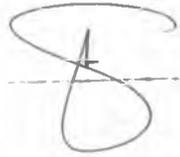


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

24 MAY 15 P3:17

SENATE

S. No. 2680

RECEIVED BY: 

Introduced by Senator Manuel "Lito" M. Lapid

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. Such 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. *People of the Philippines v. Villarama* 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." *People of the Philippines v. Court of Appeals* dictates 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."

The intent of plea-bargaining is to speed up the prosecution of cases by minimizing the need for trial. This lessens the dockets of the prosecution service and the courts and allows them to focus on the contested cases. However, a policy must also be provided to ensure that it is not abused, thereby negating the deterrent nature of our criminal laws.

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 transgressing over 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.

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, the passage of this bill is earnestly sought.


MANUEL "LITO" M. LAPID
Senator 

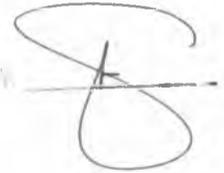
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OTHER PURPOSES**

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 2024"

3 SEC. 2. *Plea Bargaining.* – Plea Bargaining is the process in criminal proceedings
4 whereby the accused and the prosecution work out a mutually satisfactory disposition
5 of the case, as expressed and contained in the plea bargaining agreement, and subject
6 to court approval, including the plea of the accused to a lesser offense than that
7 charged in the complaint or information, or to only one or some of the counts of a
8 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:

- 13 a. Plea bargaining is a matter imbued with public interest. As such, its initial
14 consideration and final terms should both primarily redound to the
15 benefit of the public.
- 16 b. When a plea bargain is offered by the accused, or a plea-bargaining
17 agreement is entered into, the prosecution and the court are both duty-

1 bound to inquire carefully into the circumstances and motivations on
2 which these are premised, to the end that the interest of justice and of
3 the public will be served.

4 c. Plea bargaining is not a matter of compromise for the convenience and
5 benefit of the accused. It is not demandable by the accused as a matter
6 of right but is addressed to the sound discretion of the trial court.

7 d. Plea bargaining shall not be entered into when it will only serve to
8 trivialize the seriousness of the offense charged against the accused and
9 negate the deterrent value of the law intended to proscribe the offense
10 committed.

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

15 For purposes of plea bargaining, a lesser offense which is necessarily included
16 in the offense charged is one that has some of the essential elements of the original
17 offense charged the lesser offense shall also belong to the same classification or title
18 under the Revised Penal Code or the relevant special laws as the offense charged in
19 the original information.

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

24 SEC. 5. *Consent of the Offended Party.* – In offenses charged where there is
25 no private offended party, the offended party whose consent is necessary for the plea
26 bargaining shall be a) the People of the Philippines, as represented by the prosecution;
27 and b) the government agency responsible for the enforcement of the law violated or
28 directly affected by the offense committed, as represented by its highest ranking
29 official, such as its president, chief executive, or head.

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

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

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

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

- 20 a. The evidence of the prosecution is insufficient to prove the offense
21 charged beyond reasonable doubt;
- 22 b. In cases involving the recovery by or restitution to the offended party of
23 property in crimes against property and those committed by public
24 officers in relation to public funds such as, but not limited to, the crime
25 of plunder, graft and corrupt practices, bribery, and malversation, the
26 accused makes a full restitution of the property or public funds involved;
27 and
- 28 c. In cases of conspiracy and when the accused has not yet qualified as a
29 state witness in accordance with the Rules of Criminal Procedure, the
30 accused fully cooperates by providing, among others, documentary,

1 object, and testimonial evidence, against the principal conspirators
2 responsible for the commission of the offense charged and who are most
3 guilty.

4 SEC. 9. *Procedure.* – For purposes of plea bargaining, the following procedure
5 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 confer
9 with the offended party, to evaluate the implications of the offer to plead
10 to a lesser offense and secure the consent of the offended party.
- 11 b. If the penalty imposable for the offense charged is *prision mayor*, or six
12 years and one day imprisonment, or higher, or a fine exceeding one
13 million two hundred thousand pesos (Php 1,200,000.00), the plea
14 bargaining agreement shall first be approved in writing by the City
15 Prosecutor, Provincial Prosecutor, or the Prosecutor General in criminal
16 cases handled by the National Prosecution Service; or the Ombudsman
17 in criminal cases handled by the Office of the Special Prosecutor; or the
18 head of the agency in the case of other agencies authorized to prosecute
19 criminal cases, before it is submitted to the court for approval. In no
20 case shall the subject plea-bargaining agreement be allowed without the
21 written approval of the above approving authorities.
- 22 c. The prosecution and the accused shall file a joint motion for the approval
23 of the plea-bargaining agreement. Attached to the joint motion is the
24 plea-bargaining agreement itself. In no case shall the accused be re-
25 arraigned and plead guilty to a lesser offense other than that agreed
26 upon and without the requisite court approval of the plea-bargaining
27 agreement shall render the plea null and void *ab initio*.
- 28 d. The prosecution may dispense with the presentation of evidence unless
29 the court directs it to do so for purposes of determining the penalty to
30 be imposed.

1 SEC. 10. *Penalty.* – For violations of this Act, the penalty of imprisonment
2 ranging from six months and one day to six years, and a fine ranging from forty
3 thousand (Php 40,000.00) to two hundred thousand pesos (Php 200,000.00) shall be
4 imposed.

5 SEC. 11. *Repeal of Inconsistent Laws.* – All laws, decrees, orders, rules and
6 regulations, and other issuances or parts thereof which are inconsistent with or
7 contrary to this Act, are hereby repealed, amended, or modified accordingly. Existing
8 laws disallowing plea bargaining for certain offenses and crimes shall remain in force
9 and effect.

10 SEC. 12. *Implementing Rules and Regulations.* - Within ninety (90) days after
11 the approval of this Act, the Department of Justice, in consultation with the Supreme
12 Court, shall issue the necessary rules and regulations for the effective implementation
13 of this Act.

14 Sec. 13. *Separability Clause.* – If any provision or part hereof is held invalid or
15 unconstitutional, the remainder of the law of the provision not otherwise affected shall
16 remain valid and subsisting.

17 Sec. 14. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
18 publication in at least two (2) newspapers of general circulation.

Approved,