

FURTHER AMENDING SECTION 1 OF REPUBLIC ACT NO. 5180 AS AMENDED BY PRESIDENTIAL DECREE NO. 77

PRESIDENTIAL DECREE NO. 911, March 23, 1976

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WHEREAS, Presidential Decree No. 77 was issued to provide a procedure for conducting preliminary investigations which is more conducive to the speedy administration of justice;

WHEREAS, while the said Decree has served its purpose, the requirement therein that complainants and respondents and their witnesses must have their statements subscribed and sworn to before the investigating fiscal is still causing undue delay in the disposition of cases and unnecessary expenses to the parties especially where they come from remote places or reside in cities or provinces different from the situs of the crime;

WHEREAS, there is likewise a need to provide for closer supervision and control by the Secretary of Justice over fiscals and state prosecutors in the performance of their functions to better assure fair dispensation of justice;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order:

1. Section 1 of Republic Act No. 5180, as amended by Presidential Decree No. 77, is hereby further amended to read as follows:

"Section 1. Notwithstanding any provision of law to the contrary and except when an investigation has been conducted by a judge of first instance, city or municipal judge or other officer in accordance with law and the Rules of Court of the Philippines, no information for an offense cognizable by the Court of First Instance shall be filed by the provincial or city fiscal or his assistants or by a state prosecutor, without first conducting a preliminary investigation in the following manner:

"a. All complaints shall be accompanied by statements of the complainant and his witnesses as well as other supporting documents. The statements, of the complainant and his witnesses shall be sworn to before any fiscal or state prosecutor or before any government official authorized to administer oath. The officer administering the oath must certify that he has personally examined the affiants and that he is satisfied that they voluntarily executed and understood their affidavits.

"b. If on the basis of the complainant's sworn statements and documents submitted, the investigating fiscal or state prosecutor finds no probable cause to conduct a preliminary investigation, he shall dismiss the case. If probable cause is established by complainant's evidence, he shall notify the Respondent by issuing a subpoena requiring him to submit his counter-affidavit and the affidavits of his witnesses, if any, and other supporting documents, within ten (10) days from receipt of such subpoena. If respondent cannot be subpoenaed, or if subpoenaed he does not appear before the investigating fiscal or state prosecutor, the preliminary investigation shall proceed without him. To such subpoena shall be attached a copy of the complaint, the sworn statements and other documents submitted. Other evidence submitted shall be made available for examination of the respondent or his counsel. The statements of the respondent and his witnesses shall also be sworn to before any fiscal or state prosecutor or before any government official authorized to administer oath and with the same certificate as abovementioned. The respondent shall furnish the complainant copies of his counter affidavits and other supporting documents.

"c. If a prima facie case is established by the evidence the investigating fiscal or state prosecutor shall immediately file the corresponding information in court. If he finds that there is no prima facie case, he shall dismiss the case unless he believes there are matters to be clarified in which case he may propound clarificatory questions to the parties or their witnesses affording both parties opportunity to be present but without right to examine or cross-examine. If the parties or their counsel so desire, they may submit questions to the fiscal which the latter may in his discretion propound to the parties concerned.

"d. The preliminary investigation shall proceed without need of requiring the parties and their witnesses to reaffirm their respective statements before the investigation fiscal or state prosecutor. Thereafter, he shall resolve the case within ten (10) days from its termination, furnishing the parties copies of his resolution stating briefly the findings of facts and the law supporting his action.

"The fiscal or state prosecutor shall certify under oath in the information to be filed by him that he has examined the complainant and his witnesses, that on the basis of the sworn statements and other evidence submitted before him there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof, that the accused was informed of the complaint and of the evidence submitted against him and that he was given an opportunity to submit controverting evidence; Provided, That no assistant fiscal or state prosecutor may file an information or dismiss a case except with the prior authority or approval of the provincial or city fiscal or Chief State Prosecutor, Provided, Further, That where an assistant fiscal or state prosecutor who has investigated the case, recommends the dismissal of the case but his findings are reversed by the Provincial or City Fiscal or by the Chief State Prosecutor, as the case may be, on the ground that a prima facie case exists, the Provincial or City Fiscal or the Chief State Prosecutor may, by himself, and on the basis of the same sworn statements and evidence submitted, file the information against the respondent, or direct any other assistant fiscal or state prosecutor to do so, without conducting another preliminary investigation; Provided, Finally, That where the resolution of the Provincial or City Fiscal or the Chief State Prosecutor is, upon review, reversed by the Secretary of Justice, the latter may, where he finds that no prima facie case exists, authorize and direct the investigating fiscal concerned or any other fiscal or state prosecutor to cause or move for the dismissal of the case, or, where he finds a prima facie case, to cause the filing of an information in court against the respondent, based on the same sworn statements or evidence submitted, without the necessity of conducting another preliminary investigation."

2. This Decree shall take effect immediately.

Done in the City of Manila, this 23rd day of March in the year of Our Lord, nineteen hundred and seventy-six.

(Sgd.)

FERDINAND E. MARCOS

President

Republic of the Philippines

By the President:

(Sgd.)

JUAN C. TUVERA

Presidential Assistant

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