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OF THE PHILIPPINES)
First Regular Session)

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SENATE
P. S. R. No. 265

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

RESOLUTION

EXPRESSING THE SENSE OF THE SENATE THAT THERE IS A NEED TO REMOVE THE PRESENT BAR EXAMINATION AS A PREREQUISITE FOR ENTRY INTO THE PRACTICE OF LAW, AND, AS A REPLACEMENT, TO ESTABLISH A NATIONAL LAW SCHOOL APTITUDE TEST (NLSAT) AND A ONE-YEAR LEGAL INTERNSHIP PROGRAM

WHEREAS, the Constitution, Article VIII, Section 5 (5), states that: "The Supreme Court shall have the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleadings, practice, and procedures in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged";

WHEREAS, before a person is authorized to practice law in the Philippines, he or she must first pass the bar examination, take the oath of attorneys, and sign in the roll of attorneys;

WHEREAS, the Rules of Court, Section 1, states that: "Any person heretofore duly admitted as a member of the bar, or hereafter admitted as such in accordance with the provisions of this rule, and who is in good and regular standing, is entitled to practice law";

WHEREAS, the Rules of Court, Section 2, states that: "Applicants, not otherwise provided for in sections 3 and 4 of this rule, shall be subjected to examination in the following subjects: Civil Law; Labor and Social Legislation; Mercantile Law; Criminal Law; Political Law (Constitutional Law, Public Corporations, and Public Officers); International Law (Private and Public); Taxation; Remedial Law (Civil Procedure, Criminal Procedure, and Evidence); Legal Ethics and Practical Exercises (in Pleading and Conveyancing)";

WHEREAS, the Rules of Court, Section 14, states that: "In order that a candidate may be deemed to have passed his examination successfully, he must have obtained a general average of 75 per cent in all subjects, without falling below 50 per cent in any subject. In determining the average, the subjects in the examination shall be given the following relative weights: Civil Law, 15 per cent; Labor and Social Legislation, 10 per cent; Mercantile Law, 15 per cent; Criminal Law, 10 per cent; Political and International Law, 15 per cent; Taxation, 10 per cent; Remedial Law, 20 per cent; Legal Ethics and Practical Exercises, 5 per cent";

WHEREAS, the percentages of examinees who passed the bar examination during the past five years are as follows:

Year	Passing Rate
(1) 2003	= 20.71%
(2) 2002	= 19.68%
(3) 2001	= 32.89%
(4) 2000	= 20.84%
(5) 1999	= 16.59%

WHEREAS, the proper time to weed out the unqualified is before, not after, the law course, to save the valuable time and resources of the students, their families, and our country;

WHEREAS, in a study entitled "Survey of the Legal Profession" by former University of the Philippines-College of Law Dean Merlin Magallona and Atty. Manuel Flores Bonifacio, it was found that a sizeable number of lawyers think that the bar examination is not a good index of legal competence for the following reasons:

- (1) Passing the bar examination is not an absolute guarantee of successful practice of law; not all bar toppers are good in practice;
- (2) The bar examination is a test of memory and not of competence;
- (3) Examinees are expected to know everything at one time;
- (4) Passing the bar examination is a matter of chance and luck;
- (5) The bar examination is just one index of legal competence, other factors should be considered; and
- (6) Actual practice of law is the best index of legal competence;

WHEREAS, the bar examination is not a proper gauge of one's aptitude to practice law because it fails to test the skills needed to practice law; it does not focus on the full spectrum of legal knowledge;

WHEREAS, in the United Kingdom, an aspiring lawyer, in addition to taking the appropriate law degree, must comply with other requirements before entering the legal profession, such as taking a legal practice course, a training contract, or a professional skills course;

WHEREAS, to practice law in the United States, every person must be admitted to a state bar; standards for admission to state bars are regulated by each state respectively;

WHEREAS, there is a need to reduce or eliminate the importance of the bar examination as a requirement for entry into the practice of law and to replace it with practical training requirements;

WHEREAS, it is recommended that, as replacement to the bar examination, a National Law School Aptitude Test (NLSAT) and a one-year Legal Internship Program be established as requirements before one is allowed to practice law in the Philippines;

WHEREAS, by introducing a NLSAT, it will be possible to better evaluate the verbal, writing, analytical proficiency, and reading comprehension skills of prospective law students;

WHEREAS, through a one-year Legal Internship Program, aspiring lawyers will have the practical education, skills, and knowledge necessary to represent clients; through it, they will also be aware of the myriad of problems that confront the justice system in the country.

WHEREFORE, be it resolved, as it is hereby resolved by the Philippine Senate, to express the sense of the Senate that there is a need to remove the present bar examination as a prerequisite for entry into the practice of law and, as replacement, to establish a National Law School Aptitude Test (NLSAT) and a one-year Legal Internship Program.

Adopted,


MIRIAM DEFENSOR SANTIAGO