

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



Senate
Office of the Secretary

'16 JUL 21 AM 11:19

SENATE

S. B. No. 771

RECEIVED

BY: 

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
AMENDING SECTION 2 OF ACT NO. 4103, AS AMENDED, OTHERWISE
KNOWN AS THE INDETERMINATE SENTENCE LAW

EXPLANATORY NOTE

This bill seeks to amend Act No. 4103, also known as the Indeterminate Sentence Law, in order to include the criminal offenses against minors in the enumeration of certain crimes to which the provisions of the Act do not apply.

According to the Supreme Court, the positivist theory of criminal law states that the basis for criminal liability is the sum total of the social and economic phenomena to which the offense is expressed. The State is concerned not only in the imperative necessity of protecting the social organization against the criminal acts of destructive individuals but also in redeeming the individual for economic usefulness and other social ends (*People v. Ducosin*, 59 Phil. 109 [1933]). The adoption of this theory is exemplified in the Indeterminate Sentence law.


However, the application of this law is limited by excluding persons convicted of certain crimes or offenses due to its heinous nature, severity and gravity of the offense. The mere nature and seriousness of offenses (especially sexual offenses) against a minor justifies its inclusion in the enumeration.

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

1 SECTION 1. Section 2 of Act No. 4103, as amended, otherwise known as the
2 Indeterminate Sentence Law, is hereby further amended to read as follows:

3 "Sec. 2. This Act shall not apply to persons convicted of offenses
4 punished with death penalty or life-imprisonment; to those convicted of
5 treason, conspiracy or proposal to commit treason; to those convicted of
6 misprision of treason, rebellion, sedition or espionage; to those convicted
7 of piracy; TO THOSE CONVICTED OF CRIMINAL OFFENSES
8 AGAINST A MINOR, WHICH IS COMPARABLE TO OR EXCEEDS
9 ANY OF THE FOLLOWING: KIDNAPPING OF A MINOR, EXCEPT
10 BY A PARENT; CRIMINAL SEXUAL CONDUCT TOWARD A
11 MINOR; SOLICITATION OF A MINOR TO ENGAGE IN SEXUAL
12 CONDUCT; USE OF A MINOR IN A SEXUAL PERFORMANCE;
13 SOLICITATION OF A MINOR TO PRACTICE PROSTITUTION; ANY
14 CONDUCT THAT BY ITS NATURE IS A SEXUAL OFFENSE
15 AGAINST A MINOR; PRODUCTION OR DISTRIBUTION OF CHILD
16 PORNOGRAPHY; CHILD-TRAFFICKING; AND USING CHILDREN
17 IN DRUG TRAFFICKING; to those who are habitual delinquents; to
18 those who have escaped from confinement or evaded sentence; to those
19 who having been granted conditional pardon by the Chief Executive shall
20 have violated the terms thereof; to those whose maximum term of
21 imprisonment does not exceed one year, not to those already sentenced by
22 final judgment at the time of approval of this Act, except as provided in
23 Section 5 hereof."

24 SEC. 2. *Separability Clause.* - If any provision of this Act is held invalid or
25 unconstitutional, the remainder of the Act or the provision not otherwise affected
26 shall remain valid and subsisting.

27 SEC. 3. *Repealing Clause.* - Any law, presidential decree or issuance, executive
28 order, letter of instruction, administrative rule or regulation contrary to or inconsistent
29 with the provisions of this Act is hereby repealed, modified or amended accordingly.

1 **SEC. 4. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days after its
2 publication in the Official Gazette or at least two (2) newspapers of general
3 circulation.

Approved,