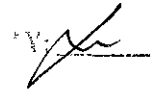


FIFTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session )

Office of the Secretary

12 MAR 12 AM 10:43

S E N A T E

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COMMITTEE REPORT NO. 134

Submitted by the Committee on Justice and Human Rights on  
MAR 12 2012.

Re: Senate Bill No. 3148.

Recommending its approval in substitution of Senate Bill Nos. 2732 and 2871

Sponsors: Senators Escudero and Guingona

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MR. PRESIDENT:

The Committee on Justice and Human Rights to which were referred Senate Bill No. 2732, introduced by Senator Franklin M. Drilon, entitled:

**“AN ACT  
PROVIDING FOR RULES ON PLEA BARGAINING IN CRIMINAL  
CASES, PROVIDING PENALTIES FOR VIOLATION THEREOF, AND  
FOR OTHER PURPOSES.”**

And S.No. 2871, introduced by Senator Teofisto L. Guingona, III, entitled:

**“AN ACT  
PROVIDING FOR RULES ON PLEA BARGAINING AGREEMENT IN  
CRIMINAL CASES, PROVIDING PENALTIES IN VIOLATION  
THEREFOR, AND FOR OTHER PURPOSES.”**

has considered the same and has the honor to report them back to the Senate with the recommendation that the attached Senate Bill No. 3148 prepared by the Committee, entitled:

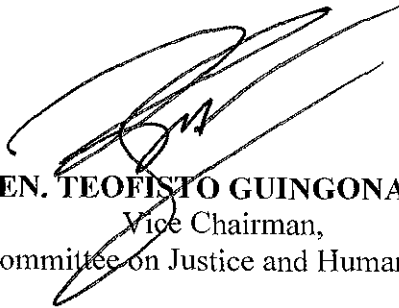
**“AN ACT  
PROVIDING FOR RULES ON PLEA BARGAINING AGREEMENT IN  
CRIMINAL CASES, PROVIDING PENALTIES FOR VIOLATION  
THEREOF, AND FOR OTHER PURPOSES.”**

be approved in substitution of Senate Bill Nos. 2732 and 2871, with Senators Drilon, Guingona *and* Escudero, as authors thereof.

**Respectfully submitted:**

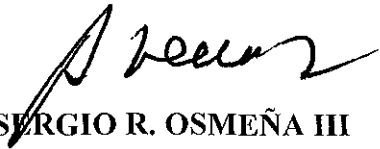


**SEN. FRANCIS G. ESCUDERO**  
Chairman,  
Committee on Justice and Human Rights

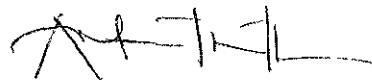


**SEN. TEOFISTO GUINGONA III**  
Vice Chairman,  
Committee on Justice and Human Rights

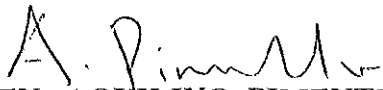
**MEMBERS:**



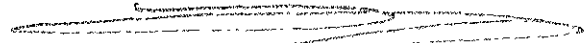
**SEN. SERGIO R. OSMEÑA III**



**SEN. ANTONIO F. TRILLANES IV**



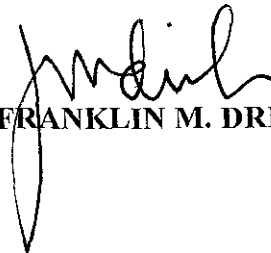
**SEN. AQUILINO PIMENTEL, III**



**SEN. LOREN B. LEGARDA**



**SEN. RAMON REVILLA, JR.**

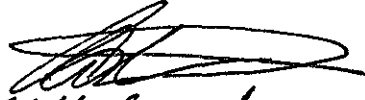


**SEN. FRANKLIN M. DRILON**



**SEN. JOKER P. ARROYO**

Ex-Officio Members:

  
*With Recitations  
amendments and adaptation*  
**SEN. ALAN PETER CAYETANO**  
*Senate Minority Floor Leader*

*of amendments*  
  
**SEN. VICENTE C. SOTTO III**  
*Senate Majority Floor Leader*

  
**SEN. JINGGOY EJERCITO-ESTRADA**  
*Senate President Pro-Tempore*

**HON. JUAN PONCE ENRILE**  
**Senate President**

SENATE

S. No. 3148

RE. 

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Prepared by the Committee on Justice and Human Rights with Senators Drilon,  
Guingona and Escudero as Authors thereof.

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AN ACT  
PROVIDING FOR RULES ON PLEA BARGAINING AGREEMENT IN  
CRIMINAL CASES, PROVIDING PENALTIES FOR VIOLATION  
THEREOF, AND FOR OTHER PURPOSES

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

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SECTION 1. *Short Title.* - This Act shall be known as the "Plea Bargaining Act of 2012."

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Sec. 2. *Plea Bargaining.* - Plea bargaining is the process in criminal proceedings whereby the accused and the prosecution work out a mutually satisfactory disposition of the case, as expressed and contained in a plea bargaining agreement, and subject to court approval, including the plea of the accused to a lesser offense than that charged in the complaint or information, or to only one or some of the counts of a multi-count indictment, and in conformity with other conditions imposed by the prosecution, in return for a lighter sentence than that for the graver charge.

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Sec. 3. *Principles.* - Plea bargaining shall be entered into by and between the prosecution and the accused, and approved by the court, in accordance with the following principles:

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a. Plea bargaining is a matter imbued with public interest. As such, its initial consideration and final terms should both primarily redound to the benefit of the public.

- 1           b. When a plea bargain is offered by the accused, or a plea bargaining  
2           agreement is entered into, the prosecution and the court are both duty  
3           bound to inquire carefully into the circumstances and motivations on  
4           which these are premised, to the end that the interest of justice and of  
5           the public will be served.
- 6           c. Plea bargaining is not a matter of compromise for the convenience and  
7           benefit of the accused. It is not demandable by the accused as a matter  
8           of right but is addressed to the sound discretion of the trial court.
- 9           d. Plea bargaining shall not be entered into when it will only serve to  
10          trivialize the seriousness of the offense charged against the accused  
11          and negate the deterrent value of the law intended to proscribe the  
12          offense committed.

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14           **Sec. 4. *Plea of guilty to a lesser offense.*** - As part of a plea bargaining  
15          agreement, the accused, with the consent of the offended party and the  
16          prosecutor, may be allowed by the trial court to plead guilty to a lesser offense  
17          which is necessarily included in the offense charged.

18           For purposes of plea bargaining, a lesser offense which is necessarily  
19          included in the offense charged is one that has some of the essential elements of  
20          the original offense charged. The lesser offense shall also belong to the same  
21          classification or title under the Revised Penal Code or the relevant special laws  
22          as the offense charged in the original information.

23           In all cases, the penalty for the lesser offense to which the accused may be  
24          allowed to plead guilty shall not be more than two (2) degrees lower than the  
25          imposable penalty for the offense charged, notwithstanding the presence of  
26          mitigating circumstances.

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28           **Sec. 5. *Consent of the Offended Party.*** - In offenses charged where there  
29          is no private offended party, the offended party whose consent is necessary for  
30          the plea bargaining shall be the People of the Philippines as represented by the  
31          prosecution, the Republic of the Philippines as represented by the Office of the  
32          Solicitor General, and the government agency responsible for the enforcement of  
33          the law violated or directly affected by the offense committed as represented by  
34          the Office of the Solicitor General.

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1           Sec. 6. *Additional Parties in certain cases.* - In cases of plunder and  
2 money laundering, the consent of the Ombudsman and the President are  
3 required.

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5           Sec. 7. *Time of Availment.* - At arraignment, the accused, with the  
6 consent of the offended party, the prosecutor, and any additional party required  
7 by law to give its consent, may be allowed to plead guilty to a lesser offense  
8 which is necessarily included in the offense charged.

9           During the course of the trial, the period after arraignment - during  
10 or after the presentation of the evidence of the prosecution, but before the  
11 presentation of the evidence of the defense, and in no case after the dismissal by  
12 the court of a demurrer to evidence - the accused may still be allowed to plead  
13 guilty to a lesser offense after withdrawing a plea of guilty to the original  
14 offense charged. No amendment of the complaint or information is necessary.  
15 Plea bargaining at this stage shall be subject to the conditions provided in  
16 Section 8 of this Act.

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18           Sec. 8. *Plea Bargaining during the course of the trial; Conditions.* - The  
19 prosecution may enter into plea bargaining with the accused, with the consent  
20 of the offended party under Section 7, during or after the presentation of the  
21 evidence of the prosecution, but before the presentation of the evidence of the  
22 defense, and in no case after the dismissal by the court of a demurrer to  
23 evidence, provided that all of the following conditions are present:

- 24           a. The evidence of the prosecution is insufficient to prove the offense  
25 charged beyond reasonable doubt;
- 26           b. In cases involving the recovery by or restitution to the offended party  
27 of property in crimes against property and those committed by public  
28 officers in relation to public funds such as, but not limited to, the crime  
29 of plunder, graft and corrupt practices, bribery and malversation, the  
30 accused makes a full restitution of the property or public funds  
31 involved; and
- 32           c. In cases of conspiracy and when the accused has not yet qualified as a  
33 state witness in accordance with the Rules of Criminal Procedure, the  
34 accused fully cooperates by providing, among others, documentary,  
35 object and testimonial evidence, against the principal conspirators

1 responsible for the commission of the offense charged and who are  
2 most guilty.

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4 Sec. 9. *Procedure.* - For purposes of plea bargaining, the following  
5 procedure shall be followed:

- 6 a. The intention to plead guilty to a lesser offense must be manifested by  
7 the accused before the court. Immediately thereafter, the prosecutor  
8 shall move for the suspension of the proceedings to enable him to  
9 confer with the offended party, to evaluate the implications of the offer  
10 to plead to a lesser offense and secure the consent of the offended  
11 party.
- 12 b. If the penalty imposable for the offense charged is *prision mayor*, or six  
13 years and one day imprisonment, or higher, or a fine exceeding twelve  
14 thousand pesos (PhP 12,000.00), the plea bargaining agreement shall  
15 first be approved in writing by the City Prosecutor, Provincial  
16 Prosecutor, or the Prosecutor General in criminal cases handled by the  
17 National Prosecution Service; or the Ombudsman in criminal cases  
18 handled by the Office of the Special Prosecutor; or the head of the  
19 agency in the case of other agencies authorized to prosecute criminal  
20 cases, before it is submitted to the court for approval. In no case shall  
21 the subject plea bargaining agreement be allowed without the written  
22 approval of the above approving authorities.
- 23 c. The prosecution and the accused shall file a joint motion for the  
24 approval of the plea bargaining agreement. Attached to the joint  
25 motion is the plea bargaining agreement itself. In no case shall the  
26 accused be re-arraigned and plead guilty to a lesser offense other than  
27 that agreed upon in the plea bargaining agreement mentioned in the  
28 immediately preceding section; *provided That:* the said Plea Bargaining  
29 agreement be duly approved by the trial court; *provided further That:*  
30 failure to observe such conditions shall render the plea null and void  
31 ab initio.
- 32 d. The prosecution may dispense with the presentation of evidence  
33 unless the court directs it to do so for purposes of determining the  
34 penalty to be imposed.

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1           Sec. 10. *Penalty.* - Any violation of this Act shall be punished  
2 with the penalty of imprisonment ranging from six months and one day to  
3 six years, and a fine ranging from six thousand (PhP 6,000.00) to sixty  
4 thousand pesos (PhP 60,000.00), without prejudice to other penalties that  
5 may be imposed, both criminal and administrative, if the violation is  
6 likewise attended by acts constituting an offense under other laws.

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8           Sec. 11. *Repealing Clause.* - All laws, decrees, orders, rules and  
9 regulations, and other issuances or parts thereof which are inconsistent  
10 with or contrary to this Act, are hereby repealed, amended, or modified  
11 accordingly. Existing laws disallowing plea bargaining for certain  
12 offenses and crimes shall remain in force and effect.

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14           Sec. 12. *Separability Clause.* - If any provision of this Act is  
15 declared invalid or unconstitutional, the provisions thereof not affected by  
16 such declaration shall remain valid and in force and effect.

17  
18           Sec. 13. *Effectivity Clause.* - This Act shall take effect fifteen (15)  
19 days after complete publication in the Official Gazette or in two (2)  
20 newspapers of national and general circulation.

21  
22           *Approved,*