

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

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 565



Introduced by **Representative Jaime R. Fresnedi**

EXPLANATORY NOTE

This bill seeks to clarify the right to vote of Persons Deprived of Liberty (PDLs). While it does not intend to disenfranchise PDLs, this proposed legislation however would like to clarify how they may participate in the electoral process.

Article V of the Constitution provides for the right to suffrage, to wit:

"SECTION 1. 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 wherein 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."

Further, Section 118 of Batas Pambansa Blg. 881, also known as the Omnibus Election Code, provides for the disqualification of a citizen of the Philippines from voting:

"Section 118. Disqualifications. – The following shall be disqualified from voting:

a) Any person who has been sentenced by final judgment to suffer imprisonment for not less than one year, such disability not having been removed by plenary pardon or granted amnesty: Provided, however, That any person disqualified to vote under this paragraph shall automatically reacquire the right to vote upon expiration of five years after service of sentence.

b) Any person who has been adjudged by final judgment by competent court or tribunal of having committed any crime involving disloyalty to the duly constituted government such as rebellion, sedition, violation of the anti-subversion and firearms laws, or any crime against national security, unless restored to his full civil and political rights in accordance with the law: Provided, That he shall regain his right to vote automatically upon expiration of five years after service of sentence.

c) *Insane or incompetent persons as declared by competent authority.*”

COMELEC Resolution 9371 entitled "Rules and Regulations on Detainee Registration and Voting in connection with the May 13, 2013 National and Local Elections and subsequent elections thereafter" likewise provided the abovementioned conditions on disqualifications of voters.

A petition for Certiorari and Prohibition with Application for Injunctive Relief was filed assailing COMELEC Resolution 9371. On April 16, 2016, a decision rendered by the Supreme Court partially granted the application for a Temporary Restraining Order insofar as it would impact the conduct of the 2016 Local Elections. The said decision allowed the detainees to vote, if they so choose, only for candidates for national elections. It stemmed from the concern that Resolution 9371 lacked clear guidelines and parameters on detainee registration.

However, on August 26, 2022, the Supreme Court lifted the temporary restraining order, thus PDLs can now fully exercise their right to vote both in the local and national elections.

This Representation recognizes every citizen's right to vote and be elected and to take part in the conduct of public affairs. The Universal Declaration of Human Rights recognizes that *“everyone has the right to take part in the government of his country, directly through freely chosen representatives.”* Moreover, the International Covenant on Civil and Political Rights, as enshrined in Article 25, recognizes every citizen's right and opportunity to vote, without distinction of any kind and unreasonable restrictions.

However, this right to suffrage is not absolute as there are parameters mentioned in the fundamental law of the land which states, *“Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law.”* Thus, as long as a law provides for additional conditions and parameters this right would be qualified or at the very least be limited.

A few reasons as to why this right should be qualified must be taken into consideration. Some PDLs are not residents of the place they are confined in thus may be said to have no stake in the results of any local elections there. More often than not, they are detained in the place not of their choosing. As after custodial investigation, a commitment order will be given to them assigning them in the penal facility which is under the jurisdiction of the place where the crime has been committed as they await or undergo trial.

It is clear from the law that a detainee refers to any person: (1) confined in jail, 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 a crime involving disloyalty to the duly constituted government such as rebellion, sedition, violation of the firearms laws or any crime against national security or for any other crime is on appeal.

It may be considered therefore that some PDLs are "forced residents" of the place where they are confined in. They have no choice in the matter. More often than not, they are not aware of the political climate, and that they may not be too knowledgeable of the persons running for a particular local government post. These PDLs might also be pressured into voting unscrupulous local politicians to change the political landscape.

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



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AN ACT
PRESCRIBING THE PARAMETERS OF THE RIGHT TO VOTE OF PERSONS
DEPRIVED OF LIBERTY

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

Section 1. *Declaration of Policy.* – It is hereby declared the policy of the State to uphold the political right to suffrage of the people. It shall endeavor to provide an environment where this right may be exercised by the people, regardless of whether they are free or deprived of liberty. Toward this end, the government shall come up with measures to achieve this without sacrificing the sanctity and essence of the electoral process.

SEC. 2. *Voting Parameters of Persons Deprived of Liberty.* – Persons deprived of liberty (PDLs) who are not disqualified as provided under Section 118 of Batas Pambansa Blg. 881 may vote during elections: *Provided*, That they may only vote for persons running for national positions.

SEC. 3. *Implementing Rules and Regulations.* – The Commission on Elections (COMELEC), shall, within ninety (90) days upon the effectivity of this Act, shall come up with the rules and regulations for its effective implementation.

SEC. 4. *Separability Clause.* – If any portion or provision of this Act is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.

SEC. 5. *Repealing Clause.* – All laws, decrees, ordinances, administrative order, rules and regulations, or any part thereof, which are inconsistent with this Act are repealed or amended accordingly.

SEC. 6. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette and at least two (2) newspapers of national circulation.

Approved,