



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

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SENATE

SENATE BILL NO. 1345

Introduced by **SENATOR LEILA M. DE LIMA**

AN ACT
REDEFINING THE MANDATE OF THE PUBLIC ATTORNEY'S OFFICE
(PAO), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9046 AND
PERTINENT PROVISIONS OF EXECUTIVE ORDER NO. 292,
OTHERWISE KNOWN AS THE "ADMINISTRATIVE CODE OF 1987", AS
AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The 1987 Constitution mandates that free access to the courts and adequate legal assistance shall not be denied to any person by reason of poverty.

The present enabling law of the Public Attorney's Office (PAO), Republic Act No. 9406, establishes PAO as the principal law office of the Government in extending free legal assistance to indigent persons in criminal, civil, labor, administrative, and other quasi-judicial cases, a mandate that is too broad for its personnel complement and resource constraints. In 2014 alone, it claimed that it has served 7,514,325 clients, most of which are classified as non-judicial services, with each public attorney handling more than 500 cases. Furthermore, R.A. No. 9406 allows PAO, in the exigency of the service, to be called upon by proper government authorities to render service to other persons, even if they be non-indigent. This power, as we have seen in recent years, has been invoked to represent individuals who can afford to contract the services of their own private counsels, to the detriment of those who need PAO's services the most; i.e., those indigent individuals who are threatened to be legally deprived of their liberty or property.


To arrest this situation, there is an imperative need to revisit the mandate of the PAO. By mandating that its functions shall **primarily** cater to the needs of indigent clients who are financially incapable of obtaining the services of a lawyer of their choice to defend them in criminal proceedings, public attorneys will be unburdened with other matters and will therefore be able to focus on providing the utmost attention to their clients accused of committing a crime.

The key features of this bill are as follows:

1. Redefining the mandate of the PAO to primarily serve indigent accused individuals in criminal proceedings;
2. Limiting the services to be extended by PAO to non-indigent persons, in the exigency of the service, to legal assistance and counselling only, not representation;
3. Creating a self-contained Public Defender Unit within the PAO, which shall exclusively cater to criminal defense in order to avoid situations of conflict of interest when other PAO lawyers extended legal assistance or counselling to the offended party prior to the filing of the case in court;
4. Providing for a term of office for the Chief Public Attorney and for the Judicial and Bar Council to screen and nominate to the President the person best fit for the position;
5. Repealing the support provided by local governments to PAO to ensure its independence and allowing the PAO to recover reasonable payment from persons served but not entitled to its services; and
6. Automatically increasing the number of public attorney positions when a new court or branch is created by law.

As Walton Wood, the first public defender of the United States and who used to practice law in the Philippines, said, "It is not the duty of the public defender to thwart justice or to circumvent the work of the public prosecutor. It is the duty of both officials to work together and with the court with the sole purpose in view of bringing out the facts and of doing absolute and impartial justice. When the government provides only a prosecutor and fails to provide a means of defense it can not be maintained that the defendant comes into court on an equal footing with his adversary."¹

Early approval of this measure is requested.


LEILA M. DE LIMA

¹ Wood, Walton J. "A Public Defender for the Philippines". Philippine Law Journal vol. 4, no. 3, p.95.



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AN ACT
REDEFINING THE MANDATE OF THE PUBLIC ATTORNEY'S OFFICE
(PAO), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9046 AND
PERTINENT PROVISIONS OF EXECUTIVE ORDER NO. 292,
OTHERWISE KNOWN AS THE "ADMINISTRATIVE CODE OF 1987", AS
AMENDED, AND FOR OTHER PURPOSES

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

1 **Section 1.** Section 14-A, Chapter 5, Title III, Book IV of of Executive Order No. 292,
2 otherwise known as the "Administrative Code of 1987", as amended, is hereby further
3 amended to read as follows:

4 "SEC. 14-A Powers and Functions. - The PAO shall independently discharge
5 its mandate to PRIMARILY render, free of charge, legal representation,
6 assistance, and counselling to indigent persons in criminal
7 PROCEEDINGS, AND SECONDARILY, TO SUCH PERSONS IN civil,
8 labor, administrative and other quasi-judicial cases."

9 "In the exigency of the service AND WHEN PUBLIC INTEREST SO
10 REQUIRES, the PAO may be called upon by proper government authorities
11 to PROVIDE LEGAL ASSISTANCE AND COUNSELLING to other persons,
12 subject to existing laws, rules and regulations; PROVIDED, THAT SUCH

1 ASSISTANCE SHALL BE EXTENDED ONLY FOR A LIMITED PERIOD
2 AND PURPOSE, AFTER WHICH THE CONCERN SHALL BE
3 FORWARDED TO THE COUNSEL OF CHOICE OF SUCH PERSONS, OR,
4 IN THE ABSENCE THEREOF, TO PRIVATE OR PUBLIC LEGAL AID OR
5 OTHER NON-PROFIT ORGANIZATIONS IN ACCORDANCE WITH
6 REPUBLIC ACT NO. 9999, OTHERWISE KNOWN AS THE "FREE LEGAL
7 ASSISTANCE ACT OF 2010"; PROVIDED FURTHER, THAT NO MORE
8 THAN TEN (10) PERCENT OF PAO FUNDS AND MAN HOURS SHALL
9 BE USED FOR THIS PURPOSE."

10 **Sec. 2.** A new subsection is hereby inserted in Section 15, Chapter 5, Title III, Book IV
11 of the same Code, as amended, to read as follows:

12 "SEC. 15-A. *Public Defender Unit.* – There shall be a self-contained Public
13 Defender Unit (PDU) in all PAO District Offices which shall exclusively
14 cater to the legal defense needs of accused persons in criminal cases. In
15 cases where there are multiple accused where some or all of them have no
16 means to secure their own counsel, the PDU shall strive to represent those
17 qualified after conducting merit and indigency tests. The observance of the
18 first-come-first-served rule shall be discouraged in criminal cases and
19 instead, protocols to protect against conflicts of interest shall be established
20 through rules and regulations issued by the Chief Public Attorney for such
21 purpose."

22 **Sec. 3.** Section 16-A, Chapter 5, Title III, Book IV of the same Code, as amended, is
23 hereby further amended to read as follows:

24 "SEC. 16-A. *Appointment.* - The Chief Public Attorney shall be appointed
25 by the President FOR A TERM OF SIX (6) YEARS FROM A LIST OF AT

1 LEAST THREE (3) NOMINEES PREPARED BY THE JUDICIAL AND BAR
2 COUNCIL (JBC). SUCH APPOINTMENT NEED NO CONFIRMATION
3 AND NO CHIEF PUBLIC ATTORNEY SHALL SERVE FOR MORE THAN
4 TWO TERMS. The Deputy Chief Public Attorneys and Regional Public
5 Attorneys shall be appointed by the President upon the recommendation of
6 the Chief Public Attorney. The Deputy Chief Public Attorneys and Regional
7 Public Attorneys shall not be removed or suspended, except for cause
8 provided by law; Provided, That the Deputy Chief Public Attorneys, the
9 Regional Public Attorneys and The Assistant Regional Public Attorneys, the
10 Provincial Public Attorneys, the City Public Attorneys and Municipal
11 District Public Attorney shall have served as Public Attorneys OR HAVE
12 BEEN PRACTISING CRIMINAL LAW for at least five (5) years immediately
13 prior to their appointment as such. The administrative and support
14 personnel and other lawyers in the Public Attorney's Office shall be
15 appointed by the Chief Public Attorney, in accordance with civil service
16 laws, rules, and regulations."

17 **Sec. 4.** Section 16-D, Chapter 5, Title III, Book IV of the same Code, as amended, is
18 hereby further amended to read as follows:

19 "SEC. 16-D. Exemption from Fees and Costs of the Suit. - The INDIGENT
20 clients of the PAO shall be exempt from payment of docket and other fees
21 incidental to instituting OR DEFENDING ACTIONS in court and other
22 quasi-judicial bodies, as an original proceeding or on appeal.

23 "The costs of the suit, attorney's fees and contingent fees imposed upon the
24 adversary of the PAO clients after a successful litigation shall be deposited

1 in the National Treasury as trust fund and shall be disbursed TO
2 AUGMENT ITS OPERATING REQUIREMENTS AND for special
3 allowances of authorized officials and lawyers of the PAO."

4 **Sec. 5.** Section 16-E, Chapter 5, Title III, Book IV of the same Code, as amended, is
5 hereby repealed.

6 **Sec. 6.** Section 7 of Republic Act No. 9406, is here by amended to read as follows:

7 "Sec. 7. *Ratio of Public Attorney Position to an Organized COURT OR*
8 *BRANCH.* - There shall be a corresponding number of public attorney
9 positions at the ratio of AT LEAST one public attorney to an organized
10 COURT OR BRANCH and the corresponding administrative and support
11 staff thereto."

12 WHENEVER NEW COURTS OR BRANCHES THEREOF ARE CREATED,
13 THERE SHALL BE AUTOMATICALLY CREATED A PUBLIC ATTORNEY
14 POSITION WHERE SUCH COURTS OR BRANCHES ARE SEATED. THE
15 CHIEF PUBLIC ATTORNEY IS FURTHER AUTHORIZED TO INCREASE
16 OR DECREASE THE NUMBER OF PUBLIC ATTORNEYS ASSIGNED TO
17 AN ORGANIZED COURT OR BRANCH AS THE NEED THEREOF
18 ARISES. PUBLIC ATTORNEYS DESIGNATED TO THE PUBLIC
19 DEFENSE UNITS MAY APPEAR BEFORE ANY BRANCH OF THE COURT
20 IN THE DISTRICT WHERE THEY ARE ASSIGNED.

21 **Sec. 7.** Section 9 of Republic Act No. 9406, is hereby amended to read as follows:

22 "SEC. 9. *Grant of Special Allowances.* - The Chief Public Attorney, the
23 Deputy Chief Public Attorneys, the Regional Public Attorneys, the
24 Provincial, City and Municipal District Public Attorneys, other PAO lawyers

1 and officials who have direct supervision over PAO lawyers shall be granted
2 special allowances in the amounts to be determined by the Secretary of the
3 Department of Budget and Management (DBM) and the Chief Public
4 Attorney.

5 The grant of said special allowances shall BE IN SUCH AMOUNTS AND UP
6 TO THE EXTENT ONLY THAT CAN BE SUPPORTED BY THE TRUST
7 FUND; PROVIDED, THAT THE SAID SPECIAL ALLOWANCE SHALL not
8 exceed one hundred percent (100%) of the basic salary AS PROVIDED IN
9 REPUBLIC ACT NO. 6758, OTHERWISE KNOWN AS THE SALARY
10 STANDARDIZATION LAW, AS AMENDED, of the PAO officials and
11 lawyers as provided in the immediately preceding paragraph.”

12 **Sec. 8. Recovery from Defendant.** – The Chief Public Attorney, on behalf of the State,
13 may recover reimbursement from each person who has received legal representation,
14 assistance, or counselling under this Act to which: (a) he/she was not entitled, (b) with
15 respect to which he/she was not an indigent person when he/she received it, or (c)
16 he/she is financially able to reimburse the State for it according to the standards of
17 ability to pay to be issued by the Chief Public Attorney. The funds recovered shall be
18 paid into the trust fund.

19 **Sec. 9. Reports.** – The Chief Public Attorney shall submit an annual report to the
20 President and to both Houses of Congress showing the number of persons represented,
21 the crimes involved, the outcome of each case, and the expenditures made in carrying
22 out the responsibilities imposed by this Act. The Commission on Audit shall likewise
23 conduct an annual performance audit of the PAO.

1 **Sec. 10. *Implementing Rules and Regulations.*** - Within ninety (90) days from the
2 approval of this Act, the DBM and PAO shall adopt and issue the rules and regulations
3 for the effective implementation of this Act.

4 **Sec. 11. *Repealing Clause.*** - All laws, executive orders, presidential decrees,
5 presidential proclamations, letters of implementation, rules and regulations or parts
6 thereof inconsistent with the provisions of this Act are hereby repealed or modified
7 accordingly.

8 **Sec. 12. *Separability Clause.*** - If any provision of this Act is declared invalid or
9 unconstitutional, the provisions not affected thereby shall continue to be in full force
10 and effect.

11 **Sec. 13. *Effectivity.*** - This Act shall take effect upon its approval fifteen (15) days
12 following its publication in the Official Gazette or in two (2) newspaper of general
13 circulation in the Philippines.

Approved,