – If any provision of this Act is declared invalid or unconstitutional, the provisions not affected thereby shall remain in full force and effect.

Section 11. *Implementing Rules and Regulations.* – The Philippine National Police, the National Bureau of Investigation, and the Philippine Drug Enforcement Agency shall coordinate with the Department of Interior and Local Government, and the Department of Justice to promulgate rules and regulations for the effective implementation of this act.

Section 12. *Effectivity.* – 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,