

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. **4540**



Introduced by HON. AMADO T. ESPINO, JR.

EXPLANATORY NOTE

The advent of Republic Act No. 6975, otherwise known as the "Department of the Interior and Local Government Act of 1990" introduced the concept of people empowerment in the police administrative disciplinary system through the creation of People's Law Enforcement Boards (PLEB) in every city and municipality in the country.

In the governance over the police, local government units and the community were invested with substantial and meaningful participation, particularly in the critical area of discipline.

The law, RA No. 6975, created two (2) administrative disciplinary machineries for the Philippine National Police (PNP). One is **internal** and the other is **external**. Comprising the first are the commanding officers of the PNP who have jurisdiction for breaches of internal discipline. Further, the Chief PNP and the PNP Regional Directors, are vested with summary dismissal powers on serious or grave offenses. Under the second are the PLEBs which, together with mayors of cities and municipalities have jurisdiction to hear and decide citizen's complaints filed against every member of the PNP.

Under the amendatory law, RA No. 8551, or the "Philippine National Police Reform and Reorganization Act of 1998," there was created the Internal Affairs Service (IAS) in the PNP vested with broad powers, notably the conduct of motu proprio, automatic investigation and whose recommendation are in a form of decision. Moreover, the summary dismissal authority of the Commission was restored.

In addition, there are the offices of the Ombudsman, the Civil Service Commission, and the Commission on Human Rights which investigate complaints against uniformed members of the PNP filed with them, with the first two exercising adjudicatory power.

A police officer by the nature of his duties and responsibilities has direct and physical contact with the members of the community. Thus, it is not farfetched that in the performance of these multifarious functions, he will, either by design or neglect, commits breach of official conduct which will culminate in the filing of appropriate charge or charges against him, or that an unscrupulous individual simply wants to harass him with a fabricated complaint or multiple suits.

Under the present setting, the police officer complained of, may be facing several charges with the different disciplinary bodies or authorities. In the process, the pitiable police officer who is earning a salary just sufficient to give him and his family a decent living is forced by circumstances to allot this hard earned money to pay for his lawyer. Faced with financial trouble, his attention now is diverted thus serving debilitating factors to do his job.

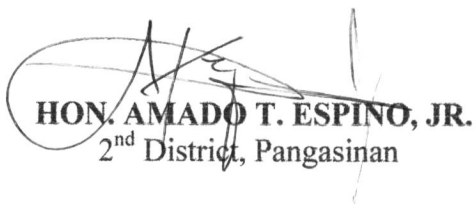
While it is true that under the present rules, there are provisions on concurrent jurisdiction to preempt overlapping exercise of jurisdiction, and Certifications of non-forum shopping, the fact is, in many cases they are not complied with to the detriment and prejudice of concerned police officer.

Incidentally, this representation noticed the oversight of the drafters of RA 6975 and RA 8551 in the selection of those who shall compose the PLEB. Apparently, membership of any member of the Sangguniang Panglungsod / Bayan and a barangay captain clearly violates Article 9-B Section 7 of the 1987 Philippine Constitution which provides for the absolute disqualification of elective officials to hold any other public office or position. Thus, the same is amended under this proposal.

The existence of too many bodies or authorities exercising administrative disciplinary powers over the uniformed members of the PNP serve as a disincentive and create a negative impact in the working atmosphere in the police organization. In fact, they are one in saying that they are the "most abused" public servants. And to a certain extent, they have a point.

This humble representation cognizant of the aforesaid observations hereby asks my colleagues to give full support to the approval of this proposal in the pursuance of a more organized and disciplined police force by enacting a law that would codify and concretely define the exclusive administrative disciplinary machinery of uniformed members of the PNP, geared towards an enhanced quality of public service and professionalization of the police organization.

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


HON. AMADO T. ESPINO, JR.
2nd District, Pangasinan

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HOUSE BILL NO. 4540

Introduced by HON. AMADO T. ESPINO, JR.

**AN ACT RATIONALIZING THE ADMINISTRATIVE DISCIPLINARY
MACHINERY OF THE PHILIPPINE NATIONAL POLICE AND FOR OTHER
PURPOSES**

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

TITLE I

TITLE AND DECLARATION OF POLICY

SECTION 1. **Title.** – This Act shall be known as the “PNP Administrative
Disciplinary Machinery Act of 2005.”

SEC. 2. **Declaration of Policy and Principle.** – It is hereby declared the policy of
the State to instill discipline and strength of character in the police service with the end in
view of effecting a good and respectable police organization, which is tasked in the
maintenance of law and order, and impartial enforcement of all laws of the land. To
obtain this noble objective, there is an imperative need to rationalize the different
administrative disciplinary machineries of the PNP who commit any wrongdoing will be
accordingly punished as expeditiously as possible while those not culpable be exonerated
without unnecessary delay.

TITLE II

PEOPLE’S LAW ENFORCEMENT BOARD

SEC. 3. **Authority to Hear and Decide Citizen’s Complaint** – All citizens’
complaint filed by a natural or juridical person against any uniformed member of the PNP
shall be brought before the People’s Law Enforcement Board (PLEB), for hearing and
adjudication.

For purposes of this Act, citizen’s complaint shall mean a formal charge initiated
by any natural or juridical person or his duly authorized representative on account of an
irregular or illegal act or omission of a uniformed member of the PNP.

SEC. 4. **Creation and Appointment of Members** - The Sangguniang
Pnlungsod/Bayan in every city and municipality shall create such number of People’s
Law Enforcement Boards (PLEBs) as may be necessary: Provided, that there shall be at
least one (1) PLEB for every five hundred (500) city or municipal police personnel or at
least one (1) in every city or municipality.

Upon receipt of the nominations for membership in the PLEB, the Sangguniang Panlungsod/Bayan concerned shall immediately pass a Resolution formally organizing the said Board, prescribing the number of support personnel to be assigned and providing the necessary funds for its operation.

Based on the Resolution of the Sangguniang Panlungsod/Bayan, the City/Municipal Mayor concerned in his capacity as the appointing authority for local government personnel shall then issue the appointment for each of the PLEB members, copy furnished the Sangguniang Panlungsod/Bayan and the Chief of Police of the city or municipality, for their information and guidance.

SEC. 5. Composition and Term of Office. – The PLEB shall be composed of five (5) members who are removable only for cause to be chosen by the local peace and order council from among the respected members of the community known for their probity and integrity representing all members of society, to include but not limited to the business sector, Integrated Bar of the Philippines or in the absence of a member thereof a college graduate or the principal of an elementary school within the locality, Cooperative and Women's organization.

The Chairman of the PLEB shall be elected from among its members. The term of office of the members of the PLEB shall be for a period of three (3) years from assumption of office. Such member shall hold office until his successor shall have been chosen and qualified.

SEC. 6. Authority to Impose Penalties. – The PLEB shall have the authority to impose penalties when the offense is punishable by reprimand, withholding of privileges, restriction to specified limits, forfeiture of salary for a period of one (1) month, suspension for a period not exceeding six (6) months, demotion in rank or by dismissal from the police service.

The Commission shall provide in its implementing rules and regulations the offenses for which a uniformed member of the PNP may be charged administratively and the scale of penalties to be imposed.

SEC. 7. Decisions. – All decisions of the PLEB may be appealed by the aggrieved party with the regional appellate board within ten (10) days from receipt thereof. However, an aggrieved party may file a motion for reconsideration on the decision rendered by PLEB within ten (10) days from receipt thereof. Only one (1) motion for reconsideration is allowed which shall be resolved within ten (10) days from the filing thereof.

SEC. 8. Compensation and Benefits. – Membership in the PLEB is a civic duty. However, PLEB members shall be paid per diem and shall be provided with the life insurance coverage as may be determined by the city or municipal council from the city or municipal funds.

SEC. 9. Budget Allocation. – The annual budget of the Local Government Units (LGU) shall include an item and the corresponding appropriation for the maintenance and operation of their local PLEBs.

The Secretary shall submit a report to Congress and the President within fifteen (15) days from the effectivity of this Act on the number of PLEBs already organized as well as the LGUs still without PLEBs. Municipalities or cities without a PLEB or with an insufficient number of organized PLEBs shall be directed to immediately organize their respective PLEBs.

TITLE III

INTERNAL DISCIPLINE

SEC. 10. Authority to Hear and Decide Cases Involving Minor Offenses Affecting Internal Discipline. – The Chiefs of Police, Provincial Directors, Regional Directors and their equivalent supervisors as determined by the National Police Commission and the Chief PNP, shall have the authority to investigate cases involving minor offenses affecting internal discipline filed against uniformed members of the PNP, and after due notice and hearing, impose the administrative punishment of reprimand; restriction to specified limits; withholding of privileges; forfeiture of salary for a period of fifteen (15) days; or suspension from the service for a period not exceeding thirty (30) days.

For purposes of this Act, breach of internal discipline shall refer to any offense committed by a member of the PNP involving and affecting order and discipline within the police organization.

Minor offense shall refer to any act or omission not involving moral turpitude, but affecting the internal the internal discipline of the PNP, and shall include, but not limited to:

- (1) Simple misconduct or negligence;
- (2) Simple Insubordination;
- (3) Frequent absences and tardiness not falling under Title IV hereof;
- (4) Discourtesy in the course of official duties;
- (5) Violation of reasonable office rules and regulations.

TITLE IV

SUMMARY DISMISSAL AUTHORITY

SEC. 11. Authority to Investigate and Decide Summary Dismissal Cases. – The National Police Commission, Chief PNP and Regional Directors after due notice and hearing, may immediately remove or dismiss any respondent PNP member in any of the following cases:

- (a) When the charge is serious and the evidence of guilt is strong;
- (b) When the respondent is a recidivist or has been repeatedly charged and there are reasonable grounds to believe that he is guilty of the charges; and
- (c) When the respondent is on absence without official leave (AWOL) for a continuous period of thirty (30) days or more.

SEC. 12. Exclusive Jurisdiction. – A complaint or a charge filed against a PNP member shall be heard and decided exclusively by the disciplining authority who first acquired jurisdiction over the case and notwithstanding the existence of concurrent jurisdiction as regards the offense.

SEC. 13. Prohibition Against Forum Shopping or Multiple Filing of Complaints. – When an administrative complaint is filed with a police disciplinary authority, such as the People's Law Enforcement Board (PLEB), no other case involving the same cause of action shall be filed with any other disciplinary authority.

In order to prevent forum shopping or multiple filing of complaints, the complainant or party seeking relief in the complaint shall certify under oath in such pleading, or in a sworn certification annexed thereto and simultaneously filed therewith, to the truth of the following facts and undertaking:

- (a) That he has not heretofore commended any other action or proceeding involving the same issues in other disciplinary forum;
- (b) That to the best of his knowledge, no such action or proceeding is pending in other police administrative disciplinary machinery or authority;
- (c) That if there is any such action or proceeding which is either pending or may have been terminated, he must state the status thereof; and
- (d) That if he should thereafter learn that a similar action or proceeding has been filed or is pending before any other police disciplinary authority, he must undertake to report that fact within five (5) days there from to the disciplinary authority where the original complaint or pleading has been filed;
- (e) Deliberate failure to observe this particular section shall cause the immediate dismissal of the case.

TITLE V

INTERNAL AFFAIRS SERVICE

SEC. 14. **Functions.** – The Internal Affairs Service shall serve as the investigating arm of the PNP on complaints or cases filed against uniformed members of the PNP.

As investigating arm of the PNP, it shall conduct pre-charge investigation, initiate the filing of formal complaints before any PNP disciplinary authority and prosecute the same until termination.

In addition, the IAS shall provide documents or recommendation as regards to the promotion of the members of the PNP or the assignment of PNP personnel to any key position.

TITLE VI

DISCIPLINARY APPELLATE BOARDS

SEC. 15. **National Appellate Board.** – The National Appellate Board shall be composed of the Chairman and the three (3) regular commissioners. It shall exercise appellate jurisdiction over decisions of Regional Appellate Boards and of the Chief of the PNP, where the penalty imposed is dismissal from the police service, forced resignation or demotion in rank. An appeal before the NAB shall be filed within ten (10) days from receipt of the appealed decision.

The Board may conduct its hearings or sessions in Metropolitan Manila or any part of the country, as it may deem necessary.

An aggrieved party may file a motion for reconsideration on the decision rendered by NAB within ten (10) days from receipt thereof. Only one (1) motion for reconsideration is allowed which shall be resolved within ten (10) days from the filing thereof. The filing of a motion for reconsideration shall suspend the running of the reglementary period of appeal.

The decision of the NAB shall be appealable to the Court of Appeals in accordance with Rule 43 of the Rules of Court.

SEC. 16. Regional Appellate Boards. – There shall be at least one (1) Regional Appellate Board (RAB) per administrative region in the country to be composed of a senior official of the Commission as Chairman and one (1) representative each from the PNP, and the regional peace and order council as members. It shall consider appeals from all decisions of the PNP regional directors and the PLEBs: Provided, That the Commission may create additional regional appellate boards as the need arises.

An aggrieved party may file a motion for reconsideration on the decision rendered by RAB within ten (10) days from receipt thereof. Only one (1) motion for reconsideration is allowed which shall be resolved within ten (10) days from the filing thereof. The filing of a motion for reconsideration shall suspend the running of the reglementary period of appeal.

TITLE VII

COMMON PROVISIONS

SEC. 17. Authority to Place Respondent Under Preventive Suspension Pending Investigation. – A.) Upon the filing of the formal complaint or at any time during the hearing, the Disciplinary Authority through its designated Summary Hearing Officer may, motu proprio or upon petition of the complainant, issue an order of preventive suspension in any of the following circumstances:

- (a) That the charge is serious and the evidence of guilt is strong; or
- (b) Although the charge is not serious, there is evidence to show that the respondent is exerting efforts to harass, intimidate, coerce, or unduly influence complainant or any of his witnesses into withdrawing his complaint or retracting his sworn statement or that of his witnesses against the respondent;
- (c) Where there is a possibility that the respondent may tamper with or is tampering with the evidence in the custody of his office.

B.) The PLEB may, during the pendency of an administrative case and in the interest of justice, recommend to the authorized superior officer the preventive suspension of a police officer whose case is pending before the Board. Such recommendation shall not be denied in any of the following cases:

- a. When the respondent refuses to heed the PLEB's summons or subpoena;
- b. When the PNP personnel has been charged with offenses involving bodily harm or grave threats;
- c. When the respondent is in a position to tamper with the evidence; and
- d. When the respondent is in a position to unduly influence the complaint or his or her witnesses.

Any superior who refuses or fails to act on the recommendation of the PLEB without valid grounds shall be held administratively liable for serious neglect of duty.

SEC. 18. Duration of Preventive Suspension. – When the administrative case against any uniformed member of the PNP under preventive suspension is not finally decided by the disciplining authority within a period of ninety (90) days after the date of his preventive suspension, he shall be automatically reinstated in the police service: Provided, that when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of delay should not be included in the counting of the ninety (90) calendar days period of preventive suspension.

SEC. 19. **Authority to Issue Subpoena Ad Testificandum and Duces Tecum.** – The Hearing Officers of the Commission as well as that of the PNP and the PLEB may issue subpoena and testificandum and duces tecum and to administer oaths in connection with the investigation of police administrative cases before them.

TITLE VIII

FINAL PROVISIONS

SEC. 20. **Rules and Regulations.** – Unless otherwise provided in this Act, the Commission shall promulgate rules and regulations for the effective implementation of this Act. Such rules and regulations shall take effect upon their publication in three (3) newspapers of general circulation.

SEC. 21. **Appropriations.** – The amount necessary to carry out the provisions of this Act is hereby authorized to be appropriated in the General Appropriations Act of the year following its enactment into law and thereafter.

SEC. 22. **Repealing Clause.** – Sections 41 (a), 42 and 44 of Republic Act No. 6975 as amended and Sections 39, 49 and 50 of Republic Act No. 8551 are hereby amended. Section 21 of RA 6770 entitled “An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman, and for other Purposes,” Section 3 (1) of E.O. No. 163 entitled “Declaring the Effectivity of the Creation of the Commission on Human Rights as Provided for in the 1987 Constitution, Providing Guidelines for the Operation Thereof, and For Other Purposes,” and pertinent civil service rules inconsistent herewith are hereby repealed or modified accordingly as regards the uniformed personnel of the PNP.

Any other laws, presidential decrees, letters of instructions, executive orders, rules and regulations insofar as they are inconsistent with this Act, are hereby repealed or amended as the case may be.

SEC. 23. **Separability Clause.** – In case any provision of this Act or any portion thereof is declared unconstitutional by a competent court, other provisions shall not be affected thereby.

SEC. 24. **Effectivity Clause.** – This Act shall take effect after its complete publication in at least three (3) newspapers of general circulation.