

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **3817**



Introduced by **HON. RENE L. RELAMPAGOS**
First District, Bohol

EXPLANATORY NOTE

This bill is filed to institutionalize national mechanisms to enforce the internationally and constitutionally enshrined right to take part in the conduct of public affairs, through the right of suffrage, of Persons Deprived of Liberty (PDLs) who are not otherwise disqualified by law but who cannot exercise their right by their detention in national, provincial, city and municipal jails and other prisons and detention facilities.

The 1987 Philippine Constitution, under Section 1, Article V, ensures the right of suffrage to all citizens, to wit,

"Suffrage may be exercised by ALL citizens of the Philippines, not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year and in the place where they propose to vote, for at least six months immediately preceding the election. No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage."

The "disqualification by law" being referred to pertains to Section 118 of the Omnibus Election Code which provides, in sum, that a person is disqualified only when he has been sentenced by final judgment to serve a prison term of at least one year. Hence, those who are not yet convicted, those convicted with penalty of imprisonment of less than one year, or those whose convictions are on appeal are qualified to vote.

Internationally, the right to take part in government is proclaimed and guaranteed by the Universal Declaration on Human Rights (UDHR) to which the Philippines is an original signatory and the International Covenant on Civil and Political Rights (ICCPR) to which the country is a State party, to wit:

"The will of the people shall be the basis of the authority of government; this will shall be expressed on periodic and genuine elections which shall be by *universal and equal suffrage* and shall be held by secret vote or by equivalent free voting procedures."¹

"Universal Suffrage" requires the participation of the broadest pool of voters ensuring that every eligible voter must be included. Reasonable requirements are usually limited to minimum age, nationality and mental capacity and those that are not permissible are economic requirements, excessive residency requirements, restrictions

¹ Art. 21, par. 3 of the UDHR and mirrored in Article 25 of the ICCPR

on voting by naturalized citizens, language requirements, literacy requirements, excessive limitations of convicted criminals.

On the other hand, "Equal Suffrage" means that there should be no constituency delimitation and that registration or polling procedures designed to dilute or discount the votes of particular individuals, groups or geographic areas are unacceptable. This inequality is shown by the fact that persons who have committed a crime but who may be out on bail can exercise the right to vote while those who are detained by reason of the same crime cannot. This, in effect, imposes an additional economic requirement *i.e.*, inability to post bail by reason of poverty, which is clearly unconstitutional.

Unlike in England, Canada, Australia, Hongkong and other leading democracies in the world, PDLs in the Philippines, not otherwise disqualified, are effectively curtailed from exercising their right to vote with the absence of a law.

The year 2010 marked two milestones in the Philippines elections history: first, the use of the automated election system nationwide and second, the first en masse registration and voting of PDLs.

PDL Voting was made possible by the concerted efforts of COMELEC, other government agencies as well as civil society involved in prison care. With the issuance of COMELEC Resolution No. 8810² on March 30, 2010, PDLs were allowed to vote for the first time. PDL voting was again witnessed in the 2013 mid-term elections and COMELEC issued Resolution No. 9371 on March 6, 2012 introducing improvements to the earlier issuance. This allowed 44,000 PDLs to cast their votes under the supervision of the Bureau of Jail Management and Penology (BJMP) including PDLs from the National Bilibid Prison under the Bureau of Corrections (BuCor).

Records of BJMP³ shows that as of September 2012, the total jail population of district, city and municipal jails under their supervision and control is seventy two thousand four hundred seventy six (72,476). Of this figure, sixty nine thousand one hundred forty three (69,143) are awaiting preliminary investigation, trial or promulgation of final judgment. And of those sentenced, many are still on appeal.

To ensure the exercise of the right to suffrage of PDLs who are qualified to vote, the following mechanisms are hereby being proposed: (a) establishment of regular precincts within the jail, prison or other detention facility premises; (b) allowing the segregation of the ballots of PDL voters from their mother precincts and delivery of the same to the polling place in jail, prison or other detention facility for purposes of voting; (c) application of the local absentee voting to PDLs who are residents of another municipality, city or province; and (d) when practicable, through escorted voting.

With the above considerations, passage of this bill is therefore earnestly sought.


RENE LOPEZ RELAMPAGOS

² Issued to implement Election Matter E.M. No. 09-005 (In Re: Petition for the Issuance of a COMELEC Resolution Implementing the Right to Vote of Persons Deprived of their Liberty (Detainees/Prisoners) in National Prisons, Provincial, City and Municipal, Jails, and Other Government Detention Facilities in the May 10, 2010 National and Local Elections) promulgated on February 23, 2010

³ http://www.bjmp.gov.ph/data/jail_population.html

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AN ACT
ESTABLISHING MECHANISMS FOR QUALIFIED VOTERS DETAINED IN
JAILS, PRISONS AND OTHER DETENTION FACILITIES TO EXERCISE
THEIR RIGHT OF SUFFRAGE, AMENDING SECTION 155 OF THE
OMNIBUS ELECTION CODE OR BATAS PAMBANSA BILANG 881,
AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. – The short title of this Act shall be the “*Persons Deprived of Liberty (PDL) Voting Act of 2014.*”

SEC. 2. Declaration of Policy. – It is the policy of the State to ensure that all qualified voters, including persons deprived of liberty found in jails, prisons and other detention facilities, are provided with access to exercise their right to suffrage. Toward this end, the State shall establish means, mechanisms, and facilities for the attainment of this policy.

SEC. 3. Definition of Terms. – As used in this Act, the following terms shall mean:

- a. *Person Deprived of Liberty (PDL) Voter* – Refers to a qualified voter, not otherwise disqualified by law, who is confined in jail, prison or other detention facility under the following circumstances: (1) formally charged for any crime/s and awaiting/undergoing trial; or (2) serving a sentence of imprisonment for less than one (1) year; or (3) whose conviction of crime involving disloyalty to the duly constituted government such as rebellion, sedition, violation of the firearms law or any crime against national security or for any other crime is on appeal.
- b. *Regular Polling Places* – Refers to the place where the Board of Election Inspectors conducts its proceeding and where the voters cast their votes;
- c. *Special Polling Place or PDL Precinct* – Refers to the specific designated area inside a jail, prison or other detention facility where the PDL voters may cast their votes.
- d. *Mother Precinct* – Refers to the precinct assignment of a registered PDL voter other the established PDL precinct.

- e. *Absentee Voting* – Refers to the voting mechanism where qualified PDL voters who are residents/registered voters of municipalities or cities other than the municipality/city of incarceration may be able to cast their vote through the system of local absentee voting as provided in Executive Order No. 157.
- f. *Escorted Voting* – Refers to a voting mechanism whereby PDL voters are allowed to cast their vote, with security escort, in the precincts where they are registered which is other than the precinct established inside jail.

SEC. 4. PDLs' Right to Register and Vote. – Detention prisoners and those serving their sentence of not more than one (1) year imprisonment are qualified to register and vote, provided, that they possess all the other qualifications required by law and none of the disqualifications.

SEC. 5. Satellite Registration of Persons Deprived of Liberty. – The Commission on Elections (COMELEC) shall conduct satellite registration for PDLs in coordination with the officials of the jail, prison or detention facilities where they are confined and subject to the specific guidelines the Commission shall promulgate.

A PDL who is a resident of a municipality or city other than that of the place of incarceration may, if not yet registered, apply for original registration using either his/her original residence previous to incarceration, or the jail, prison or detention facility as a residence, if warranted by the circumstances. If already registered, he/she may apply for transfer of registration records as warranted by the circumstances.

SEC. 6. Mechanisms for PDL Voting. – The Commission on Elections (COMELEC), in coordination with the Bureau of Jail Management and Penology (BJMP), the Bureau of Corrections (BuCor), the Department of the Interior and Local Government (DILG), the Commission on Human Rights (CHR), and civil society organizations (CSOs) shall establish mechanisms to facilitate access and opportunities for PDLs to exercise their right of suffrage through any or a combination of any of the following mechanisms:

(a) *Establishment of PDL Precinct.* – Considering the number of qualified registered PDL voters of the place of incarceration, COMELEC may establish a regular precinct in the jail, prison or other detention facility in coordination with the management of the said facility where the PDLs may cast his/her vote on election day.

(b) *Segregation and Delivery of Ballots for PDLs.* – When the establishment of PDL precinct is not feasible or practicable, or if one is established but there are PDLs who opted to retain their original place of registration and have not availed of local absentee voting, the COMELEC may segregate the ballots of PDL voters from their mother precincts and have them delivered to the jail, prison or other detention facility for purposes of voting and have them returned to their mother precincts for purposes of counting. *Provided:* That this option shall be available only for PDLs who are registered voters of the same city or municipality of the place of incarceration. *Provided, Further:* That subject the specific guidelines by the COMELEC, the PDL ballots shall be based on the list drawn by COMELEC and annotated by the Board of Election Inspectors (BEIs) of the mother precincts. *Provided, Finally:* That the COMELEC shall, at all times, ensure the security and secrecy of the ballots and uphold the rights of the stakeholders to observe the processes.

For purposes of voting, PDL voters availing of this option shall be allowed to accomplish their ballots in the polling place established for the PDL precinct.

(c) *Expansion of Local Absentee Voting.* – Persons Deprived of Liberty who are registered voters of another municipality or city may avail of the mechanism for local absentee voting extended to officers and employees of government, as provided in Executive Order No. 157. PDLs availing of the local absentee voting, may however, vote only for national elective positions.

(d) *Escorted Voting.* – Persons Deprived of Liberty (PDL) voters who are residents/registered voters of municipalities/cities other than the municipality/city of detention and have not availed of absentee voting may avail of escorted voting; *Provided:* That said PDL voters have obtained court orders allowing them to vote in the polling place where they are registered; *Provided, Further:* That it is logistically feasible on the part of the jail/prison administration to escort the PDL voter to the polling place where he is registered; *Provided, Finally:* That reasonable measures shall be undertaken by the jail/prison administration to secure the safety of PDL voters, prevent their escape and ensure public safety.

SEC. 7. Committee on PDL Voting. – There is hereby created a Committee on PDL Voting under the COMELEC who will be headed by a Commissioner and which shall oversee implementation of this law.

SEC. 8. Right to Information. – Persons Deprived of Liberty Voters shall be allowed access to information concerning the electoral processes, including registration, the candidates and the issues related thereto. Candidates shall be allowed to campaign inside detention centers during the campaign period, subject to the rules and regulations of COMELEC and BJMP.

SEC. 9. Prohibition on the Transfer of Inmates. – Six (6) months prior to the date of the election, the transfer of inmates from one jail facility to another shall be prohibited, except in cases of extreme necessity upon order of a competent court.

SEC. 10. Implementing Rules and Regulations. – The COMELEC, in consultation with the CHR, the DILG, the BJMP, and CSOs shall promulgate the rules and regulations implementing this Act. In the formulation of the implementing rules and regulations of this Act, the COMELEC shall consider and uphold the right to vote of qualified voters who are detained in district, city, or municipal jails. Such rules and regulations must also give emphasis to protecting the sanctity of the ballot and the peaceful conduct of election within the polling place where the inmates will vote.

SEC. 11. Appropriations. – The amount necessary for the implementation of this Act shall be included in the appropriations to be enacted by Congress for the regular elections.

SEC. 12. Repealing Clause. All laws, decrees, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are repealed accordingly.

SEC. 13. Separability Clause. – If any part of this Act is deemed invalid or unconstitutional, the other parts or provisions thereof shall remain valid and effective.

SEC. 14. Effectivity Clause. – This Act shall take effect fifteen (15) days following the completion of its publication either in the Official Gazette, or in two (2) newspapers of general circulation in the Philippines.

Approved,