Republic of the Philippines

House of Representatives

Quezon City, Metro Manila

Nineteenth Congress
Second Regular Session

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HOUSE BILL NO. **10452**

Introduced by Representative LORDAN G. SUAN

AN ACT
ESTABLISHING A SYSTEM PROTECTING THE COMMUNITY INTELLECTUAL RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLES

EXPLANATORY NOTE

The Philippines boasts a rich tapestry of indigenous cultures, each with unique knowledge and traditions passed down through generations. This bill, the Community Intellectual Rights Act, is a crucial step towards ensuring these traditions are respected and protected.

Currently, indigenous cultural communities and indigenous peoples (ICC/IPs) lack sufficient legal safeguards for their intellectual property. Their knowledge of plants, medicines, agricultural practices, artistic expressions, and cultural heritage are all vulnerable to exploitation. This bill rectifies this by establishing a system that recognizes ICC/IPs' ownership and control over their community intellectual rights (CIRs).

Imagine a scenario where a pharmaceutical company uses a traditional medicinal plant, discovered, and cultivated by an ICC/IP community, to develop a new drug. Without proper legal protection, the community receives no compensation for their knowledge. This bill prevents such scenarios by requiring companies to obtain the community's free, prior and informed consent (FPIC) before using their CIRs commercially. Additionally, the bill guarantees ICC/IPs fair royalties or other benefits for such use.

The potential benefits extend far beyond economics. By safeguarding their CIRs, ICC/IPs gain control over how their knowledge and cultural

expressions are used. This empowers them to preserve their heritage and prevent misappropriation or disrespectful representations.

This bill also establishes a registry system for ICC/IPs to document their CIRs. This not only provides them with a formal record of ownership but also fosters greater awareness and appreciation for their unique knowledge systems.

The National Commission on Indigenous Peoples (NCIP) will play a central role in implementing this bill. They will manage the registry system, promote ICC/IPs' CIRs, and ensure compliance with the law. Other government agencies will also be involved in supporting ICC/IPs and raising awareness.

Protecting ICC/IPs' CIRs fosters cultural diversity, promotes ethical research practices, and ensures these communities are fairly compensated for their valuable contributions.

This bill is not just about protecting the past; it's about empowering a vibrant cultural heritage for the future. By recognizing and respecting ICC/IPs' intellectual property rights, we pave the way for a more just and equitable society.

In light of the preceding, this bill's approval is fervently sought.

LORDAN G. SUAN
Cagayan de Oro City – 1st District

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

SECTION 1. *Short Title.* — This Act shall be known as the *"Community Intellectual Rights of Indigenous Cultural Communities/Indigenous Peoples Protection Act of 2024."*

SECTION 2. *Declaration of Principle and Policy.* — It shall be a declared policy of the State to recognize, respect, protect, and safeguard the traditional cultural heritage of indigenous cultural communities/indigenous peoples (ICCs/IPs), both tangible and intangible; preserve and protect their culture, traditions and institutions; and to recognize and support traditional knowledge (K), traditional arts and artisans for their contribution to their cultures, national heritage, and social and economic development.

Towards this end, the state shall take measures to protect and guarantee respect for the cultural integrity of ICCs/IPs, and their right to practice and revitalize their own cultural traditions and customs. The state shall preserve, protect, and develop the past, present, and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their free, prior and informed consent (FPIC) or in violation of their laws, traditions, and customs.

SECTION 3. *Definition of Terms.* — For purposes of this Act, the following terms shall be defined as follows:

(a) ***Commission*** shall refer to the National Commission on Indigenous Peoples (NCIP);

(b) ***Community Intellectual Rights*** shall refer to the rights of indigenous cultural communities/indigenous peoples (ICCs/IPs) to own, control, develop, protect, and enjoy their indigenous knowledge or creative intellectual activity and their manifestations, such as but not limited to:

1. archeological and historical sites, artifacts, ceremonies, oral traditions, visual and performing arts and literature, as well as religious and spiritual properties;
2. science, technologies, human and other genetic resources, including derivatives of these resources, seeds, medicines, health practices, vital medicinal plants, animals and minerals, resource management systems, agricultural technologies, knowledge of the properties of fauna and flora, scientific discoveries: and
3. language, script, histories, and teaching and learning systems; which are distinctively associated with and integral to the cultural and social identity of the ICCs/IPs or groups of ICCs/IPs generated, preserved, and transmitted from one generation to another either orally or by practice, and are constantly evolving, developing, and being recreated within the community, and such other new indigenous knowledge or creative intellectual activity which are identifiable and adopted as community owned.

(c) ***Cultural agencies*** shall refer to the following national government agencies with their specific areas of responsibility: National Commission for Culture and the Arts (registry of cultural property); National Museum of the Philippines (inventory); National Library of the Philippines (books); National Historical Commission of the Philippines (Philippine history); National Archives of the Philippines (documents); Cultural Center of the Philippines (culture and arts); and Komisyon sa Wikang Filipino (language);

(d) ***Derivative*** shall refer to any naturally occurring biochemical compound resulting from the genetic resources or metabolism of biological or genetic resources even if it does not contain functional units of heredity;

(e) ***Derivative work*** shall refer to the infusion or incorporation of variations on a community intellectual right that would result in a derivative work or craft, which is one that is primarily a new work, but incorporates preexisting works or previously published material. A derivative work must be different enough from the original to be regarded as a "new work" or must contain a substantial amount of new material. Making minor changes or

additions of little substance to a pre-existing work will not qualify the work as a new version;

(f) ***Genetic material*** shall refer to any material of plant, animal, microbial or other origin containing functional units of heredity;

(g) ***Genetic resources*** shall refer to genetic material of actual or potential value;

(h) ***Misappropriation*** shall refer to any access or use of community intellectual rights of the indigenous peoples or indigenous cultural communities without their free, prior and informed consent or approval and involvement and, where applicable, without mutual agreed terms, for whatever purpose, be it commercial, research, academic, and technology transfer, in violation of customary law and established practices governing the access or use of such community intellectual rights;

(i) ***Misuse*** shall refer to any act wherein the user had secured prior consent from the ICCs/IPs for the use of the community intellectual rights, however, the same is used in a manner violative of customary laws and established practices, or those contrary to or beyond what was agreed upon;

(j) ***Registry*** shall refer to the registry of community intellectual rights to be established and managed by the Commission;

(k) ***Royalty*** shall refer to the fair and equitable sharing of benefits as provided in the mutually agreed terms (MAT) in the memorandum of agreement (MOA) after the conduct of the FPIC process or to the payment to the owner of the registered cultural property for the right to use their property;

(l) ***Traditional Knowledge*** shall refer to knowledge originating from ICCs/IPs that may be dynamic and evolving and is the result of intellectual activity, experiences, spiritual means, or insights in or from a traditional context, which may be connected to land and environment, including know-how, skills, innovations, practices, teaching or learning; and

(m) ***Traditional Cultural Expressions*** shall refer to any form in which traditional culture practices and knowledge are expressed by ICCs/IPs, in or from a traditional context, and may be dynamic and evolving and comprise verbal forms, musical forms, expressions by movement, tangible or intangible forms of expression, or combinations thereof;

SECTION 4. *Coverage of Protection.* — The ICCs/IPs shall have full ownership, control, and protection from misappropriation, misuse, and false designation of origin of the community intellectual rights of ICCs/IPs, and they shall have the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions, and customs. The protection of the community intellectual rights of the ICCs/Ips shall also cover their economic and moral

interests to be enumerated in the implementing rules and regulations of this Act.

SECTION 5. *Implementing Body.* — The National Commission on Indigenous Peoples (NCIP) shall implement the provisions of this Act.

SECTION 6. *Promotion of Community Intellectual Rights.* — The Commission shall undertake activities to promote intellectual rights of ICCs/IPs, including building the capacity of ICCs/IPs to enhance the protection and management of their rights.

SECTION 7. *Registry.* — The Commission shall establish and maintain a registry in which IKSPs shall be registered for the purpose of this Act and which shall be recorded in the order of their registration. The registration of community intellectual rights shall be filed before the nearest NCIP Office. The application for registration shall contain the pertinent information necessary for examination of the community intellectual rights which shall include, but not limited to, the following information:

(a) Identity of ICCs/IPs community intellectual right holder;
(b) Location;
(c) Detailed description of the community intellectual right registered;
(d) Disclosure of agreements/partnerships with private or public individuals/entities for the use of their community intellectual rights, if any. Enrollment of community intellectual rights in the Registry shall be *prima face* evidence of community intellectual rights of the ICCs/IPs. The State recognizes the existence of community intellectual rights of ICCs/IPs without need of prior approval from any licensing agency or other undertaking, including registration.

SECTION 8. *Coordination by the NCIP with the NCCA and IPOPHL on the Registry of Community Intellectual Rights, Cultural Property, and Intellectual Property Rights.* — The Commission, together with the National Commission for Culture and the Arts and the IPOPHL shall establish a system of coordination that will be consistent with the policy of this Act, including the streamlining of the procedures for the registration of community intellectual rights. They may jointly or individually promulgate the appropriate mechanisms to ensure the effective implementation of the policies and objectives of this Act, and they shall undertake activities geared toward building the capacity of ICCs/IPs to enhance the protection and management of their community intellectual property rights.

SECTION 9. *Period of Ownership.* — The community intellectual rights of ICCs/Ips shall continue indefinitely to be their exclusive intellectual right and shall not expire and shall not become part of the public domain.

SECTION 10. *Original Rights of Ownership.* — Though the State recognizes the dynamic evolution of community intellectual rights, the ICCs/IPs shall retain these intellectual rights as well as derivative works.

SECTION 11. *Royalties.* — The concerned ICCs/IPs are entitled to royalties and other benefits as may be negotiated by the parties. When the community intellectual rights are used commercially, the royalty payment due the concerned ICCs/IPs shall, in no case, be less than five percent (5%) of the gross proceeds of the sale.

SECTION 12. *Free, Prior and Informed Consent (FPIC).* — The use of CCs/Ips community intellectual rights shall be governed by the provisions of Republic Act No. 8371 or the Indigenous Peoples Rights Act of 1997, its Implementing Rules and Regulations, and guidelines on Free, Prior and Informed Consent.

SECTION 13. *Role of Government Agencies and Local Government Units.* — All government agencies, government-owned and controlled corporations, public educational institutions, local government units (LGs) and other entities shall endeavor to promote ICCs/IPs community intellectual rights. They shall endeavor to develop, produce and publish information education campaign materials on community intellectual rights, the importance of registration, and the prohibited acts under this Act. For this purpose, all national government agencies and LGs shall allocate funds for the implementation of programs, projects and activities that will recognize, respect, promote and protect the rights of the ICCs/IPs, including the protection and promotion of their community intellectual rights pursuant to IPRA and this Act.

SECTION 14. *Prohibited Acts.* — Under this Act, the following are prohibited:

(a) Misappropriation - any access, infringement, copying, or use of community intellectual rights of the indigenous cultural communities/indigenous peoples without their free, prior and informed consent or approval and involvement and, where applicable, without mutual agreed terms, for whatever purpose, be it commercial, research, academic, and technology transfer.

(b) Misuse - any act wherein the user had secured prior consent from the ICCs/IPs for the use of the community intellectual rights, however, the same is used in a manner violative of national laws or customary laws known to the user,

and established practices, or those contrary to or beyond what was agreed upon during the FPIC process.

(c) False Designations of Origin - any act which will likely cause confusion or mistake, or cause deception as to the affiliation, connection, or association of such ICCs/IPs IKSPs, including, but not limited, to the following:

1. false designation of an origin, false or misleading description of fact, or false or misleading representation of fact; and
2. Misrepresentation of the nature, characteristics, qualities, or geographic origin of an ICCs/IPs IKSP.

SECTION 15. *Limitations on Community Intellectual Rights.* — Notwithstanding the protection given to the community intellectual right of CCs/IPs, the following shall not be prohibited:

(a) Government use in cases of national emergencies, national security, health, or the development of vital sectors in the national economy as determined by the National Economic and Development Authority (NEDA); and

(b) Acts necessary to address the needs of non-commercial use, including teaching and research for educational purposes, personal or private use, criticism or review, reporting of current events, use in the course of legal proceedings, the making of recordings and reproductions of traditional knowledge or cultural expressions for inclusion in an archive or inventory exclusively for the purposes of safeguarding knowledge or cultural heritage, and incidental uses. Provided, that the relevant community's customary laws, protocols, and practices will be considered and the relevant community shall be acknowledged as the source of the traditional knowledge or cultural expressions: Provided, further, That researches affecting the ICCs/IPs, their ISPs, including their community intellectual right and their ancestral domains of which the ICCs/IPs themselves are the primary source of data, shall require consultations with the relevant CCs/IPs, including undertaking acts to obtain the free, prior and informed consent: Provided, finally, That these acts do not conflict with the interests of, or are not derogatory to, the ICCs/IPs and do not unduly prejudice the implementation of the rights of ICCs/IPs.

SECTION 16. *Penalties.*

A. *Administrative Penalties*. — After the conduct of a formal investigation and following due process, the Commission, may impose one (1) or more of the following administrative penalties:

(a) Issuance of a cease-and-desist order which shall specify the acts that the respondent shall cease and desist from and shall require him to submit a compliance report within a reasonable time which shall be fixed in the Order;

(b) The acceptance of a voluntary undertaking of compliance or discontinuance as may be imposed.

(c) The condemnation or seizure of products which are subject of the offense. The goods seized hereunder shall be disposed of in such manner as may be deemed appropriate by the Commission;

(d) The forfeiture of paraphernalia and all real and personal properties which have been used in the commission of the offense:

(e) The imposition of administrative fines in such amount deemed reasonable by the Commission,

(f) The cancellation of any permit, license, authority, or registration which may have been granted by the Commission, or the suspension of the geographic origin of an ICCs/IPs' IKSP. validity thereof for such period of time as the Commission may deem reasonable:

(g) The withholding of any permit, license, authority or registration which is being secured by the respondent from the Commission;

(h) The assessment and award of damages;

(i) Censure:

(j) Other analogous penalties or sanctions.

B. *Criminal Penalties*. — Independent of the civil and administrative sanctions imposed by law, any person found guilty in a criminal action for violating any provisions of this Act, shall be imprisoned for not less than nine (9) months but not more than nine (9) years or a fine of not less than One hundred thousand pesos (P100,000) nor more than Five hundred thousand pesos (P500,000), or both such fine and imprisonment upon the discretion of the court.

C. *Limitations on Remedies for Innocent Infringers*. — If a person is found to have committed any of the prohibited acts and is found to be in good faith, or one who is considered as an innocent infringer, the community intellectual rights holders shall be entitled against such infringer to an injunction against future use, payment of reasonable damages, and/or such other sanctions provided in this Act.

SECTION 17. *Administrative Adjudication of Cases in Violation of This Act.* — The Commission, in addition to the jurisdiction and enforcement powers given to it under Republic Act No. 8371 or the Indigenous Peoples Rights Act of 1997, shall have the following functions and powers to adjudicate administrative cases in violation of this Act:

(a) Exercise original jurisdiction over complaints for violations of the community intellectual rights of the ICCs/IPs;

(b) Issue a cease-and-desist order which shall specify the acts that the respondent shall cease and desist from and shall require the respondent to submit a compliance report within a reasonable time which shall be fixed in the order:

(c) Issue such other provisional remedies as provided under the Rules of Court;

(d) After a formal investigation and following due process, issue appropriate sanctions and penalties for the violation of community intellectual rights. The Commission shall promulgate the rules and procedures to govern the adjudication of violations of community intellectual rights of ICCs/IPs. The final decision or order of the Commission shall be immediately executory even pending appeal.

The process of appeal in the Commission in the adjudication of administrative complaints involving CIs shall be provided in the rules of procedure.

SECTION 18. *Criminal Action for community intellectual rights violation.* — If the prohibited acts are repeated by the violator or by anyone in connivance with him, the offenders shall, without prejudice to the institution of a civil and administrative action for damages, be criminally liable therefor. However, if the act committed is done with malice, the element of repetition is not required to institute the criminal action.

The criminal action shall be filed with the proper court. The offense shall prescribe in five (5) years from date of the commission thereof.

SECTION 19. *Correction of Mistakes of the Commission.* — The Commission shall have the power to correct, without fee, any mistake in the entry of data during the community intellectual rights processing of registration incurred through the fault of the Commission when clearly disclosed in the records thereof, to make the community intellectual rights application and registration conform to the records.

SECTION 20. *Correction of Mistake in the Application.* — On request of any interested person and payment of the prescribed fee, the Commission is authorized to correct any mistake in the community intellectual rights application of a formal and clerical nature, not incurred through the fault of the Commission.

SECTION 21. *Creation of Offices and Plantilla Positions.* — The Commission shall create offices and corresponding plantilla positions necessary for the implementation of the provisions of this Act.

SECTION 22. *Appropriations.* — For the initial implementation of this Act, the amount of fifty million pesos (Php 50,000,000.00) is hereby appropriated and shall be sourced from the President's Contingent Fund. Funds for the succeeding years shall be included in the General Appropriations Act.

SECTION 23. *Implementing Rules and Regulations (IRR).* — The Commission, in consultation with other cultural agencies, IPO-PHIL, the Palawan Council on Sustainable Development, the Department of Environment and Natural Resources, the Department of Agriculture, the Philippine Institute of Traditional and Alternative Health Care (PITAHC), civil society organizations, and other relevant government agencies, shall promulgate the IRR of this Act, including, but not limited to CIR belonging to several ICCs/IPs, mechanisms for the registry, positive and defensive protection of CIR, treatment of derivative works, validation, dispute settlement/resolution, and rules of procedure, within one hundred and twenty (120) days after the effectivity of this Act.

SECTION 24. *Repealing Clause.* — The provisions of existing laws, to the extent that they are inconsistent with this Act, are hereby repealed or amended accordingly.

SECTION 25. *Separability Clause.* — If, for any reason, any part or provision of this Act is declared invalid or unconstitutional, the parts or provisions not affected thereby shall remain in full force and effect.

SECTION 26. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette, in a newspaper of general circulation, or on a digital platform provided for by law.

Approved,