



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila



Seventeenth Congress

First Regular Session

3616

House Bill No. _____

Introduced by **HON. ROMEO M. ACOP**

EXPLANATORY NOTE

Privacy is a constitutional right. Section 3, paragraph (1) of Article III 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'. The protected right encompasses spoken, written, or electronic communications and correspondences.

Pursuant thereto, Republic Act No. 4200, otherwise known as the 'Anti-Wire Tapping Law', was passed in 1965, quite an old law. Under the law, a person's privacy cannot be intruded into *without a lawful court order*. Secretly overhearing, recording or intercepting private communications with any recording equipment is prohibited and penalized. The law further declares that any communication or spoken word, or the existence, contents, substance, purport, effect, or meaning of the same or any part thereof, or any information therein contained obtained or secured by any person in violation of the Act shall not be admissible in evidence in any judicial, quasi-judicial, legislative or administrative hearing or investigation.

But the law provides for exceptions to the prohibition.

First, for a valid court order to be granted, the crimes committed (or to be committed) by the suspects should be any the following: treason, espionage, provoking war and disloyalty in case of war, piracy, mutiny on the high seas, rebellion, conspiracy to commit rebellion, inciting to rebellion, sedition, inciting

to sedition, kidnapping, and violations of Commonwealth Act No. 616 (espionage and other offenses against national security). Republic Act No. 9372, also known as the 'Human Security Act', included the crimes of terrorism and conspiracy to commit terrorism among the offenses where wire-tapping is allowed.

Second, to secure a court order, the following conditions must be shown to exist :

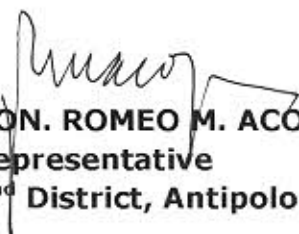
- 1) There are reasonable grounds to believe that the above crimes were committed, are being committed or are about to be committed. In case of rebellion, conspiracy to commit rebellion, sedition, conspiracy to commit sedition and inciting to sedition, the order will be granted only if there is prior proof that a rebellion, etc., has actually been or is being committed.
- 2) There are reasonable ground to believe that the evidence obtained will secure a conviction for the suspects or provide a solution to or prevention of any such crimes.
- 3) There are no other readily available means of gathering evidence.

Notwithstanding the limited scope of the exceptions provided by the law, it has, through the years, been an effective tool of law enforcement agencies in combatting the crimes therein covered. However, from the time the law was enacted to the present, much technological, political and social developments have evolved affecting our society, particularly the prevalence of certain types of crimes that threaten public order and safety. Thus, there is a necessity to revisit the law in order to further enhance its effectiveness.

This bill seeks to include the crimes of coup d'état, conspiracy and proposal to commit coup d'état, robbery in band, brigandage / highway robbery, violations of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act, and violations of Republic Act No. 9160 as amended, also known as the Anti-Money Laundering Act, to the list of offenses covered by the exceptions to the prohibition of RA 4200.

Moreover, this bill aims to clear any doubt as to the type and kind of devices used in the communication and subject of wire-tapping allowed by law, taking into consideration the rapid developments in the field of electronic and digital technologies. While existing jurisprudence does provide the basis for recognizing the applicability of the law on these state-of-the art devices, it is prudent to incorporate the same in the language of the law itself to finally settle any lingering doubt, now and in the future, on the said issue.

For the foregoing reasons, the immediate consideration and approval of this bill is earnestly urged.



HON. ROMEO M. ACOP
Representative
2nd District, Antipolo City



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Quezon City, Metro Manila

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House Bill No. 3616

Introduced by HON. ROMEO M. ACOP

AN ACT
AMENDING SECTIONS 1 AND 3 OF REPUBLIC ACT NO. 4200,
OTHERWISE KNOWN AS 'AN ACT TO PROHIBIT AND PENALIZE WIRE
TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF
COMMUNICATION, AND FOR OTHER PURPOSES

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

SECTION 1. Section 1 of Republic Act No. 4200, otherwise known as the 'Anti-Wire Tapping Law', is hereby amended to read as follows :

Section 1. It shall be unlawful for any person, not being authorized by all the parties to any private communication or spoken word, to tap any wire or cable, or by using any other device or arrangement, **OR ANY PHONE SYSTEM, DIGITAL OR ANALOG, OR SIMILAR DEVICES,** to secretly overhear, intercept, or record such communication or spoken word by using a device commonly known as a dictaphone or dictagraph or dictaphone or walkie-talkie or tape recorder, or however otherwise described.

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SECTION 2. Section 3 of the same Act is hereby amended to read as follows :

Section 3. Nothing contained in this Act, however, shall render it unlawful or punishable for any peace officer, who is authorized by a written order of the Court, to execute any of the acts declared to be unlawful in the two preceding sections in cases involving the crimes of treason, espionage, provoking war and disloyalty in case of war, piracy, mutiny in the high seas, rebellion, conspiracy and proposal to commit rebellion, inciting to rebellion, **COUP D'ETAT, CONSPIRACY AND PROPOSAL TO COMMIT COUP D'ETAT**, sedition, conspiracy to commit sedition, inciting to sedition, kidnapping as defined by the Revised Penal Code, **ROBBERY IN BAND AS DEFINED AND PENALIZED BY ARTICLES 294, 295, 296, 299 AND 302 OF THE REVISED PENAL CODE, BRIGANDAGE / HIGHWAY ROBBERY AS DEFINED AND PENALIZED BY ARTICLE 306 OF THE REVISED PENAL CODE AND PRESIDENTIAL DECREE NO. 532, OTHERWISE KNOWN AS THE ANTI-PIRACY AND ANTI-HIGHWAY ROBBERY LAW OF 1974, VIOLATIONS OF REPUBLIC ACT NO. 9165 OTHERWISE KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, VIOLATIONS OF REPUBLIC ACT NO. 9160 AS AMENDED, OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT OF 2001**, and violations of Commonwealth Act No. 616, punishing espionage and other offenses against national security: *Provided*, That such written order shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and a showing: (1) that there are reasonable grounds to believe that any of the crimes enumerated hereinabove has been committed or is being committed or is about to be committed: *Provided, however*, That in cases involving the offenses of rebellion, conspiracy and proposal to commit rebellion, inciting to rebellion, sedition, conspiracy to commit sedition, and inciting to sedition, such authority shall be granted only upon prior proof that a rebellion or acts of sedition, as the case may be, have actually been or are being committed; (2) that there are reasonable grounds to believe that evidence will be obtained essential to the conviction of any person for, or to the solution of, or to the prevention of, any of such crimes; and (3) that there are no other means readily available for obtaining such evidence.

The order granted or issued shall specify: (1) the identity of the person or persons whose communications, conversations, discussions, or spoken words are to be overheard, intercepted, or recorded and, in the case of telegraphic or telephonic communications, the telegraph line or the telephone number involved and its location; (2) the identity of the peace officer authorized to overhear, intercept, or record the communications, conversations, discussions, or spoken words; (3) the offense or offenses committed or sought to be prevented; and (4) the period of the authorization. The authorization shall be effective for the period specified in the order which shall not exceed sixty (60) days from the date of issuance of the order, unless extended or renewed by the court upon being satisfied that such extension or renewal is in the public interest.

All recordings made under court authorization shall, within forty-eight hours after the expiration of the period fixed in the order, be deposited with the court in a sealed envelope or sealed package, and shall be accompanied by an affidavit of the peace officer granted such authority stating the number of recordings made, the dates and times covered by each recording, the number of tapes, discs, or records included in the deposit, and certifying that no duplicates or copies of the whole or any part thereof have been made, or if made, that all such duplicates or copies are included in the envelope or package deposited with the court. The envelope or package so deposited shall not be opened, or the recordings replayed, or used in evidence, or their contents revealed, except upon order of the court, which shall not be granted except upon motion, with due notice and opportunity to be heard to the person or persons whose conversation or communications have been recorded.

The court referred to in this section shall be understood to mean the **REGIONAL TRIAL COURT** [~~Court of First Instance~~] within whose territorial jurisdiction the acts for which authority is applied for are to be executed.

SECTION 3. *Separability Clause* - Should any provision herein be declared unconstitutional, the same shall not affect the validity of the other provisions of this Act.

SECTION 4. *Repealing Clause* - All laws, decrees, orders, rules and regulations or other issuances or parts inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 5. *Effectivity Clause I* - This Act shall take effect fifteen (15) days after its complete and full publication in the Official Gazette or in a newspaper of general circulation.

Approved.