

TWENTIETH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. 4719

EXPLANATORY NOTE

This amendment to Section 21 of Republic Act (RA) 9165, as amended by RA 10640, is sought on the grounds of conflict of interest, lack of personnel, lack of resources and the risks involved. Moreover, it is also sought to remove an operational hindrance to the effectiveness and efficiency of anti-drug operations conducted by the Philippine Drug Enforcement Agency (PDEA) and Philippine National Police (PNP).

The apparent conflict of interest arises because of the requirement that before cases are brought to court against those apprehended and/or those who are subjects of anti-drug operations, these cases are filed before the Offices of City and Provincial Prosecutors for inquest proceedings or preliminary investigation. Thus, requiring a representative of the National Prosecution Service (NPS) to be present during the physical inventory, conducted immediately after seizure and confiscation, and to sign the copies of the inventory seems to commit the Prosecution Office (under NPS) to the regularity of the anti-drug operation since the representative is an organic employee of the office. Respondents in these drugs cases can question the impartiality of the Office in the determination of the validity of the arrest in inquest proceedings or the finding of probable cause in preliminary investigations since an employee of the office is essentially a witness in the inventory of the drugs and/or other evidence seized. Incidentally, the presence of court employees in anti-drug operations has never been considered because of possible conflict of interest.

The Prosecution Offices under NPS are also troubled by the lack of personnel to particularly focus on these anti-drug operations. Considering that some of these operations are conducted in far-flung areas in the provinces and prosecution offices are usually located in the provincial capital or a component city, it takes considerable travel time for an NPS employee to be present as a witness. The Prosecution Office is deprived of this precious time for the performance of equally important tasks by said NPS employee. Even in highly urbanized areas, the attendance of NPS employees as required by Section 21 of RA 9165, as amended, requires significant travel time.

Moreover, NPS personnel involved are not supplied with vehicles or transportation when they attend to the requirements of Section 21, RA 9165, as amended. Some of these anti-drug operations are conducted in the wee hours of the morning when it is very difficult to avail of public transport in many areas of the country. Aside from travel woes, there is also no corresponding allowance for these NPS personnel to answer for the expenses incurred as a result of attending to these "witness duties."

Most importantly, NPS employees, who are not authorized to be armed during these "witness duties", are exposed to danger. These anti-drug operations are mostly conducted in areas where the subjects of the operations are residents and who are sometimes armed. Unlike the personnel of PDEA, PNP and other law enforcement agencies, NPS personnel are not trained in combat, are unarmed, and do not have safety gears, such as bulletproof vests and helmets. Thus, they participate in these operations at their peril.

Consequently, in relation to the foregoing, NPS personnel are hesitant to be present during anti-drug operations. This makes it difficult for PDEA, PNP or other law enforcement units to secure the presence of an NPS representatives thus, hampering the effectiveness and efficiency of planned anti-drug operations.

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



RUFUS B. RODRIGUEZ



MAXIMO B. RODRIGUEZ, JR.

HOUSE OF REPRESENTATIVES

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House Bill No. **4719**

AN ACT

AMENDING SECTION 21 OF REPUBLIC ACT 9165 OTHERWISE KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, AS AMENDED BY REPUBLIC ACT 10640, BY REMOVING THE REQUIREMENT FOR THE PRESENCE OF A REPRESENTATIVE OF THE NATIONAL PROSECUTION SERVICE DURING ANTI-DRUG OPERATIONS

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

SECTION 1. Paragraph (1) of Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002, as amended by Republic Act No. 10640, is hereby amended to read as follows:

"SEC. 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 the 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 or counsel, with an elected public official and a 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 seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items

SEC. 2. Implementing Rules and Regulations (IRR). – To implement effectively 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 (DO J) and relevant sectors to curb increasing drug cases.

SEC. 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.

SEC. 4. Repealing Clause. – All laws, presidential decrees or issuances, executive orders, letters of instruction, administrative orders, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

SEC. 5. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,