

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. **8402**



Introduced by **MAGDALO Party-List Representative**
HON. GARY C. ALEJANO

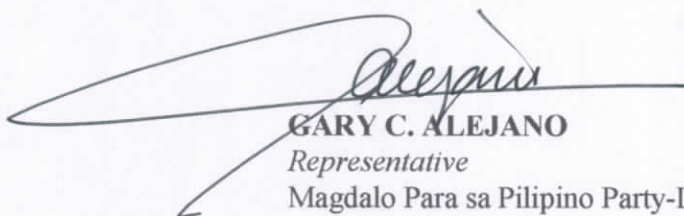
EXPLANATORY NOTE

Sec. 2, Rule 116 of the Rules of Court provides that:

“**SEC. 2. Plea of guilty to a lesser offense.**—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.”

In *Daan vs. Sandiganbayan* (2008), plea bargaining has been defined as a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case, subject to court approval. This procedural law has, for quite a number of instances, been used capriciously, which should not be the case. A plea bargaining agreement must ultimately benefit the general public.

This proposal seeks to ensure that the plea bargaining procedure is not exploited as a means of compromise for the convenience of the guilty.


GARY C. ALEJANO
Representative
Magdalo Para sa Pilipino Party-List

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

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

1 **SEC.1. Short Title.-** This Act shall be known as the "Plea Bargaining Act of 2018."
2

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 of the
5 case, as expressed and contained in the plea bargaining agreement, and subject to court
6 approval, including the plea of the accused to a lesser offense than that charged in the
7 complaint or information, or to only one or some of the counts of a multi-court indictment,
8 and in conformity with other conditions imposed by the prosecution, in return for a lighter
9 sentence than that for the graver charge.
10

11 **SEC.3. Principles.-** Plea bargaining shall be entered into by and between the
12 prosecution and the accused, and approved by the court, in accordance with the following
13 principles:
14

- 15 a. Plea bargaining is a matter imbued with public interest. As such, its initial
16 consideration and final terms should both primarily redound to the benefit of the
17 public.
18
- 19 b. When a plea bargain is offered by the accused, or a plea bargaining agreement is
20 entered into, the prosecution and the court are both duty bound to inquire carefully
21 into the circumstances and motivations on which these are premised, to the end
22 that the interest of justice and of the public will be served.
23
- 24 c. Plea bargaining is not a matter of compromise for the convenience and benefit of
25 the accused. It is not demandable by the accused as a matter of right but is
26 addressed to the sound discretion of the trial court.
27
- 28 d. Plea bargaining shall not be entered into when it will only serve to trivialize the
29 seriousness of the offense charged against the accused and negate the deterrent
30 value of the law intended to proscribe the offense committed.

1 **SEC.4. *Plea of guilty to a lesser offense.***- As part of a plea bargaining agreement,
2 the accused, with the consent of the offended party and the prosecutor, may be allowed by the
3 trial court to plead guilty to a lesser offense which is necessarily included in the offense
4 charged.

5
6 For purpose of plea bargaining, a lesser offense which is necessarily included in the
7 offense charged is one that has some of the essential elements of the original offense charged.
8 The lesser offense shall also belong to the same classification or title under the Revised Penal
9 Code or the relevant special laws as the offense charged in the original information.

10
11 In all cases, the penalty for the lesser offense to which the accused may be allowed to
12 plead guilty shall not be more than two (2) degrees lower than the imposable penalty for the
13 offense charged, notwithstanding the presence of mitigating circumstances.

14
15 **SEC.5. *Consent of the Offended Party.***- In offenses charged where there is no
16 private offended party, the offended party whose consent is necessary for the plea bargaining
17 shall be a) the People of the Philippines, as represented by the prosecution; and b) the
18 government agency responsible for the enforcement of the law violated or directly affected
19 by the offense committed, as represented by its highest ranking officials, such as its president,
20 chief executive, or head.

21
22 **SEC.6. *Additional Parties in certain crimes.***- In cases of plunder and money
23 laundering, the consent of the Ombudsman and the President are required.

24
25 **SEC.7. *Time of Availment.***- At arraignment, the accused, with the consent of the
26 offended party, the prosecutor, and any additional party required by law to give its consent,
27 may be allowed to plead guilty to a lesser offense which is necessarily included in the offense
28 charged.

29
30 During the course of trial, the period after arraignment- during or after the
31 presentation of the evidence of the prosecution, but before the presentation of the evidence of
32 the defense and in no case after the dismissal to a lesser offense after withdrawing a plea of
33 guilty to the original offense charged. No amendment of the complaint or information is
34 necessary. Plea bargaining at this stage shall be subject to the condition provided in Section 8
35 of this Act.

36
37 **SEC.8. *Plea Bargaining during the course of the trial; Conditions.***- The prosecution
38 may enter into plea bargaining with the accused, with the consent of the offended party under
39 Section 7, during or after the presentation of the evidence of the prosecution, but before the
40 presentation of the evidence of the defense, and in no case after the dismissal by the court of
41 a demurrer to evidence, provided that all of the following conditions are present:

- 42
43 a. The evidence of the prosecution is insufficient to prove the offense charged
44 beyond reasonable doubt;
45
46 b. In case involving the recovery by or restitution to the offended party of property in
47 crimes against property and those committed by public officers in relation to
48 public funds such as, but not limited to, the crime of plunder, graft and corrupt
49 practices, bribery, and malversation, the accused makes a full restitution of the
50 property or public funds involved; and

- 1
2 c. In cases of conspiracy and when the accused has not yet qualified as a state
3 witness in accordance with the Rules of Criminal Procedure, the accused fully
4 cooperates by providing, among others, documentary, object, and testimonial
5 evidence, against the principal conspirators responsible for the commission of the
6 offense charged and who are most guilty.
7

8 **SEC.9. Procedure** – For purposes of plea bargaining, the following procedure shall
9 be followed:
10

- 11 a. The intention to plead guilty to a lesser offense must be manifested by the accused
12 before the court. Immediately thereafter, the prosecutor shall move for the
13 suspension of the proceedings to enable him to confer with the offended party, to
14 evaluate the implications of the offer to plead to a lesser offense and secure the
15 consent of the offended party.
16 b. If the penalty imposable for the offense charged is *prision mayor*, or six years and
17 one day imprisonment, or higher, or a fine exceeding twelve thousand pesos (Php
18 12,000.00), the plea bargaining agreement shall first be approved in writing by the
19 City Prosecutor, Provincial Prosecutor, or the Prosecutor General in criminal cases
20 handled by the National Prosecution Service; or the Ombudsman in criminal cases
21 handled by the Office of the Special Prosecutor; or the head of the agency in the
22 case of other agencies authorized to prosecute criminal cases, before it is
23 submitted to the court for approval. In no case shall the subject plea bargaining
24 agreement be allowed without the written approval of the above approving
25 authorities.
26 c. The prosecution and the accused shall file a joint motion for the approval of the
27 plea bargaining agreement. Attached to the joint motion is the plea bargaining
28 agreement itself. In no case shall the accused be re-arraigned and plead guilty to a
29 lesser offense other than that agreed upon and without the requisite court approval
30 of the plea bargaining agreement shall render the plea null and void ab initio.
31 d. The prosecution may dispense with presentation of evidence unless the court
32 directs it to do so for purposes of determining the penalty to be imposed.
33

34 **SEC.10. Penalty.**– For violation of this Act, the penalty of imprisonment ranging
35 from six months and one day to six years, and a fine ranging from six thousand (Php
36 6,000.00) to sixty thousand pesos (Php 60,000.00) shall be imposed.
37

38 **SEC.11. Repeal of Inconsistent Laws.**– All laws, decrees, orders, rules and
39 regulations, and other issuances or parts thereof which are inconsistent with or contrary to
40 this Act, are hereby repealed, amended, or modified accordingly. Existing laws disallowing
41 plea bargaining for certain offenses and crimes shall remain in force and effect.
42

43 **SEC.12. Repealing Clause.**– All laws, orders, issuances rules and regulations or parts
44 thereof inconsistent with any provisions of this Act are hereby repealed, modified or amended
45 accordingly.
46

47 **SEC. 13. Effectivity.**– This Act shall take effect after fifteen (15) days following the
48 completion of its publication either in the Official Gazette or in newspaper of general
49 circulation in the Philippines.

Approved,