

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



Senate
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SENATE

Senate Bill No. 1295

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

This measure was submitted by the Committee on Justice and Human Rights during the Fifteenth Congress. It was, however, overtaken by events and was not enacted into law.

Plea bargaining in criminal cases is a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case, subject to court approval (*Daan vs. Sandiganbayan*, G.R. Nos. 163972-77, March 28, 2008). It is allowed under Section 2, Rule 116 of the Revised Rules of Court.

While the intent of this process is to serve the best interest of all the parties concerned, there is an alarming number of instances where it is misused and abused, often to the detriment of the public.

The *Plea Bargaining Act of 2013* intends to institutionalize the rules that will govern the process of plea bargaining agreement in criminal cases to ensure that it will not be exploited for the convenience of the accused at the expense of public interest.

The immediate passage of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator



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Senate Bill No. 1295

RECEIVED BY: *[Signature]*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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:*

1 **SECTION 1. Short Title.** – This Act shall be known as the “*Plea Bargaining Act*
2 **of 2013**”.

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

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15 **SEC. 3. Principles.** – Plea bargaining shall be entered into by and between the
16 prosecution and the accused, and approved by the court, in accordance with the
17 following principles:

- 18
19 a. Plea bargaining is a matter imbued with public interest. As such, its initial
20 consideration and final terms should both primarily redound to the benefit
21 of the public.
- 22
23 b. When a plea bargain is offered by the accused, or a plea bargaining
24 agreement is entered into, the prosecution and the court are both duty
25 bound to inquire carefully into the circumstances and motivations on which
26 these are premised, to the end that the interest of justice and of the public
27 will be served.
- 28
29 c. Plea bargaining is not a matter of compromise for the convenience and
30 benefit of the accused. It is not demandable by the accused as a matter of
31 right but is addressed to the sound discretion of the trial court.
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1 d. Plea bargaining shall not be entered into when it will only serve to trivialize
2 the seriousness of the offense charged against the accused and negate
3 the deterrent value of the law intended to proscribe the offense committed.
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6 **SEC. 4. *Plea of Guilty to a Lesser Offense.*** – As part of a plea bargaining
7 agreement, the accused, with the consent of the offended party and the
8 prosecutor, may be allowed by the trial court to plead guilty to a lesser offense
9 which is necessarily included in the offense charged.
10

11 For purposes of plea bargaining, a lesser offense which is necessarily included in
12 the offense charged is one that has some of the essential elements of the original
13 offense charged. The lesser offense shall also belong to the same classification
14 or title under the Revised Penal Code or the relevant special laws as the offense
15 charged in the original information.
16

17 In all cases, the penalty for the lesser offense to which the accused may be
18 allowed to plead guilty shall not be more than two (2) degrees lower than the
19 imposable penalty for the offense charged, notwithstanding the presence of
20 mitigating circumstances.
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23 **SEC. 5. *Consent of the Offended Party.*** – In offenses charged where there is no
24 private offended party, the offended party whose consent is necessary for the
25 plea bargaining shall be the People of the Philippines as represented by the
26 prosecution, the Republic of the Philippines as represented by the Office of the
27 Solicitor General, and the government agency responsible for the enforcement of
28 the law violated or directly affected by the offense committed as represented by
29 the Office of the Solicitor General.
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32 **SEC. 6. *Additional Parties in Certain Cases.*** – In cases of plunder and money
33 laundering, the consent of the Ombudsman and the President are required.
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36 **SEC. 7. *Time of Availment.*** – At arraignment, the accused, with the consent of
37 the offended party, the prosecutor, and any additional party required by law to
38 give its consent, may be allowed to plead guilty to a lesser offense which is
39 necessarily included in the offense charged.
40

41 During the course of the trial, the period after arraignment – during or after the
42 presentation of the evidence of the prosecution, but before the presentation of
43 the evidence of the defense, and in no case after the dismissal by the court of a
44 demurrer to evidence – the accused may still be allowed to plead guilty to a
45 lesser offense after withdrawing a plea of guilty to the original offense charged.
46 No amendment of the complaint or information is necessary. Plea bargaining at
47 this stage shall be subject to the conditions provided in Section 8 of this Act.
48
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50 **SEC. 8. *Plea Bargaining During the Course of the Trial; Conditions.*** – The
51 prosecution may enter into plea bargaining with the accused, with the consent of
52 the offended party under Section 7, during or after the presentation of the
53 evidence of the prosecution, but before the presentation of the evidence of the
54 defense, and in no case after the dismissal by the court of a demurrer to
55 evidence; *Provided*, That all of the following conditions are present:
56

- 1 a. The evidence of the prosecution is insufficient to prove the offense
2 charged beyond reasonable doubt;
3
4 b. In cases involving the recovery by or restitution to the offended party of
5 property in crimes against property and those committed by public officers
6 in relation to public funds such as, but not limited to, the crime of plunder,
7 graft and corrupt practices, bribery and malversation, the accused makes
8 a full restitution of the property or public funds involved; and,
9
10 c. In cases of conspiracy and when the accused has not yet qualified as a
11 state witness in accordance with the Rules of Criminal Procedure, the
12 accused fully cooperates by providing, among others, documentary, object
13 and testimonial evidence, against the principal conspirators responsible
14 for the commission of the offense charged and who are most guilty.
15
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17 **SEC. 9. Procedure.** – For purposes of plea bargaining, the following procedure
18 shall be followed:
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- 20 a. The intention to plead guilty to a lesser offense must be manifested by the
21 accused before the court. Immediately thereafter, the prosecutor shall
22 move for the suspension of the proceedings to enable him to confer with
23 the offended party, to evaluate the implications of the offer to plead to a
24 lesser offense and secure the consent of the offended party.
25
26 b. If the penalty imposable for the offense charged is *prision mayor*, or six
27 years and one day imprisonment, or higher, or a fine exceeding twelve
28 thousand pesos (PhP 12,000.00), the plea bargaining agreement shall first
29 be approved in writing by the City Prosecutor, Provincial Prosecutor, or
30 the Prosecutor General in criminal cases handled by the National
31 Prosecution Service; or the Ombudsman in criminal cases handled by the
32 Office of the Special Prosecutor; or the head of the agency in the case of
33 other agencies authorized to prosecute criminal cases, before it is
34 submitted to the court for approval. In no case shall the subject plea
35 bargaining agreement be allowed without the written approval of the
36 above approving authorities.
37
38 c. The prosecution and the accused shall file a joint motion for the approval
39 of the plea bargaining agreement. Attached to the joint motion is the plea
40 bargaining agreement itself. In no case shall the accused be re-arraigned
41 and plead guilty to a lesser offense other than that agreed upon in the plea
42 bargaining agreement mentioned in the immediately preceding section;
43 *Provided*, That the said Plea Bargaining agreement be duly approved by
44 the trial court; *Provided further*, That failure to observe such conditions
45 shall render the plea null and void *ab initio*.
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47 d. The prosecution may dispense with the presentation of evidence unless
48 the court directs it to do so for purposes of determining the penalty to be
49 imposed.
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52 **SEC. 10. Penalty.** – Any violation of this Act shall be punished with the penalty
53 of imprisonment ranging from six (6) months and one (1) day to six (6) years, and
54 a fine ranging from Six Thousand (PhP 6,000.00) to Sixty Thousand pesos (PhP
55 60,000.00), without prejudice to other penalties that may be imposed, both
56 criminal and administrative if the violation is likewise attended by acts constituting
57 an offense under other laws.

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

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

SEC. 13. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after complete publication in the Official Gazette or in two (2) newspapers of national and general circulation.

Approved,