

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



Senate  
Office of the Secretary

13 NOV 18 P5 50

SENATE

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Senate Bill No. 1935

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Introduced by **SENATOR JOSEPH VICTOR G. EJERCITO**

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### EXPLANATORY NOTE

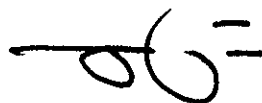
The Prevailing Doctrine on Probation cited in the case of *Pablo C. Francisco vs. Court of Appeals and the Honorable Maximo C. Contreras*, G. R. No. 108747 April 6, 1995 elaborated that, Probation is a special privilege granted by the state to a penitent qualified offender. It essentially rejects appeals and encourages an otherwise eligible convict to immediately admit his liability and save the state of time, effort and expenses to jettison an appeal. As added by the Court the law expressly requires that an accused must not have appealed his conviction before he can avail of probation. This outlaws the element of speculation on the part of the accused — to wager on the result of his appeal — that when his conviction is finally affirmed on appeal, the moment of truth well-right at hand, and the service of his sentence inevitable, he now applies for probation as an "escape hatch" thus rendering nugatory the appellate court's affirmance of his conviction. Consequently, probation should be availed of at the first opportunity by convicts who are willing to be reformed and rehabilitated, who manifest spontaneity, contrition and remorse.

Without negating the objectives of the existing Law on Probation, the amendments and additions in P.D. 968 particularly Sec. 4, 9, 16-A, 24, and 28 introduced in this Bill is sought to further strengthen the probation system in our country. Section 4 of P.D. 968 is amended to cover the grant of probation to cases where the convict appealed his conviction and the appellate court has modified the penalty from non-probationable to probationable penalty and also to include cases of defendants who filed an appeal of his conviction. Section 9 amended the list of **Disqualified Offenders** as stated — The benefits of this Decree shall not be extended to those: (a) sentenced to serve a maximum term of imprisonment of more than **eight** years; (b) convicted of any crime against the national security or the public order **EXCEPT UNDER ARTICLE 146 SPECIFICALLY WITH REFERENCE TO ANY PERSON MERELY PRESENT AT SUCH ASSEMBLY; 147, 148, 149, 151, 153, 154, 155 AND 156 OF TITLE III, CHAPTER THREE TO CHAPTER FIVE, BOOK II OF THE REVISED PENAL CODE;** and (c) who have previously been convicted by final judgment of an offense punished by imprisonment of not **MORE THAN SIX MONTHS** and one day **AND** a fine of not **MORE THAN ONE THOUSAND Pesos**.

In addition to the amendments, probation officers are to be considered as a person in authority defined under the Revised Penal Code and the creation of the post of the Voluntary Probation Officers with no compensation but reimbursement of actual cost of transportation during the performance of their duties.

The author believes that the above-stated amendments of P.D. 968 will not only resolve conflicting issues as to the scope of the applicability of Law and Jurisprudence on Probation but will also be a means of rationalizing and strengthening the probation system in the Philippines.

In view of the foregoing, approval of this bill is earnestly sought.



**JOSEPH VICTOR G. EJERCITO**  
**Senator**

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**AN ACT RATIONALIZING AND STRENGTHENING THE PROBATION SYSTEM BY INCREASING *INTER ALIA* THE PROBATIONABLE PENALTY TO LESS THAN EIGHT (8) YEARS, AMENDING FOR THE PURPOSE THE PERTINENT PROVISIONS OF PRESIDENTIAL DECREE NO. 968, OTHERWISE KNOWN AS THE "PROBATION LAW OF 1976", AS AMENDED**

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

**SECTION 1.** Section 4 of Presidential Decree No. 968, as amended, is hereby further amended to read as follows:

"SEC. 4. Grant of Probation. - Subject to the provisions of this Decree, the trial court may, after it shall have convicted and sentenced a defendant **FOR A PROBATIONABLE PENALTY**, and upon application by said defendant within the period for perfecting an appeal, suspend the execution of the sentence and place the defendant on probation for such period and upon such terms and conditions as it may deem best; *Provided*, That [no] **NOTWITHSTANDING THAT AN** application for probation shall be entertained or granted [if]the defendant has perfected the appeal from the judgment of conviction[.], **IF THE PENALTY METED OUT BY WHICH THE APPELLATE COURT REMAINS PROBATIONABLE: PROVIDED, FURTHER, THAT IF A JUDGMENT OR CONVICTION CARRYING OUT A NON-PROBATIONABLE PENALTY HAS BEEN APPEALED, AND THAT THE APPELLATE COURT HAS MODIFIED THE PENALTY INTO A PROBATIONABLE PENALTY, THEN THE DEFENDANT SHALL STILL BE ALLOWED TO APPLY FOR PROBATION ON THE MODIFIED DECISION.**

"Probation may be granted whether the sentence imposes a term of imprisonment or a fine only. An application for probation shall be filed with the trial court. The filing of the application shall be deemed a waiver of the right to appeal.

"An order granting or denying probation shall not be appealable."

**SECTION 2.** Section 9 of the same Decree, as amended, is hereby further amended to read as follows:

"SEC. 9. Disqualified Offenders. - The benefits of this Decree shall not be extended to those:

"(a) sentenced to serve a maximum term of imprisonment of more than [six] **EIGHT** years;

"(b) convicted of [subversion or] any crime against the national security or the public order[;] **EXCEPT UNDER ARTICLE 146 SPECIFICALLY WITH REFERENCE TO ANY PERSON MERELY PRESENT AT SUCH ASSEMBLY; 147, 148, 149, 151, 153, 154, 155 AND 156 OF TITLE III, CHAPTER THREE TO CHAPTER FIVE, BOOK II OF THE REVISED PENAL CODE;**

"(c) who have previously been convicted by final judgment of an offense punished by imprisonment of not [less than one month] **MORE THAN SIX MONTHS** and one day[and/or] **AND** a fine of not [less than Two Hundred] **MORE THAN ONE THOUSAND [P]Pesos;**

"(d) who have been once on probation under the provisions of this Decree; and

(e) who are already serving sentence at the time the substantive provisions of this Decree became applicable pursuant to Section 33 hereof."

**SECTION 3.** A new section to be denominated as Section 16-A is hereby inserted between Sections 16 and 17 of the same Decree to read as follows:

**"SEC. 16-A. TOTAL EXTINCTION OF CRIMINAL LIABILITY. - THE CRIMINAL LIABILITY OF AN OFFENDER IS TOTALLY EXTINGUISHED IF HE HAS BEEN SUCCESSFULLY TERMINATED FROM PROBATION SUPERVISION BY ORDER OF THE COURT AND WHO, FOR TEN CONSECUTIVE YEARS FROM THE DATE OF TERMINATION, DID NOT COMMIT ANY OTHER CRIME OR OFFENSE."**

**SECTION 4.** Section 24 of the same Decree is hereby amended to read as follows:

"SEC. 24. Miscellaneous Powers of **REGIONAL**, Provincial and City Probation Officers. - **REGIONAL**, Provincial or City Probation Officers shall have the authority within their territorial jurisdiction to administer oaths and acknowledgments and to take depositions in connection with their duties and functions under this Decree. They shall also have, with respect to probationers under their care, the powers of a police officer. **THEY SHALL BE CONSIDERED AS PERSONS IN AUTHORITY."**

**SECTION 5.** Section 27 of the same Decree is hereby amended to read as follows:

"SEC. 27. Field Assistants, Subordinate Personnel. - Provincial or City Probation Officers shall be assisted by such field assistants and subordinate personnel as may be necessary to enable them to carry out their duties effectively."

**SECTION 6.** Section 28 of the same Decree is hereby amended to read as follows:

“SEC. 28. [*Probation Aides* - To assist the Provincial or City Probation Officers in the supervision of probationers, the Probation Administrator may appoint citizens of good repute and probity to act as probation aides.]

“[Probation Aides shall not receive any regular compensation for services except for reasonable travel allowance. They shall hold office for such period as may be determined by the Probation Administrator. Their qualifications and maximum case loads shall be provided in the rules promulgated pursuant to this Decree.]

**“VOLUNTEER PROBATION OFFICERS. - TO ASSIST THE CHIEF PROBATION OFFICERS IN THE PROVINCIAL AND CITY PROBATION OFFICES IN THE SUPERVISED TREATMENT PROGRAM OF THE OFFENDER, THE PROBATION ADMINISTRATOR MAY APPOINT CITIZENS OF GOOD REPUTE AND PROBITY WHO HAVE THE WILLINGNESS, APTITUDE AND POTENTIAL TO ACT AS VOLUNTEER PROBATION OFFICERS (VPOS).**

**“VOLUNTEER PROBATION OFFICERS SHALL NOT RECEIVE ANY REGULAR COMPENSATION FOR SERVICES RENDERED EXCEPT FOR REIMBURSEMENT OF THEIR ACTUAL COST OF TRANSPORTATION IN THE PERFORMANCE OF THEIR DUTIES AND RESPONSIBILITIES. THEY SHALL ALSO BE ENTITLED TO INSURANCE COVERAGE PROVIDED BY THE GOVERNMENT AND A TWENTY PERCENT (20%) DISCOUNT ON ALL MEANS OF TRANSPORTATION, FOOD OUTLETS AND THEATERS AND CINEMAS. THEY SHALL HOLD OFFICE FOR A TWO-YEAR TERM WHICH MAY BE RENEWED OR RECALLED ANYTIME FOR A JUST CAUSE. THEIR FUNCTIONS, QUALIFICATIONS, CONTINUANCE IN OFFICE AND MAXIMUM CASE LOADS SHALL BE FURTHER PRESCRIBED UNDER THE IMPLEMENTING RULES AND REGULATIONS TO BE PROMULGATED BY THE PROBATION ADMINISTRATOR.**

**“THERE SHALL BE REASONABLE NUMBER OF VOLUNTEER PROBATION OFFICERS IN EVERY PROVINCIAL AND CITY PROBATION OFFICE. IN ORDER TO STRENGTHEN THE FUNCTIONAL RELATIONSHIP OF VOLUNTEER PROBATION OFFICERS AND THE PROBATION ADMINISTRATOR, THE LATTER SHALL ENCOURAGE AND SUPPORT THE FORMER TO ORGANIZE THEMSELVES IN THE NATIONAL, PROVINCIAL AND CITY LEVELS FOR EFFECTIVE UTILIZATION, COORDINATION AND SUSTAINABILITY OF THE VOLUNTEER PROGRAM.”**

**SECTION 7. *Separability Clause.*** - If any provision of this Act is declared invalid, the provisions thereof not affected by such declarations shall remain in force and effect.

**SECTION 8. *Repealing Clause.*** - All laws, executive orders or administrative orders, rules and regulations or parts thereof, which are inconsistent with this Act are hereby amended, repealed or modified accordingly.

**SECTION 9. Effectivity.** - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) national newspapers of general circulation.

Approved,