

FIFTEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
FIRST REGULAR SESSION)

HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.

House Bill No. **4435**

EXPLANATORY NOTE

According to the Revised Rules of Criminal Procedure, specifically Sec. 2, Rule 116, "At arraignment, the accused, with the consent of the offended party and 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."

This is essentially the concept of plea bargaining, which is a process in criminal cases whereby the accused and the prosecution enter into a reciprocally satisfactory disposition of the case subject to Court approval.

Plea bargaining is very much imbued with public interest and is done still with the interest of justice the prevailing rationale. However, recent experience has shown that plea bargaining can also be used by unscrupulous prosecutors and high ranking officers of the government tasked to go after criminals to get the accused off on a lesser offense to the detriment of the country and the public.

There is therefore a need to ensure that plea bargaining is used in order that justice be served and not for the benefit of the accused and the persons he is trying to protect. As such, this bill seeks to establish a formal policy on plea bargaining and provide guideline, including the imposition of sanction for violation thereof, in order to ensure that the concept and process of plea bargaining is not abused and misused for graft and corrupt practices.

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


RUFUS B. RODRIGUEZ


MAXIMO B. RODRIGUEZ, JR.

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

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

SECTION 1. Short Title – This Act shall be known as the "Plea Bargaining Act of 2011".

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

SEC 3. Plea to a Lesser Offense – The accused in a criminal case, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense as part of a plea bargaining agreement between the accused and the prosecution.

SEC 4. Lesser Offense – For purpose of plea bargaining, the lesser offense pleaded to by the accused should necessarily be included in the original offense charged in the information. The offense charged necessarily includes the lesser offense pleaded to when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. The lesser offense shall also belong to the same classification or title under the Revised Penal Code or the relevant special laws as the offense charged.

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

SEC 5. *Consent of Offended Party* – In offenses charged where there is no private offended party, the offended party whose consent is necessary for the plea bargaining shall be the People of the Philippines as represented by the prosecution, the Republic of the Philippines as represented by the Office of the Solicitor General, and the government agency responsible for the enforcement of the law violated or directly affected by the offense committed as represented by the Office of the Solicitor General.

SEC 6. *Principles* – Plea bargaining shall be entered into by the prosecution and approved by the court in accordance with the following principles:

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

SEC 7. *Time of Availment* – Plea bargaining may be availed of at arraignment, or after arraignment but before trial, when the accused withdraws his plea of guilty to the offense charged in the complaint or information and agrees to enter a plea of guilty to a lesser offense.

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

- a. The intention to plead to a lesser offense must be manifested by the accused before the court. Immediately thereafter, the prosecutor shall move for the suspension of the proceedings to enable him to confer with the offended party, to evaluate the implications of the offer to plead to a lesser offense, and secure the consent of the offended party.
- b. If the penalty imposable for the offense charged is prison mayor, or six years and one day imprisonment, or higher, or a fine exceeding twelve thousand pesos (P12,000), the plea bargaining agreement shall first be approved in writing by the City Prosecutor, Provincial Prosecutor or the Prosecutor General in criminal cases handled by the National Prosecution Service, or the Ombudsman in criminal cases handled by the Office of the Special Prosecutor, or the head of the agency in the case of other agencies authorized to prosecute criminal cases, before it is submitted to the court for approval. In no case shall the subject plea bargaining agreement be allowed without the written approval of the above approving authorities.
- c. The prosecution and the accused shall then present the plea bargaining agreement for the approval of the court through a joint motion attaching the plea bargaining agreement and the approval of the above-mentioned approving officials. In no case shall the accused be re-arraigned and plead guilty to a lesser offense

other than that agreed upon in the plea bargaining agreement, and without the approval by the court of the plea bargaining agreement in an Order or Resolution promulgated for said purpose. Pleading to a lesser offense other than that agreed upon and without the requisite court approval of the plea bargaining agreement shall render the plea null and void ab initio.

d. The prosecution may dispense with the presentation of evidence unless the court directs him to do so for purposes of determining the penalty to be imposed.

SEC 9. *Plea Bargaining During Trial; Conditions* – The prosecution may enter into plea bargaining with the accused, with the consent of the offended party under Section 5, during or after the presentation of the prosecution evidence, but before the presentation of the defense evidence, and in no case after the dismissal by the court of a demurrer to evidence: *Provided*, That all of the following conditions are present:

a. The evidence of the prosecution is insufficient to prove the offense charged beyond reasonable doubt;

b. In cases involving the recovery by or restitution to the offended party of property in crimes against property and those committed by the public officers in relation to public funds such as, but not limited to, the crime of plunder, graft and corrupt practices, bribery, and malversation, the accused makes a full restitution of the property or public funds involved; and

c. In cases of conspiracy, the accused fully cooperates in the prosecution of principal conspirators responsible for the commission of the offense charged who are the most guilty, including in the provision of documentary, object and testimonial evidence, in the event that the accused has not yet qualified as a state witness in accordance with the Rules of Criminal Procedure.

SEC 10. *Prohibition* – No plea bargaining shall be allowed in cases involving the following crimes or offenses:

a. Articles 114 (Treason), 122 (Piracy in general and mutiny on the high seas or in the Philippine waters), 123 (Qualified Piracy), 211-A (Qualified Bribery), 246 (Parricide), 248 (Murder), 255 (Infanticide), 267 (Kidnapping and Serious Illegal Detention), 294 (Robbery with Violence Against Or Intimidation Of Persons), 320 (Destructive Arson), 335 (Rape), of the Revised Penal Code, as amended;

b. Plunder (RA 7080, as amended);

c. Violations of Republic Act 9165, as amended (Comprehensive Dangerous Drugs Act of 2002);

d. Violations of Republic Act No. 6539, as amended (Anti-Carnapping Act of 1972);

e. Other heinous crimes as defined by the proper authorities.

SEC 11. *Penalty* – Any violation of this Act shall be punished with the penalty of imprisonment ranging from six years and one day to twelve years, and a fine ranging from one hundred thousand to five hundred thousand pesos (P100,000-P500,000) without prejudice to other penalties that may be imposed, both criminal and administrative, if the violation is likewise attended by acts constituting an offense under other laws.

SEC 12. Repealing Clause – All laws, decrees, orders, rules and regulations, and other issuances or parts thereof which are inconsistent with or contrary to this Act, are hereby repealed, amended or modified accordingly. Existing laws disallowing plea bargaining for certain offenses and crimes shall remain in force and effect.

SEC 13. Separability Clause – If any provision of this Act is declared invalid or unconstitutional, the provisions thereof not affected by such declaration shall remain valid and in force and effect.

SEC 14. Effectivity – This Act shall take effect fifteen (15) days after complete publication in two (2) newspapers of national and general circulation.

Approved,