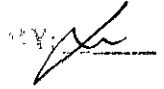


FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

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S E N A T E

RE



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

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:

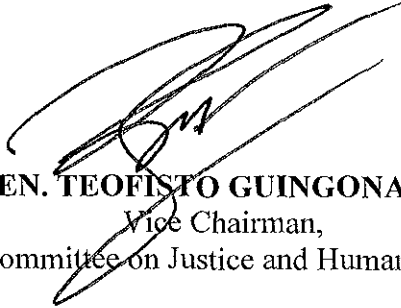
**“AN ACT
PROVIDING FOR RULES ON PLEA BARGAINING AGREEMENT IN
CRIMINAL CASES, PROVIDING PENALTIES FOR VIOLATION
THEREOF, AND FOR OTHER PURPOSES.”**

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

Respectfully submitted:

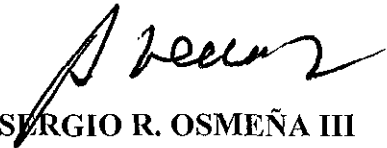


SEN. FRANCIS G. ESCUDERO
Chairman,
Committee on Justice and Human Rights

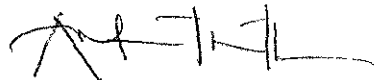


SEN. TEOFISTO GUINGONA III
Vice Chairman,
Committee on Justice and Human Rights

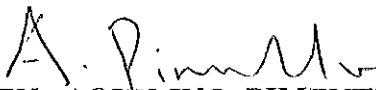
MEMBERS:



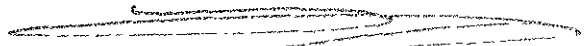
SEN. SERGIO R. OSMEÑA III



SEN. ANTONIO F. TRILLANES IV



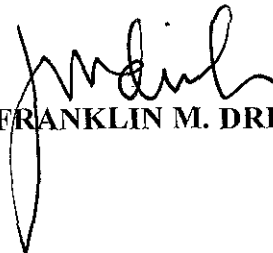
SEN. AQUILINO PIMENTEL, III



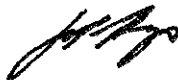
SEN. LOREN B. LEGARDA



SEN. RAMON REVILLA, JR.

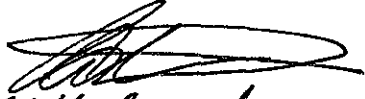


SEN. FRANKLIN M. DRILON



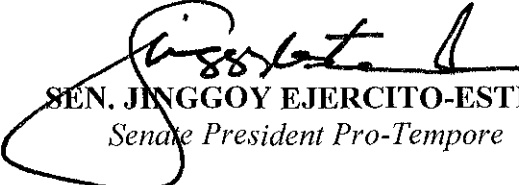
SEN. JOKER P. ARROYO

Ex-Officio Members:


*With Reservations
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

- 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.

13
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.

27
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.

35

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.

4
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.

17
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.

3
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.

35

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.

7
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.

13
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,*