

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

SENATE

SENATE BILL NO. 1677

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

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**AN ACT**  
**PROVIDING FOR RULES ON PLEA BARGAINING AGREEMENT IN**  
**CRIMINAL CASES, PROVIDING PENALTIES IN VIOLATION**  
**THEREFOR, AND FOR OTHER PURPOSES**

**Explanatory Note**

Section 2, Rule 116 of the Revised Rules of Criminal Procedure lays down the basis for plea bargaining, a process whereby the accused and the prosecution enter into a reciprocally satisfactory disposition of the case subject to Court approval.<sup>1</sup> The Rule presents the basic requisites upon which plea bargaining may be made, i.e., that it should be with the consent of the offended party and the prosecutor, and that the plea of guilt should be to a lesser offense which is necessarily included in the offense charged.

Since its introduction into our judicial system, jurisprudence has enriched its application. In *People of the Philippines v. Villarama*, the Supreme Court ruled that “the acceptance of an offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right but is a matter that is addressed entirely to the sound discretion of the trial court.”<sup>2</sup> In *People of the Philippines v. Court of Appeals*, it was held that “as regards plea bargaining during the pre-trial stage, the trial court's exercise of its discretion should neither be arbitrary nor should it amount to a capricious and whimsical exercise of discretion.”<sup>3</sup>

Imbued with public interest, plea bargaining is ideally intended to primarily serve the best interest of justice, of the State and of its people, without unduly

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<sup>1</sup> **Section 2. Plea of guilty to a lesser offense.** — At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary.

<sup>2</sup> G.R. No. 99287, June 23, 1992, 210 SCRA 246.

<sup>3</sup> G.R. No. 159261, February 21, 2007, 516 SCRA 383, 398.

transgressing on the right of the accused to due process. While the intended benefits of plea bargaining to all the stakeholders is not contested, our very own history, however, proves witness to the unfortunate misuse and abuse of the process, often to the great disadvantage of the Filipino people.

Recently, reports emerged that a principal accused in one of the biggest plunders of our nation's coffers is mulling a plea bargain deal with the government.<sup>4</sup> Coupled with the present Administration's softening stance on this principal accused,<sup>5</sup> it will be a travesty of justice if a sweetheart deal is eventually reached which may lead to the weakening of the cases pending before the courts.

Thus, there is an urgent need for the development of a formal policy to establish concrete guideposts in the implementation of plea bargaining. The setting of guidelines, including the imposition of sanction for violation thereof, ensures that the process does not become a mere vehicle for diluting the gravity of the offense charged against the accused, for destroying the deterrent value of the law intended to proscribe the offense committed, and/or for creating opportunities for graft and corrupt practices.

In view of the foregoing, early approval of this measure is requested.

  
LEILA M. DE LIMA

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<sup>4</sup> Marcelo, Elizabeth. "*Napoles' camp mulls plea bargain deal, new petition for bail*". Philippine Star. May 10, 2017. Available at <http://www.philstar.com/headlines/2017/05/10/1698609/napoles-camp-mulls-plea-bargain-deal-new-petition-bail>. Last accessed July 18, 2017.

<sup>5</sup> Valente, Catherine. "*Duterte: Napoles a 'minimal player' in scam*". The Manila Times. May 11, 2017. Available at <http://www.manilatimes.net/duterte-napoles-minimal-player-scam/326572/>. Last accessed on July 18, 2017.



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Senate  
Department of Justice

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**THEREFOR, AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and 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 2018”.

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

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

- 1 a. Plea bargaining is a matter imbued with public interest. As such, its  
2 initial consideration and final terms should both primarily redound to  
3 the benefit of the public.
- 4 b. When a plea bargain is offered by the accused, or a plea bargaining  
5 agreement is entered into, the prosecution and the court are both duty  
6 bound to inquire carefully into the circumstances and motivations on  
7 which these are premised, to the end that the interest of justice and of  
8 the public will be served.
- 9 c. Plea bargaining is not a matter of compromise for the convenience and  
10 benefit of the accused. It is not demandable by the accused as a matter  
11 of right but is addressed to the sound discretion of the trial court.
- 12 d. Plea bargaining shall not be entered into when it will only serve to  
13 trivialize the seriousness of the offense charged against the accused and  
14 negate the deterrent value of the law intended to proscribe the offense  
15 committed.

16 **SEC. 4. *Plea of Guilty to a Lesser Offense.*** – As part of a plea bargaining  
17 agreement, the accused, with the consent of the offended party and the prosecutor,  
18 may be allowed by the trial court to plead guilty to a lesser offense which is necessarily  
19 included in the offense charged.

20 For purposes of plea bargaining, a lesser offense which is necessarily included  
21 in the offense charged is one that has some of the essential elements of the original  
22 offense charged. The lesser offense shall also belong to the same classification or title  
23 under the Revised Penal Code or the relevant special laws as the offense charged in the  
24 original information.

1 In all cases, the penalty for the lesser offense to which the accused may be  
2 allowed to plead guilty shall not be more than two (2) degrees lower than the  
3 imposable penalty for the offense charged, notwithstanding the presence of mitigating  
4 circumstances.

5 **SEC. 5. *Consent of the Offended Party.*** – In offenses where there is no private  
6 offended party, the offended party whose consent is necessary for the plea bargaining  
7 shall be a) the People of the Philippines, as represented by the prosecution; b) the  
8 Republic of the Philippines as represented by the Office of the Solicitor General, and  
9 c) the government agency responsible for the enforcement of the law violated or  
10 directly affected by the offense committed, as represented by its highest ranking  
11 official, such as its chairperson, chief executive, or head of office.

12 **SEC. 6. *Additional Parties in Certain Cases.*** - In cases of plunder and money  
13 laundering, the consent of the Ombudsman and the President are required.

14 **SEC. 7. *Time of Availment.*** – At arraignment, the accused, with the consent of  
15 the offended party, the prosecutor, and any additional party required by law to give its  
16 consent, may be allowed to plead guilty to a lesser offense which is necessarily included  
17 in the offense charged.

18 During the course of trial, the period after arraignment - during or after the  
19 presentation of the evidence of the prosecution, but before the presentation of the  
20 evidence of the defense, and in no case after the dismissal by the court of a demurrer  
21 to evidence - the accused may still be allowed to plead guilty to a lesser offense after  
22 withdrawing a plea of not guilty to the original offense charged. No amendment of the  
23 complaint or information is necessary. Plea bargaining at this stage shall be subject to  
24 the conditions provided in Section 8 of this Act.



1           **SEC. 8. *Plea Bargaining during the Course of the Trial; Conditions.*** – The  
2 prosecution may enter into plea bargaining with the accused, with the consent of the  
3 offended party under Section 7, during or after the presentation of the evidence of the  
4 prosecution, but before the presentation of the evidence of the defense, and in no case  
5 after the dismissal by the court of a demurrer to evidence, provided that all of the  
6 following conditions are present:

- 7           a. The evidence of the prosecution is insufficient to prove the offense  
8           charged beyond reasonable doubt;
- 9           b. In cases involving the recovery by or restitution to the offended party of  
10           property in crimes against property and those committed by public  
11           officers in relation to public funds such as, but not limited to, the crime  
12           of plunder, graft and corrupt practices, bribery, and malversation, the  
13           accused makes a full restitution of the property or public funds involved;  
14           and
- 15           c. In cases of conspiracy and when the accused has not yet qualified as a  
16           state witness in accordance with the Rules of Criminal Procedure, the  
17           accused fully cooperates by providing, among others, documentary,  
18           object, and testimonial evidence, against the principal conspirators  
19           responsible for the commission of the offense charged and who are most  
20           guilty.

21           **SECTION 9. *Insufficiency of Evidence.*** – The insufficiency of evidence to  
22 justify the plea bargaining agreement shall be shown by the prosecution through a  
23 memorandum of evidence integrated or attached to the plea bargaining agreement  
24 discussing in detail the documentary, object and testimonial evidence so far presented  
25 and intended to be presented by the prosecution, the elements of the offense charged

1 proven by said evidence, and the elements that are not proven despite all the evidence  
2 at hand.

3 In no case shall evidence be deemed insufficient for purposes of plea bargaining  
4 without a recital of the facts and steps undertaken showing that all efforts have been  
5 exhausted by the prosecution to take into custody all evidence necessary for the full  
6 prosecution of the offense charged.

7 **SEC. 10. Procedure.** – For purposes of plea bargaining, the following  
8 procedure shall be followed:

- 9 a. The intention to plead guilty to a lesser offense must be manifested by  
10 the accused before the court. Immediately thereafter, the prosecutor  
11 shall move for the suspension of the proceedings to enable him to confer  
12 with the offended party, to evaluate the implications of the offer to plead  
13 to a lesser offense and secure the consent of the offended party.
- 14 b. If the penalty imposable for the offense charged is *prision mayor*, or six  
15 years and one day imprisonment, or higher, or a fine exceeding one  
16 million two hundred thousand pesos (Php 1,200,000.00), the plea  
17 bargaining agreement shall first be approved in writing by the City  
18 Prosecutor, Provincial Prosecutor, or the Prosecutor General in criminal  
19 cases handled by the National Prosecution Service; or the Ombudsman  
20 in criminal cases handled by the Office of the Special Prosecutor; or the  
21 head of the agency in the case of other agencies authorized to prosecute  
22 criminal cases, before it is submitted to the court for approval. In no case  
23 shall the subject plea bargaining agreement be allowed without the  
24 written approval of the above approving authorities.

- 1 c. The prosecution and the accused shall file a joint motion for the approval  
2 of the plea bargaining agreement. Attached to the joint motion is the plea  
3 bargaining agreement itself. In no case shall the accused be re-arraigned  
4 and plead guilty to a lesser offense other than that agreed upon and  
5 without the requisite court approval in an Order or Resolution  
6 promulgated for said purpose. Pleading to a lesser offense other than  
7 that agreed upon and without the requisite court approval of the plea  
8 bargaining agreement shall render the plea null and void *ab initio*.
- 9 d. The prosecution may dispense with the presentation of evidence unless  
10 the court directs it to do so for purposes of determining the penalty to be  
11 imposed.

12 **SEC. 11. Penalty.** – For violations of this Act, the penalty of imprisonment  
13 ranging from six months and one day to six years, and a fine ranging from forty  
14 thousand (Php 40,000.00) to two hundred thousand pesos (Php 200,000.00) shall be  
15 imposed, without prejudice to the prosecution and imposition of penalties for other  
16 crimes committed under the Anti-Graft and Corrupt Practices Act (Republic Act No.  
17 3019) and other related laws where collusion between the prosecution and the accused  
18 is shown and proven

19 **SEC. 12. Repeal of Inconsistent Laws.** – All laws, decrees, orders, rules and  
20 regulations, and other issuances or parts thereof which are inconsistent with or  
21 contrary to this Act, are hereby repealed, amended, or modified accordingly. Existing  
22 laws disallowing plea bargaining for certain offenses and crimes shall remain in force  
23 and effect.



1           **SEC. 13. *Separability Clause.*** – Should any provision of this Act be declared  
2   invalid, the remaining provisions shall continue to be valid and subsisting.

3           **SEC. 14. *Effectivity.*** - This Act shall take effect fifteen (15) days after its  
4   publication in the Official Gazette or in two (2) newspapers of general circulation.

*Approved,*