

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3809**



Introduced by Representative ROBERT ACE S. BARBERS, 2ND District, Surigao del Norte

EXPLANATORY NOTE

The intensity of the government's campaign against illegal drugs has gained initial success. However, we have yet to see a lasting victory that would transform our country into a drug-free society. The war on drugs is far from over. The PNP recently reveals that more than 600,000 drug dependents have voluntarily surrendered to the authorities and almost 50,000 of which confessed to have engaged in pushing or disposing illegal drugs. The phenomenal number of users and street pushers who yielded to and/or apprehended by the authorities is certainly substantial, but they are far behind the 4 million dependents claimed by President Duterte. Moreover, it cannot be denied that illegal activities drug syndicates could not flourish without the protective clout of powerful and influential officials in government, but their protectors or coddlers appear to remain in the corridors of power. Finally, the reality in handling and prosecuting drug-related cases is more than alarming. Over 30,000 drug-related cases were reportedly filed as of 2015, but less than 10% of which have been resolved by the courts and almost 75% of these resolved cases have resulted to either dismissal or acquittal. To say the least, there is still a lot of efforts to be done. Not until the last drug dependent has been treated, rehabilitated and integrated into the mainstream that we could say the demand for illegal drugs has been obliterated. Not until members of the last drug syndicate has been prosecuted and convicted that we could claim the supply chain has been completely broken.

The government's anti-illegal drug campaign should be sustainable to ensure remarkable success. It is not attainable without effective law enforcement and successful prosecution. It has been said that the effectiveness of our law enforcers and prosecutors relies upon supportive legal and regulatory mechanisms. Thus, the proposed measure seeks to provide more of these mechanisms, as exemplified by the following salient provisions:

1. Improve capability effectiveness in intelligence, investigation and operation
 - a. PDEA should monitor any communication by the use of electronic device all activities of any person engaged in illegal drug trafficking including their financiers and protectors/coddlers (Section 16 of this proposed bill seeking to amend Sec. 84 of RA 9165);
 - b. PDEA should coordinate and make confidential report/recommendation to the Anti-Money Laundering Council (AMLC) in order to initiate action for freeze order, seizure and forfeiture or for investigation, inspection or examination of any financial transaction, investment or asset in any bank or financial intermediary of any person involved in illegal drug trafficking including their financiers and protectors/coddlers (Section 17 of this proposed bill seeking to amend Sec. 84 of RA 9165);
 - c. To help elicit information on drug syndicates, a person charged for any drug-related crime may be given immunity from prosecution or, if

convicted, may either be penalized by a minimum penalty imposable or be granted commutation of sentence (Section 14 of proposed bill seeking to amend Sec. 33 of RA 9165);

- d. Seized or confiscated firearm, explosive or weapon under *custodia legis* shall be disposed of even during pendency of the case, for the use of the PDEA or other law enforcement agencies (Section 12 of the proposed bill seeking to amend Sec. 20 of RA 9165);
 - e. To ensure legitimate conduct of operation and prevent illicit practice of planting evidence, the rules against planting of evidence is made effective and responsive to the protection of innocent subject of law enforcers' operation (Section 13 of the proposed bill seeking to amend Sec. 29 of RA 9165);
 - f. Owner-Lessors of property or premises used for manufacturing or producing illegal drugs and similar substances are required to inspect and report the illegal activity of his/her lessee (Section 6 of the proposed bill seeking to provide Sec. 8-A of RA 9165);
2. Improve effectiveness in prosecution and conviction in drug-related cases
- a. The operational definition of protectors or coddlers is clarified (Section 1 of the proposed bill seeking to amend Sec. 3[ee] of RA 9165);
 - b. Legal presumptions have been provided for acts or omissions committed by financiers and protectors or coddlers of illegal drug traffickers (Sections 2, 3, 4, 5 and 11 of the proposed bill seeking to amend Secs. 4, 5, 6, 8 and 16 of RA 9165);
 - c. Legal presumptions have been provided for acts or omissions committed by drug users and illegal drug traffickers such as, among others, the following -- 1) Possession of at least 200 grams of shabu, cocaine, etc. and 500 grams of marijuana is presumed an act of or in preparation for the sale, trade, delivery or distribution thereof; 2) any person found in a clandestine laboratory is presumed to have been involved in manufacturing and production of dangerous drugs; 3) concealing any dangerous drug in any premises is presumed possession with knowledge on the part of the occupant; 4) a person apprehended in possession of any drug paraphernalia is presumed to have consumed a dangerous drug; 5) a person in control or management of a den, dive or resort is presumed the operator or maintainer thereof; an owner-lessor of property or premises used for manufacturing or producing illegal drugs and similar substances is presumed to have knowledge of the illegal activities of his/her lessee;
 - d. Rules on delay and bungling in the prosecution of drugs cases have been amplified so that an acquittal or dismissal is deemed to have been caused by bungling in the prosecution thereof (Section 18 of the proposed bill seeking to amend Sec. 92 of RA 9165).

Looking forward to a drug-free Philippines in seeking for the early passage of this proposed measure.

REP. ROBERT ACE S. BARBERS

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House Bill No. **3809**

Introduced by Representative ROBERT ACE S. BARBERS, 2nd District, Surigao del Norte

AN ACT
TO STRENGTHEN AND INTENSIFY THE CAMPAIGN AGAINST ILLEGAL DRUG
TRAFFICKING, AMENDING FOR THIS PURPOSE SECTIONS 3, 4, 5, 6, 8, 11, 12,
13, 15 16, 20, 29, 33, 78, 84 AND 92 OF REPUBLIC ACT 9165, OTHERWISE
KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002"

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

SECTION 1. The provisions in Section 3(ee) of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, are hereby amended to read as follows:

" (ee) Protector/Coddler. – Any person who knowingly and willfully consents to the unlawful acts provided for in this Act and uses his/her influence, power or position in shielding, harboring, screening or facilitating the escape of any person he/she knows; or **ANY PERSON WHO** has reasonable grounds to believe on or suspects **THAT A PERSON** has violated the provisions of this Act **AND HE/SHE USES HIS/HER INFLUENCE, POWER OR POSITION** in order to prevent the arrest, prosecution and conviction of the violator."

SECTION 2. The provisions in Section 4 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, are hereby amended to read as follows:

" **Section 4. Importation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.**- The penalty of life imprisonment to death and a ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall import or bring into the Philippines any dangerous drug, regardless of the quantity and purity involved, including any and all species of opium poppy or any part thereof or substances derived therefrom even for floral, decorative and culinary purposes.

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" **ANY PERSON WHO IS FOUND TO HAVE IN HIS/HER POSSESSION OR UNDER HIS/HER DIRECT OR INDIRECT CONTROL ANY DOCUMENT, PURCHASE ORDER, MEMORANDUM RECEIPT, DELIVERY RECEIPT, BILL OF LADING, OR ANY WRITING**

CONTAINING INFORMATION RELATED TO OR IN CONNECTION WITH ANY DANGEROUS DRUG AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS IS, UNTIL PROVEN OTHERWISE, PRESUMED TO HAVE IMPORTED THE DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS THAT ARE THE SUBJECT MATTER OF SUCH DOCUMENT OR WRITING.

" The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

" A PERSON IS DEEMED A FINANCIER IF HE/SHE CAUSES THE PAYMENT, RAISING, PROVIDING OR SUPPLYING MONEY FOR OR UNDERWRITING THE IMPORTATION OF DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS. ANY EVIDENCE SHOWING DELIVERY OR TRANSFER OF MONEY, OF DRAWING OR ISSUING A CHECK, MONETARY INSTRUMENT/DOCUMENT TO THE ACCOUNT, CUSTODY OR CONTROL OF A PERSON OR ENTITY KNOWN TO BE, CONNECTED WITH OR WORKING FOR, AN IMPORTER OF DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS IS, UNLESS PROVEN OTHERWISE, A PRIMA FACIE PROOF OF THE SENDER'S, TRANSFEROR'S OR ISSUER'S CONSENT TO OR KNOWLEDGE OF FINANCING THE ILLEGAL IMPORTATION.

" The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

" A PERSON IS DEEMED A PROTECTOR OR CODDLER IF HE/SHE KNOWS THE IMPORTER OR VIOLATOR OF THIS SECTION AND HE/SHE USES HIS INFLUENCE, POWER OR POSITION IN SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF SAID IMPORTER OR VIOLATOR. A PERSON IS LIKEWISE DEEMED A PROTECTOR OR CODDLER IF HE/SHE HAS KNOWLEDGE OF OR HAS REASONABLE GROUND TO BELIEVE OR TO SUSPECT THAT THE VIOLATOR IS AN IMPORTER OF DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS, AND HE/SHE USED HIS/HER INFLUENCE, POWER OR POSITION IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF THE LATTER,

" A PERSON WHO DOES ANY ACT OF SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF OR IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF THE IMPORTER IS, UNLESS PROVEN OTHERWISE, PRESUMED TO HAVE KNOWLEDGE OF OR HAVE WILLFULLY CONSENTED TO THE ILLEGAL IMPORTATION AND HE/SHE HAS USED HIS/HER INFLUENCE, POWER OR POSITION. EXCEPT WHEN IT IS DONE BY ANY MEMBER OF THE IMPORTER'S IMMEDIATE FAMILY OR HIS/HER LEGAL COUNSEL, A PERSON WHO INTERCEDES AND/OR REPRESENTS THE SAID IMPORTER IS, UNLESS PROVEN

OTHERWISE, PRESUMED TO HAVE SHIELDED, HARBORED, SCREENED OR FACILITATED THE ESCAPE OF OR PREVENTED THE ARREST, PROSECUTION OR CONVICTION OF THE IMPORTER."

SECTION 3. The provisions in Section 5 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, are hereby amended to read as follows:

" Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

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" UNLESS PROVEN OTHERWISE, ANY PERSON FOUND OR IS PRESENT WITHIN OR INSIDE THE PLACE OR SALE, TRADING, MARKETING, DISPENSATION, DELIVERY OR DISTRIBUTION IS DEEMED TO HAVE BEEN INVOLVED IN THE SALE, TRADE OR DISTRIBUTION OF DANGEROUS DRUGS, CONTROLLED PRECURSORS OR ESSENTIAL CHEMICALS.

" ANY PERSON FOUND IN POSSESSION OF ANY DANGEROUS DRUG IN THE FOLLOWING QUANTITY OR WEIGHT, REGARDLESS OF PURITY, ARE DEEMED TO HAVE BEEN ENGAGED IN SELLING, TRADING, DISPENSATION, ADMINISTRATION, DELIVERY, DISTRIBUTION AND/OR TRANSPORTATION OF DANGEROUS DRUGS:

(1) 200 GRAMS OR MORE OF SHABU, COCAINE, COCAINE HYDROCHLORIDE, OPIUM, HEROINE, MORPHINE, MARIJUANA RESIN OR MARIJUANA RESIN OIL, OR OTHER DANGEROUS DRUGS SUCH AS, BUT NOT LIMITED TO, MDMA OR "ECSTASY", PMA, TMA, LSD, GHB, AND THOSE SIMILARLY DESIGNED OR NEWLY INTRODUCED DRUGS AND THEIR DERIVATIVES;

(2) 500 GRAMS OR MORE OF MARIJUANA

" The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

" A PERSON IS DEEMED A FINANCIER IF HE/SHE CAUSES THE PAYMENT, RAISING, PROVIDING OR SUPPLYING MONEY FOR OR UNDERWRITING THE SALE, TRADING OR DISTRIBUTION OF ANY DANGEROUS DRUG AND/OR CONTROLLED PRECURSOR AND ESSENTIAL CHEMICAL. ANY EVIDENCE SHOWING DELIVERY OR TRANSFER OF MONEY, OF DRAWING, ISSUING OR TRANSFERRING A CHECK, MONETARY INSTRUMENT, INVESTMENT OR PROPERTY

TO THE ACCOUNT, CUSTODY OR CONTROL OF A PERSON OR ENTITY KNOWN TO BE, CONNECTED WITH OR WORKING FOR, A SELLER, TRADER OR DISTRIBUTOR OF DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS OR ESSENTIAL CHEMICALS IS, UNLESS PROVEN OTHERWISE, A PRIMA FACIE PROOF OF THE SENDER'S, TRANSFEROR'S OR ISSUER'S KNOWLEDGE OF FINANCING THE LATTER'S UNLAWFUL ACT OR ACTIVITY.

" The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

" A PERSON IS DEEMED A PROTECTOR OR CODDLER IF HE/SHE KNOWS THE SELLER, TRADER, DISTRIBUTOR OR VIOLATOR OF THIS SECTION AND HE USES HIS/HER INFLUENCE, POWER OR POSITION IN SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF SAID VIOLATOR. A PERSON IS LIKEWISE DEEMED A PROTECTOR OR CODDLER IF HE/SHE HAS KNOWLEDGE OF OR HAS REASONABLE GROUND TO BELIEVE OR TO SUSPECT THAT THE VIOLATOR IS A SELLER, TRADER OR DISTRIBUTOR OF DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS, AND HE/SHE USED HIS INFLUENCE, POWER OR POSITION IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF THE LATTER,

" A PERSON WHO DOES ANY ACT OF SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF OR IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF THE SELLER, TRADER, DISTRIBUTOR OR VIOLATOR OF THIS SECTION IS, UNLESS PROVEN OTHERWISE, PRESUMED TO HAVE KNOWLEDGE OF OR HAVE WILLFULLY CONSENTED TO THE ILLEGAL SELLING, TRADING OR DISTRIBUTION AND HE/SHE HAS USED HIS/HER INFLUENCE, POWER OR POSITION IN DOING THE SAME. EXCEPT WHEN IT IS DONE BY ANY MEMBER OF THE VIOLATOR'S IMMEDIATE FAMILY OR HIS/HER LEGAL COUNSEL, A PERSON WHO INTERCEDES AND/OR REPRESENTS THE SAID VIOLATOR IS, UNLESS PROVEN OTHERWISE, PRESUMED TO HAVE SHIELDED, HARBORED, SCREENED OR FACILITATED THE ESCAPE OF OR PREVENTED THE ARREST, PROSECUTION OR CONVICTION OF THE LATTER."

SECTION 4. The provisions in Section 6 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, are hereby amended to read as follows:

" **Section 6. Maintenance of a Den, Dive or Resort.** - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive or resort where any dangerous drug is used or sold in any form.

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" FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING ARE PRESUMED:

- (A) ANY DEN, DIVE, RESORT IS DEEMED INTENTIONALLY USED FOR THE PURPOSE OF SELLING OR USING DANGEROUS DRUG EVEN ON ONE OCCASION ONLY;**
- (B) A PERSON IS DEEMED AN OPERATOR, MAINTAINER OR ADMINISTRATOR OF A DEN, DIVE OR RESORT IF HE/SHE HAS ACTUAL OR CONSTRUCTIVE CONTROL AND MANAGEMENT OF SUCH PREMISES; AND**
- (C) IF ANY PARAPHERNALIA, INSTRUMENT, ETC. SUITABLE OR FIT FOR THE USE OR ADMINISTRATION OF ANY DANGEROUS DRUGS IS FOUND IN A DEN, DIVE OR RESORT, IT SHALL BE PRESUMED THAT THE PREMISES ARE USED FOR THE PURPOSE OF THE ADMINISTRATION, SMOKING OR CONSUMPTION OF A DANGEROUS DRUG BY A HUMAN BEING AND THAT THE OCCUPIER PERMITS SAID PREMISES TO BE USED FOR SUCH PURPOSE.**

" The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

" A PERSON IS DEEMED A FINANCIER OF A DEN, DIVE OR RESORT IF HE/SHE CAUSES THE PAYMENT, RAISING, PROVIDING OR SUPPLYING MONEY FOR OR UNDERWRITING OF THE OPERATION AND MAINTENANCE THEREOF. ANY EVIDENCE SHOWING DELIVERY OR TRANSFER OF MONEY, OF DRAWING, ISSUING OR TRANSFERRING A CHECK, MONETARY INSTRUMENT, INVESTMENT OR PROPERTY TO THE ACCOUNT, CUSTODY OR CONTROL OF THE OPERATOR, MANAGER OR MAINTAINER OF A DEN, DIVE OR RESORT IS, UNLESS PROVEN OTHERWISE, A PRIMA FACIE PROOF OF THE SENDER'S, TRANSFEROR'S OR ISSUER'S KNOWLEDGE OF FINANCING THE OPERATION AND MAINTENANCE THEREOF.

" The penalty twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

" A PERSON IS DEEMED A PROTECTOR OR CODDLER IF HE/SHE KNOWS THE OPERATOR, MAINTAINER, ADMINISTRATOR OR MANAGER OF THE DEN, DIVE OR RESORT AND HE/SHE USES HIS/HER INFLUENCE, POWER OR POSITION IN SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF THE LATTER. A PERSON IS LIKEWISE DEEMED A PROTECTOR OR CODDLER IF HE/SHE HAS KNOWLEDGE OF OR HAS REASONABLE GROUND TO BELIEVE OR TO SUSPECT THAT THE SAID OPERATOR, MAINTAINER, ADMINISTRATOR OR MANAGER IS ACTUALLY OPERATING, MAINTAINING, ADMINISTERING OR MANAGING A DEN, DIVE OR RESORT AND HE/SHE USED HIS/HER

INFLUENCE, POWER OR POSITION IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF THE LATTER,

“ A PERSON WHO DOES ANY ACT OF SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF OR IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF AN OPERATOR, MAINTAINER, ADMINISTRATOR OR MANAGER OF A DEN, DIVE OR RESORT IS, UNLESS PROVEN OTHERWISE, PRESUMED TO HAVE KNOWLEDGE OF OR HAVE WILLFULLY CONSENTED TO THE OPERATION, AND MAINTENANCE OF A DEN, DIVE OR RESORT AND HE/SHE HAS USED HIS/HER INFLUENCE, POWER OR POSITION IN DOING THE SAME. EXCEPT WHEN IT IS DONE BY ANY MEMBER OF THE OPERATOR’S, MAINTAINER’S, ADMINISTRATOR’S OR MANAGER’S IMMEDIATE FAMILY OR HIS/HER LEGAL COUNSEL, A PERSON WHO INTERCEDES AND/OR REPRESENTS THE LATTER IS, UNLESS PROVEN OTHERWISE, PRESUMED TO HAVE SHIELDED, HARBORED, SCREENED OR FACILITATED THE ESCAPE OF OR PREVENTED THE ARREST, PROSECUTION OR CONVICTION OF SAID OPERATOR, MAINTAINER, ADMINISTRATOR OR MANAGER.”

SECTION 5. The provisions in Section 8 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby amended to read as follows:

“ **Section 8. Manufacture of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** - The penalty of life imprisonment to death and a fine ranging Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall engage in the manufacture of any dangerous drug.

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“ The presence of any controlled precursor and essential chemical or laboratory equipment in the clandestine laboratory is a *prima facie* proof of manufacture of any dangerous drug. **ANY PERSON FOUND OR IS PRESENT WITHIN THE PREMISES OF A CLANDESTINE LABORATORY OR THE PLACE WHERE DANGEROUS DRUGS ARE MANUFACTURED, PRODUCED, PREPARED, COMPOUNDED, PROCESSED, PACKED OR RE-PACKED IS, UNLESS PROVEN OTHERWISE, DEEMED INVOLVED IN OR HAS PARTICIPATED IN MANUFACTURING OR PRODUCING DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS.**

“ **ANY EQUIPMENT, APPARATUS, PARAPHERNALIA SUITABLE FOR THE USE, MANUFACTURE OR PRODUCTION OF DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS FOUND IN A CLANDESTINE LABORATORY OR IN ANY OTHER PLACE OR PREMISES SHALL BE PRESUMED, UNTIL THE CONTRARY IS PROVED, THAT SAID LABORATORY, PLACE OR PREMISES ARE USED FOR THE PURPOSE OF MANUFACTURE OR PRODUCTION OF ANY DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS AND THAT THE PERSON WHO HAS THE ACTUAL CONTROL OR MANAGEMENT**

THEREOF PERMITS SUCH PREMISES TO BE USED FOR THAT PURPOSE;

" IT SHALL BE CONSIDERED AN AGGRAVATING CIRCUMSTANCE IF THE CLANDESTINE LABORATORY IS UNDERTAKEN OR ESTABLISHED UNDER THE FOLLOWING CIRCUMSTANCES:

- (A) ANY PHASE OF THE MANUFACTURING PROCESS WAS CONDUCTED IN THE PRESENCE OR WITH THE HELP OF MINOR/S;
- (B) ANY PHASE OR MANUFACTURING PROCESS WAS ESTABLISHED OR UNDERTAKEN WITHIN ONE HUNDRED (100) METERS OF A RESIDENTIAL, BUSINESS, CHURCH OR SCHOOL PREMISES;
- (C) ANY CLANDESTINE LABORATORY WAS SECURED OR PROTECTED WITH BOOBY TRAPS;
- (D) ANY CLANDESTINE LABORATORY WAS CONCEALED WITH LEGITIMATE BUSINESS OPERATIONS; OR
- (E) ANY EMPLOYMENT OF A PRACTITIONER, CHEMICAL ENGINEER, PUBLIC OFFICIAL OR FOREIGNER.

" The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

" A PERSON IS DEEMED A FINANCIER IF HE/SHE CAUSES THE PAYMENT, RAISING, PROVIDING OR SUPPLYING MONEY FOR OR UNDERWRITING THE MANUFACTURING, PRODUCTION, PREPARATION, COMPOUNDING OR PROCESSING OF ANY DANGEROUS DRUG AND/OR CONTROLLED PRECURSORS OR ESSENTIAL CHEMICALS. ANY EVIDENCE SHOWING DELIVERY OR TRANSFER OF MONEY, OF DRAWING OR ISSUING A CHECK, NEGOTIABLE/NON-NEGOTIABLE INSTRUMENT OR DOCUMENT TO THE ACCOUNT OR CUSTODY OF A PERSON OR ENTITY KNOWN TO BE, CONNECTED WITH OR WORKING FOR, A MANUFACTURER, PRODUCER OR PROCESSOR OF DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS IS, UNLESS PROVEN OTHERWISE, A PRIMA FACIE PROOF OF THE SENDER'S, TRANSFEROR'S OR ISSUER'S CONSENT OR KNOWLEDGE OF FINANCING THE LATTER'S UNLAWFUL ACTIVITIES.

" The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

" A PERSON IS DEEMED A PROTECTOR OR CODDLER IF HE/SHE KNOWS THE MANUFACTURER, PRODUCER OR PROCESSOR OF ANY DANGEROUS DRUG AND/OR CONTROLLED PRECURSOR AND ESSENTIAL CHEMICAL, AND HE/SHE USES HIS/HER INFLUENCE, POWER OR POSITION IN SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF SAID MANUFACTURER, PRODUCER PROCESSOR. A PERSON IS

LIKEWISE DEEMED A PROTECTOR OR CODDLER IF HE/SHE HAS KNOWLEDGE OF OR HAS REASONABLE GROUND TO BELIEVE THAT ONE IS A MANUFACTURER, PRODUCER OR PROCESSOR OF DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS, AND HE/SHE USED HIS INFLUENCE, POWER OR POSITION IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF THE LATTER,

“ A PERSON WHO DOES ANY ACT OF SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF OR IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF THE MANUFACTURER, PRODUCER OR PROCESSOR IS, UNLESS PROVEN OTHERWISE, PRESUMED TO HAVE KNOWLEDGE OF OR HAVE WILLFULLY CONSENTED TO THE ILLEGAL MANUFACTURING, PRODUCTION OR PROCESSING, AND HE/SHE IS PRESUMED FURTHER TO HAVE USED HIS/HER INFLUENCE, POWER OR POSITION IN DOING THE SAME. EXCEPT WHEN IT IS DONE BY ANY MEMBER OF THE VIOLATOR'S IMMEDIATE FAMILY OR HIS/HER LEGAL COUNSEL, A PERSON WHO INTERCEDES AND/OR REPRESENTS THE SAID VIOLATOR IS, UNLESS PROVEN OTHERWISE, PRESUMED TO HAVE SHIELDED, HARBORED, SCREENED OR FACILITATED THE ESCAPE OF OR PREVENTED THE ARREST, PROSECUTION OR CONVICTION OF THE LATTER.

SECTION 6. Section 8 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby supplemented or added with provisions defining and penalizing negligent lessors of properties/premises used as clandestine laboratories or drug warehouses, which shall be stated as Section 8-A and shall read as follows:

“ **SECTION 8-A. NEGLIGENT LESSORS OF PROPERTIES USED AS CLANDESTINE LABORATORIES AND DRUG WAREHOUSES.** - THE PENALTY OF IMPRISONMENT RANGING FROM TWELVE (12) YEARS AND ONE (1) DAY TO TWENTY (20) YEARS AND A FINE RANGING FROM ONE HUNDRED THOUSAND PESOS (P100, 000.00) TO FIVE HUNDRED THOUSAND PESOS (P500, 000.00) SHALL BE IMPOSED UPON AN OWNER OR LESSOR OF A BUILDING, WAREHOUSE, OR ANY EDIFICE, OR IN THEIR ABSENCE, THEIR DULY AUTHORIZED REPRESENTATIVE, WHO LEASES THE PROPERTY TO ANY PERSON BUT OMITS OR FAILS TO ASCERTAIN, CHECK AND CONFIRM THAT IT IS ACTUALLY USED FOR A LAWFUL PURPOSE, AND WHICH PROPERTY IS FOUND TO HAVE BEEN ACTUALLY UTILIZED AS CLANDESTINE LABORATORY OR USED IN THE MANUFACTURE OR STORAGE OF DANGEROUS DRUGS, CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS. THE MAXIMUM PENALTY SHALL BE IMPOSED IF THE OWNER OR LESSOR, OR HIS DULY AUTHORIZED REPRESENTATIVE, HAS DISCOVERED THE ILLEGAL ACTIVITY BUT FAILED TO REPORT THE SAME.

“ IF THE PROPERTY SUBJECT OF LEASE IS GOVERNMENT OWNED, IN ADDITION TO ABSOLUTE PERPETUAL DISQUALIFICATION FROM ANY PUBLIC OFFICE, THE GOVERNMENT OFFICIALS AND EMPLOYEES, WHO OMIT OR FAIL TO OBSERVE AND DISCHARGE THE LEGAL OBLIGATION

REQUIRED IN THE PRECEDING PARAGRAPH SHALL BE LIABLE TO THE MAXIMUM PENALTY IMPOSED THEREIN.

" IF THE PROPERTY SUBJECT OF LEASE IS OWNED BY A PARTNERSHIP, CORPORATION, ASSOCIATION, OR ANY JURIDICAL ENTITY, THE PERSON LIABLE TO THE PENALTY PRESCRIBED IN THE FIRST PARAGRAPH OF THIS SECTION IS THE CORPORATE OR ASSOCIATION PRESIDENT, CHIEF EXECUTIVE OFFICER (CEO), CHIEF OPERATING OFFICER (COO) OR MANAGER, OR ANY PARTNER IN A PARTNERSHIP, ANY MEMBER OF THE BOARD OF DIRECTORS/TRUSTEES OF ANY CORPORATION OR ASSOCIATION, ANY ESTATE EXECUTOR OR ADMINISTRATOR, OR ANY OF THE DULY AUTHORIZED REPRESENTATIVE OF ALL THE ABOVE-MENTIONED.

" FOR PURPOSES OF THIS SECTION, THE PERSONS LIABLE IN THE PRECEDING THREE (3) PARAGRAPHS OF THIS SECTION ARE, UNLESS PROVEN OTHERWISE, PRESUMED TO HAVE GIVEN THEIR CONSENT TO THE ILLEGAL USE OF THE LEASED PROPERTY IF THEY FAIL TO VISIT AND INSPECT THE LEASED PROPERTY AT LEAST ONCE EVERY QUARTER.

" THE VISITATION SHALL BE EVIDENCED BY AN AFFIDAVIT TO BE EXECUTED, WITHIN FIVE (5) DAYS FROM DATE OF VISITATION AND INSPECTION, BY THE PRIVATE INDIVIDUAL, CONCERNED GOVERNMENT OFFICIAL OR EMPLOYEE, OR CONCERNED OFFICER OF THE PARTNERSHIP, CORPORATION, ASSOCIATION, OR JURIDICAL ENTITY THAT OWNS THE PROPERTY SUBJECT OF THE LEASE. THE AFFIDAVIT SHALL CATEGORICALLY STATE THE FOLLOWING: (1) THE DATE WHEN THE INSPECTION OF THE PREMISES WAS MADE (2) THE DETAILS OF THINGS SEEN AND OBSERVED DURING THE INSPECTION, AND (3) THE FACT THAT THE LEASED PREMISES IS NOT BEING USED FOR ANY UNLAWFUL PURPOSE, IF SUCH IS THE CASE. IT SHALL BE SUBMITTED TO THE ADMINISTRATIVE BOARD PURSUANT TO THE PROVISIONS OF SECTION 52 (1) HEREOF, WITHIN FIVE (5) WORKING DAYS FROM THE EXECUTION OF SAID AFFIDAVIT. IN ADDITION, A COPY OF THE LEASE CONTRACT AND THE SPECIAL POWER OF ATTORNEY OF THE AUTHORIZED REPRESENTATIVE, IF ANY, SHALL ALSO BE FILED WITH THE ADMINISTRATIVE BOARD AND CITY OR MUNICIPAL ASSESSOR WITHIN FIVE (5) DAYS FROM EXECUTION OF SAID CONTRACT.

" THE FAILURE TO COMPLY WITH THE FOREGOING MANDATORY REPORTORIAL REQUIREMENTS SHALL, UNLESS PROVEN OTHERWISE, BE PRESUMED THAT NO SUCH VISITATION WAS CONDUCTED ON THE LEASED PREMISES FOR THE DURATION OF THE COVERED PERIOD."

SECTION 7. Section 11 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby amended to read as follows:

" **Section 11. Possession of Dangerous Drugs.** - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be

imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

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“ FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING ARE PRESUMED:

- (A) ANY PERSON WHO IS FOUND TO HAVE IN HIS/HER POSSESSION, CONTROL, CUSTODY OR WITHIN HIS/HER REACH OR IMMEDIATE VICINITY, ANYTHING WHATSOEVER CONTAINING ANY DANGEROUS DRUG OR SIMILAR SUBSTANCES SHALL BE DEEMED TO HAVE KNOWLEDGE OF THE NATURE THEREOF;
- (B) ANY DANGEROUS DRUG OR SIMILAR SUBSTANCES FOUND TO BE CONCEALED IN ANY PREMISES SHALL BE PRESUMED, UNTIL THE CONTRARY IS PROVED, THAT THE SAID DRUG/SIMILAR SUBSTANCE IS IN POSSESSION OF AND/OR CONCEALED WITH THE KNOWLEDGE OF THE PERSON WHO HAS OR APPEARS TO HAVE THE CONTROL OR MANAGEMENT THEREOF;
- (C) ANY DANGEROUS DRUG FOUND CONCEALED IN ANY COMPARTMENT THAT IS SPECIALLY CONSTRUCTED FOR THE PURPOSE ON ANY PREMISES, ANY VEHICLE, VESSEL OR ANY KIND OF TRANSPORTATION SHALL UNTIL THE CONTRARY IS PROVED, BE DEEMED TO HAVE BEEN POSSESSED AND/OR CONCEALED WITH THE KNOWLEDGE OF THE OCCUPIER, ADMINISTRATOR, OWNER OR IN-CHARGE OF THE PREMISES, OR THE MASTER AND/OR OF THE PERSON IN CHARGE THEREOF;
- (D) SUBJECT TO THE PROVISIONS OF SECTION 5 OF THIS ACT, ANY PERSON FOUND IN POSSESSION OF ANY DANGEROUS DRUG IN THE FOLLOWING QUANTITY OR WEIGHT, REGARDLESS OF PURITY, ARE DEEMED TO HAVE BEEN ENGAGED IN SELLING, TRADING, DISPENSATION, ADMINISTRATION, DELIVERY, DISTRIBUTION AND/OR TRANSPORTATION OF DANGEROUS DRUGS:
 - (1) 200 GRAMS OR MORE OF SHABU, COCAINE, COCAINE HYDROCHLORIDE, OPIUM, HEROINE, MORPHINE, MARIJUANA RESIN OR MARIJUANA RESIN OIL, OR OTHER DANGEROUS DRUGS SUCH AS, BUT NOT LIMITED TO, MDMA OR "ECSTASY", PMA, TMA, LSD, GHB, AND THOSE SIMILARLY DESIGNED OR NEWLY INTRODUCED DRUGS AND THEIR DERIVATIVES; AND
 - (2) 500 GRAMS OR MORE OF MARIJUANA.”

SECTION 8. The provisions in the 2nd paragraph of Section 12 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, are hereby amended to read as follows:

“ Section 12. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs. –

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“ The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be *prima facie* evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act, **UNLESS HE/SHE VOLUNTARILY SUBMITS TO A DRUG TEST TO BE CONDUCTED BY A HOSPITAL, DOCTOR OR HUMAN MEDICAL PRACTITIONER, UNDER THE SUPERVISION OF OR ACCREDITED BY THE DEPARTMENT OF HEALTH FOR THIS PURPOSE, IN THE PRESENCE OF AND WITNESSED BY A REPRESENTATIVE EACH FROM THE MEDIA ORGANIZATION OF AND FROM THE NEAREST REGIONAL TRIAL COURT IN THE CITY OR PROVINCE OF THE PLACE OF INCIDENT, WITHIN TWENTY FOUR (24) HOURS FROM APPREHENSION, AND THE RESULT THEREOF IS NEGATIVE. IF THE RESULT OF HIS/HER VOLUNTARY DRUG TEST IS POSITIVE, AFTER CONFIRMATORY TEST, THEN THE PROVISIONS OF SECTION 15 OF THIS ACT SHALL APPLY.**”

SECTION 9. The provisions in Section 13 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, are hereby amended to read as follows:

“ Section 13. Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings. – Any person found possessing any dangerous drug during a party, or at a social gathering or meeting, or in the proximate company of at least two (2) persons, shall suffer the **PENALTY OF LIFE IMPRISONMENT TO DEATH AND A FINE OF FIVE HUNDRED THOUSAND (P500,000.00) PESOS TO TEN MILLION (PHP 10,000,000.00) PESOS**, regardless of the quantity and purity of such dangerous drugs.”

SECTION 10. Section 15 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby amended to read as follows:

“ Section 15. Use of Dangerous Drugs. – A person apprehended or arrested, who is found to be positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center for the first offense, subject to the provisions of Article VIII of this Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): *Provided*, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 11 of this Act, in which case the provisions stated therein shall apply.

“ ANY PERSON APPREHENDED UNDER THIS SECTION IS PRESUMED TO HAVE USED A DANGEROUS DRUG IF HE/SHE HAS SOME PHYSICAL MANIFESTATION OF BEING A DANGEROUS DRUG USER AND HE/SHE REFUSED TO SUBMIT TO A DRUG TEST WITHIN A PERIOD TWENTY FOUR (24) HOURS FROM APPREHENSION; PROVIDED THAT THE ARRESTING OFFICER SHALL INFORM THE SUSPECT ORALLY AND IN WRITING ABOUT THE SAID PRESUMPTION IF HE/SHE DOES NOT PROMPTLY AND VOLUNTARILY SUBMIT TO A DRUG TEST. THIS PRESUMPTION, HOWEVER, SHALL BE OVERTURNED BY A NEGATIVE RESULT OF THE TEST TO BE CONDUCTED BY ANY HOSPITAL, DOCTOR OR HUMAN MEDICAL PRACTITIONER UNDER THE SUPERVISION OF OR ACCREDITED BY THE DEPARTMENT OF HEALTH FOR THIS PURPOSE, IN THE PRESENCE OF SAID PERSON'S REPRESENTATIVE AND HIS COUNSEL OF CHOICE OR ANY LAWYER AVAILABLE IF HE HAS NO COUNSEL OF CHOICE. THE TEST SHALL LIKEWISE BE WITNESSED BY AT LEAST ONE REPRESENTATIVE EACH FROM LOCAL OR NATIONAL MEDIA ORGANIZATION AND FROM NEAREST REGIONAL TRIAL COURT IN THE CITY OR PROVINCE OF THE PLACE OF APPREHENSION;

“ POSSESSION OF ANY INSTRUMENT, APPARATUS OR PARAPHERNALIA FIT OR INTENDED FOR ANY OF THE PURPOSES ENUMERATED IN SECTION 12 OF THIS ACT BY ANY PERSON SUSPECTED OR APPREHENDED FOR USING DANGEROUS DRUGS SHALL BE *PRIMA FACIE* EVIDENCE THAT THE LATTER HAS SMOKED, CONSUMED, ADMINISTERED TO HIMSELF/HERSELF, INJECTED, INGESTED OR USED A DANGEROUS DRUG.”

SECTION 11. The provisions in Section 16 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby amended to read as follows:

“ **Section 16. Cultivation or Culture of Plants Classified as Dangerous Drugs or are Sources Thereof. –**

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“ The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a “financier” of any of the illegal activities prescribed in this Section.

“ A PERSON IS DEEMED FINANCIER TO THE VIOLATOR OF THIS SECTION IF HE/SHE CAUSES THE PAYMENT, RAISING, PROVIDING OR SUPPLYING MONEY FOR OR UNDERWRITING OF THE PLANTING, MAINTENANCE AND OPERATION OF ANY PLANTATION, FARM OR PLACE OF CULTIVATION OR CULTURE OF ANY PLANT CLASSIFIED AS DANGEROUS DRUG OR SOURCE THEREOF. ANY EVIDENCE SHOWING DELIVERY OR TRANSFER OF MONEY, OF DRAWING OR ISSUING A CHECK, MONETARY INSTRUMENT OR INVESTMENT TO THE ACCOUNT, CONTROL OR CUSTODY OF A PERSON OR ENTITY KNOWN TO BE, CONNECTED WITH OR WORKING FOR, THE VIOLATOR OF THIS SECTION IS, UNLESS PROVEN OTHERWISE, A *PRIMA FACIE* PROOF OF THE SENDER'S, TRANSFEROR'S OR ISSUER'S KNOWLEDGE OF FINANCING THE LATTER'S ILLEGAL ACTIVITIES.

" The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

" A PERSON IS DEEMED A CODDLER OR PROTECTOR IF HE/SHE KNOWS THE CULTIVATOR, PRODUCER OR VIOLATOR OF THIS SECTION AND HE/SHE USES HIS/HER INFLUENCE, POWER OR POSITION IN SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF SAID VIOLATOR. A PERSON IS LIKEWISE DEEMED A PROTECTOR OR CODDLER IF HE/SHE HAS KNOWLEDGE OF OR HAS REASONABLE GROUND TO BELIEVE THAT ONE IS A CULTIVATOR, PLANTER, PRODUCER OF PLANTS CLASSIFIED AS DANGEROUS DRUGS OR SOURCE THEREOF, AND HE/SHE USED HIS INFLUENCE, POWER OR POSITION IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF THE LATTER,

" ANY ACT OF SHIELDING, HARBORING, SCREENING OR FACILITATING THE ESCAPE OF OR IN PREVENTING THE ARREST, PROSECUTION OR CONVICTION OF THE VIOLATOR OF THIS SECTION SHALL, UNLESS PROVEN OTHERWISE, BE PRESUMED TO HAVE KNOWLEDGE OF OR CONSENTED TO THE CULTIVATION OR PRODUCTION OF PLANTS CLASSIFIED AS DANGEROUS DRUGS OR SOURCE THEREOF, AND HE/SHE IS PRESUMED FURTHER TO HAVE USED HIS INFLUENCE, POWER OR POSITION IN DOING THE SAME. EXCEPT WHEN IT IS DONE BY ANY MEMBER OF THE VIOLATOR'S IMMEDIATE FAMILY OR HIS/HER LEGAL COUNSEL, ANY PERSON WHO INTERCEDES AND/OR REPRESENTS THE SAID VIOLATOR IS, UNLESS PROVEN OTHERWISE, PRESUMED TO HAVE SHIELDED, HARBORED, SCREENED OR FACILITATED THE ESCAPE OF OR PREVENTED THE ARREST, PROSECUTION OR CONVICTION OF THE LATTER."

SECTION 12. Section 20 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby amended to read as follows:

" **Section 20. Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals. –**

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" During the pendency of the case in the Regional Trial Court, no property or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in *custodia legis* and no bond shall be admitted for the release of the same; PROVIDED, HOWEVER, THAT THE PROHIBITION PROVIDED HEREIN SHALL NOT APPLY TO ANY FIREARM, EXPLOSIVE OR WEAPON WHICH SHALL BE CONFISCATED, FORFEITED AND DISPOSED OF IMMEDIATELY BY THE COURT IN FAVOR OF THE GOVERNMENT, FOR THE USE OF THE PDEA OR OTHER LAW

**ENFORCEMENT AGENCIES INVOLVED IN FIGHTING ILLEGAL DRUG
TRAFFICKING.**

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SECTION 13. Section 29 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby amended to read as follows:

“ **Section 29. Criminal Liability for Planting of Evidence.** – Any person who is found guilty of “planting” any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of death.

“ **A DEFENSE OF ‘PLANTING EVIDENCE’ INTERPOSED AND PLEADED BY ANY PERSON CHARGED FOR VIOLATION OF ANY OF THE UNLAWFUL ACTS PRESCRIBED IN THIS ACT IS DEEMED TO BE A COMPLAINT AGAINST THE LAW ENFORCER/S OR PRIVATE INDIVIDUAL/S INVOLVED IN HIS/HER ARREST, SEARCH AND SEIZURE.**

“ **AS SOON AS THE ALLEGED PLANTING OF EVIDENCE HAS BEEN INTERPOSED AND/OR PLEADED BEFORE OR DURING THE PROCEEDING OF THE CASE AGAINST THE ACCUSED, THE COURT UPON WHICH THE LATTER’S CASE IS PENDING SHALL CAUSE THE PUBLIC PROSECUTOR ASSIGNED IN SAID COURT TO CONDUCT PRELIMINARY INVESTIGATION FOR VIOLATION OF THIS SECTION AND FILE THE CORRESPONDING INFORMATION. IN THE MEANTIME, THE PROCEEDINGS OF HIS/HER CASE SHALL BE SUSPENDED UNTIL THE PRELIMINARY INVESTIGATION IS CONCLUDED AND RESOLVED IN ACCORDANCE WITH THE PROCEDURES ENUNCIATED IN SECTION 90 OF THIS ACT. IF INFORMATION IS FILED FOR THE CRIME OF “PLANTING OF EVIDENCE”, THE LAW ENFORCER OR ANY PRIVATE INDIVIDUAL INVOLVED SHALL BE ARRAIGNED AND THIS CASE SHALL BE TRIED JOINTLY WITH THAT OF THE COMPLAINING ACCUSED.”**

“ **ANY PERSON WHO IS CHARGED AND PROSECUTED FOR ALLEGEDLY PUTTING OR PLACING ANY DANGEROUS DRUG OR SIMILAR SUBSTANCE AND/OR PUTTING OR PLACING ANY DRUG EQUIPMENT, INSTRUMENT OR PARAPHERNALIA ON THE PERSON OR IMMEDIATE PREMISES OF ANY ACCUSED/SUSPECT, SHALL BE DEEMED TO HAVE PUT, PLACED OR PLANTED THE SAID EVIDENCE IF THE RULES OF PROCEDURE AND/OR ENGAGEMENT FOR ARREST, SEARCH AND SEIZURE HAVE NOT BEEN COMPLIED.”**

SECTION 14. Section 33 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby supplemented or added with provisions which shall be stated as Section 33-A and shall read as follows:

“ **SECTION 33-A. IMMUNITY FROM PROSECUTION UNDER OTHER CIRCUMSTANCES, MINIMUM PENALTY AND COMMUTATION OF SENTENCE.** – ANY PERSON, CHARGED FOR VIOLATION OF ANY OFFENSE UNDER THIS ACT AND HE/SHE IS NOT QUALIFIED

FOR IMMUNITY UNDER PRECEDING SECTION 33, MAY APPLY FOR IMMUNITY FROM PROSECUTION UNDER THIS SUB-SECTION 33-A IF HE/SHE IS WILLING TO REVEAL THE IDENTITY AND PARTICIPATION OF PERSONS INVOLVED FOR VIOLATION OF SECTIONS 4, 5, 6, 8, 10 AND/OR 16, ARTICLE II OF THIS ACT, INCLUDING THE LATTER'S FINANCIERS, PROTECTORS OR CODDLERS.

" THE GRANT OF HIS/HER APPLICATION FOR IMMUNITY IS CONDITIONED UPON THE ARREST AND PROSECUTION OF ANY ONE, SOME OR ALL OF THE PERSONS HE/SHE NAMED OR IDENTIFIED, THE WILLINGNESS FROM HIS/HER PART TO TESTIFY AGAINST THE PERSON/S HE/SHE NAMED OR IDENTIFIED, HE/SHE DOES NOT APPEAR TO BE MOST GUILTY FOR THE OFFENSE TO WHICH HIS/HER INFORMATION OR TESTIMONY IS GIVEN, AND THE CONCURRENCE OF THE FOLLOWING:

- (1) THE INFORMATION AND TESTIMONY ARE NECESSARY FOR THE CONVICTION OF THE PERSONS HE/SHE NAMED OR IDENTIFIED;
- (2) SUCH INFORMATION AND TESTIMONY ARE NOT YET IN THE POSSESSION OF THE STATE;
- (3) SUCH INFORMATION AND TESTIMONY CAN BE CORROBORATED ON ITS MATERIAL POINTS;
- (4) THE INFORMANT OR WITNESS HAS NOT BEEN PREVIOUSLY CONVICTED OF A CRIME INVOLVING MORAL TURPITUDE, EXCEPT WHEN THERE IS NO OTHER DIRECT EVIDENCE AVAILABLE FOR THE STATE OTHER THAN THE INFORMATION AND TESTIMONY OF SAID INFORMANT OR WITNESS; AND
- (5) THE INFORMANT OR WITNESS SHALL STRICTLY AND FAITHFULLY COMPLY WITHOUT DELAY, ANY CONDITION OR UNDERTAKING LAWFULLY IMPOSED BY THE STATE AS FURTHER CONSIDERATION FOR THE GRANT OF IMMUNITY FROM PROSECUTION AND PUNISHMENT.

" IF HE/SHE WOULD SATISFY THE ABOVE CONDITIONS FOR THE GRANT OF IMMUNITY, THE APPLICANT MAY BE QUALIFIED FOR AND PLACED UNDER THE WITNESS PROTECTION PROGRAM (WPP).

" IF NONE OF THE PERSON/S HE/SHE NAMED OR IDENTIFIED HAS BEEN ARRESTED AND CHARGED, THE PROCEEDINGS OF HIS/HER CASE SHALL CONTINUE, BUT THE COURT SHALL SUSPEND PROMULGATION OF JUDGMENT FOR A PERIOD NOT EXCEEDING SIX (6) MONTHS FROM THE DATE HIS/HER CASE IS SUBMITTED FOR DECISION, UNLESS EXTENDED ONCE FOR THE SAME PERIOD. THE COURT, HOWEVER, IS BOUND TO RENDER JUDGMENT IF THE ACCUSED REQUESTS FOR EARLY DECISION.

" THE COURT SHALL RENDER DECISION IF THE PERSON/S HE/SHE NAMED OR IDENTIFIED REMAINS AT-LARGE AFTER THE LAPSE OF THE ORIGINAL OR EXTENDED PERIOD. IF HE/SHE IS FOUND GUILTY, THE COURT SHALL IMPOSE ONLY THE MINIMUM PENALTY FOR THE OFFENSE CHARGED OR PROVEN. HOWEVER, HE/SHE MAY BE CALLED LATER AS WITNESS FOR THE PROSECUTION, WITH HIS/HER EXPRESS CONSENT, IN THE EVENT

THAT ONE, SOME OR ALL OF PERSONS HE/SHE NAMED OR IDENTIFIED HAS OR HAVE BEEN APPREHENDED AND CHARGED IN COURT FOR VIOLATION OF SECTIONS 4, 5, 6, 8 10 AND 16 OF THIS ACT. IF HE/SHE HAS TESTIFIED FOR THE PROSECUTION, HIS/HER SENTENCE SHALL BE REDUCED FOR THE PERIOD UP TO THE DATE OF THE PROMULGATION OF JUDGMENT OF THE PERSONS AGAINST WHOM HE/SHE TESTIFIED. CONSEQUENTLY, HE/SHE SHALL BE CONSIDERED TO HAVE FULLY SERVED SENTENCE AND SHALL BE RELEASED IMMEDIATELY.”

SECTION 15. The cabinet rank of authorized and permanent representative of the ex officio members of the Dangerous Drugs Board (DDB) stated in Section 78 of Republic Act 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 is hereby amended to read as follows:

“ **Section 78. Composition of the Board.** – The Board shall be composed of seventeen (17) members wherein three (3) of which are permanent members, the other twelve (12) members shall be in an ex officio capacity and the two (2) shall be regular members.

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“ Cabinet secretaries who are members of the Board may designate their duly authorized and permanent representatives whose ranks shall in no case be lower than **ASSISTANT SECRETARY**.

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SECTION 16. Section 84(g) of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, shall be amended by deleting or replacing it with a new provision to read as follows:

“ **Section 84. Powers and Duties of the PDEA.** – The PDEA shall:

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“ (g) COORDINATE AND MAKE CONFIDENTIAL REPORT WITH RECOMMENDATION TO THE ANTI-MONEY LAUNDERING COUNCIL (AMLC) FOR APPLICATION OF FREEZE ORDER, FOR INITIATION OF APPROPRIATE SEIZURE OR FORFEITURE PROCEEDING AND FOR INVESTIGATION, INSPECTION OR EXAMINATION OF ANY FINANCIAL TRANSACTION, INVESTMENT OR ASSET IN ANY BANK OR FINANCIAL INTERMEDIARY OF ANY PERSON SUSPECTED OR APPREHENDED FOR VIOLATING SECTIONS 4, 5, 6, 8, 9, 10, 12, 13, 14 AND 16 OF THIS ACT.

“ THE CONFIDENTIAL REPORT OR RECOMMENDATION THAT IS BASED ON RELIABLE AND VERIFIED INTELLIGENCE INFORMATION SHALL CONTAIN THE NAME OR IDENTITY OF THE SUSPECT AND WHATEVER RELEVANT INFORMATION. IT HAS THE EFFECT OF MAKING ALL HIS PERSONAL AND RELATED TRANSACTIONS AS ‘SUSPICIOUS TRANSACTION’ DEFINED UNDER SEC. 3(b-1) IN RELATION TO SECTION 4 OF REPUBLIC ACT 9160,

AS AMENDED, OR THE ANTI-MONEY LAUNDERING ACT OF 2001. THE SAME EFFECT IN THE CASE OF A REPORT OR RECOMMENDATION MADE UPON ALL PERSONAL AND RELATED TRANSACTIONS OF A PERSON ARRESTED OR APPREHENDED.

“ PROPER COORDINATION AND EXCHANGE OF INFORMATION WITH THE AMLC SHALL BE UNDERTAKEN TO SUBSTANTIATE CHARGES, STRENGTHEN THE CASE AND/OR SUPPORT THE PROSECUTION AGAINST THE PERSON SUBJECT OF THE SAID REPORT OR RECOMMENDATION.

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SECTION 17. Section 84 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, shall be amended by providing additional power or duty, which shall be stated as Section 84(i-1) and shall read as follows:

“ **Section 84. Powers and Duties of the PDEA.** – The PDEA shall:

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“ (i) Monitor and if warranted by circumstances, in coordination with the Philippine Postal Office and the Bureau of Customs, inspect all air cargo packages, parcels and mails in the central post office, which appear from the package and address itself to be a possible importation of dangerous drugs and/or controlled precursors and essential chemicals, through on-line or cyber shops via the internet or cyberspace;

“ (i-1) SUBJECT TO THE PROVISIONS OF RA 4200 OTHERWISE KNOWN AS THE ANTI-WIRE TAPPING LAW, MONITOR ANY MESSAGE, COMMUNICATION OR CONVERSATION TRANSMITTED OR RECEIVED THROUGH WIRELESS OR DIGITAL TELECOMMUNICATION, ON-LINE, INTERNET, CYBER OR WHATEVER OTHER MEANS OF COMMUNICATION IF IT CONSIDERS THAT SAID MESSAGE, COMMUNICATION OR CONVERSATION LIKELY TO CONTAIN ANY INFORMATION RELATING TO THE COMMISSION OF ANY OF THE UNLAWFUL ACTS OR ACTIVITIES PRESCRIBED BY THIS ACT OR TO AN ACT PREPARATORY FOR, RELATED TO OR FOR THE PURPOSE OF COMMITTING SAID UNLAWFUL ACTS OR ACTIVITIES. FOR THIS PURPOSE, THE PDEA SHALL ORGANIZE A SPECIAL UNIT OR OFFICE UNDER ITS INTELLIGENCE AND INVESTIGATION SERVICES TO MONITOR BY THE USE OF ELECTRONIC DEVICE ALL ACTIVITIES OF ANY PERSON ENGAGED IN IMPORTATION, EXPORTATION, MANUFACTURING, PLANTATION, CULTIVATION, SELLING, PUSHING, TRADING, TRANSPORTATION OR DISTRIBUTION OF ILLEGAL DRUGS/SIMILAR SUBSTANCES, AND THEIR FINANCIERS, PROTECTORS OR CODDLERS.

“ SUBJECT TO THE PROVISIONS OF RA 4200 OTHERWISE KNOWN AS THE ANTI-WIRE TAPPING LAW, ANY INFORMATION GATHERED OR OBTAINED IN THE COURSE OF VALID MONITORING MENTIONED IN THE PRECEDING PARAGRAPH, WHETHER BEFORE

OR AFTER THE SUBJECT PERSON IS CHARGED FOR VIOLATION OF THIS ACT, MAY BE USED IN EVIDENCE AGAINST HIM.

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SECTION 18. Section 92 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, shall be amended by providing additional paragraphs thereto, which shall read as follows:

" **Section 92. Delay and Bungling in the Prosecution of Drug Cases.**

– Any government officer or employee tasked with the prosecution of drug-related cases under this act, who, through patent laxity, inexcusable neglect, unreasonable delay or deliberately causes the unsuccessful prosecution and/or dismissal of the said drug cases, shall suffer the penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years without prejudice to his/her prosecution under the pertinent provisions of the Revised Penal Code.

" **AN ACQUITTAL OR DISMISSAL OF ANY DRUG-RELATED CASE IS DEEMED BUNGLING IN THE PROSECUTION OF SAID CASE. UNLESS PROVEN OTHERWISE, A DECISION OF THE COURT DISMISSING OR ACQUITTING A CASE PROSECUTED UNDER THIS ACT IS PRESUMED THAT THE CASE HAS BEEN UNSUCCESSFULLY PROSECUTED AND THE GOVERNMENT PROSECUTOR, LAW ENFORCER, OFFICER OR EMPLOYEE INVOLVED IN THE PROSECUTION THEREOF DELIBERATELY CAUSED THE UNSUCCESSFUL PROSECUTION AND/OR DISMISSAL OF THE SAID CASE.**

" **THE TRIAL COURT OR APPELLATE/REVIEWING COURT THAT RENDERS THE JUDGEMENT OF ACQUITTAL OR ISSUES THE ORDER OF DISMISSAL SHALL FURNISH A COPY THEREOF TO THE CIVIL SERVICE COMMISSION AND TO THE OFFICE OF THE OMBUDSMAN, WHICH SHALL PROMPTLY CONDUCT APPROPRIATE ADMINISTRATIVE INVESTIGATION WITHIN A PERIOD OF FIVE (5) DAYS FROM RECEIPT THEREOF. THE INVESTIGATION SHALL, IF WARRANTED, INCLUDE THE IMPOSITION OF APPROPRIATE ADMINISTRATIVE SANCTION AND THE FILING OF PROPER CRIMINAL ACTION FOR VIOLATION OF THIS SECTION."**

SECTION 19. Separability Clause. – If any provision or part thereof that is held invalid or declared unconstitutional, or the application thereof to any person or circumstance is held to be invalid, the other provisions or sections of this Act not otherwise affected shall remain valid and subsisting.

SECTION 20. Repealing Clause. – All laws, 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.

SECTION 21. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,