



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



TWENTIETH CONGRESS
First Regular Session

House Bill No. 2364

Introduced by Representative Nelson S. Legacion
3rd Congressional District, Camarines Sur

EXPLANATORY NOTE

Article IX, Section 1 of the 1987 Constitution provides, "Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives." In connection with this, Section 7(b)(2) of Rep. Act No. 6713¹ mandates:

Prohibited Acts and Transactions. – [T]he following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful: [x x x] (b) Outside employment and other activities related thereto. - Public officials and employees during their incumbency shall not: [x x x] (2) Engage in the private practice of their profession unless authorized by the **Constitution or law**, provided, that such practice will not conflict or tend to conflict with their official functions.²

Given that public office is a public trust, the prohibitions of Section 7 promote the observance and the efficient use of every moment of the prescribed office hours to serve the public.³

¹ Code of Conduct and Ethical Standards for Public Officials and Employees.

² (Emphasis supplied.)

³ Query of Atty. Karen M. Silverio-Buffe, Former Clerk of Court - Branch 81, Romblon, Romblon - on the Prohibition From Engaging in the Private Practice of Law, A.M. No. 08-6-352-RTC (2009).

On April 11, 2023, the Supreme Court promulgated the Code of Professional Responsibility and Accountability (CPRA) for the legal profession. Among the provisions introduced by the CPRA is Canon III, Section 21 which generally prohibits government lawyers from engaging in the private practice of law. It provides:

A lawyer currently serving in the government shall not practice law privately, unless otherwise authorized by the **Constitution, the law or applicable Civil Service rules and regulations**. If allowed, private practice shall be upon the express authority of the lawyer's superior, for a stated specified purpose or engagement, and only during an approved leave of absence. However, the lawyer shall not represent an interest adverse to the government. (Emphasis supplied.)

In a similar vein, the Supreme Court also recently promulgated A.M. No. 22-11-01-SC or the Rules on Unified Legal Aid Service (ULAS), it provides in Section 13:

Section 13. Required Authority for Covered Lawyers in the Government. - Covered Lawyers in the government shall duly secure the appropriate authority to render *Pro Bono* Legal Aid Services from their agency. The IBP and the ULAS Board shall coordinate with the relevant government agencies to arrive at agreements which may enable Covered Lawyers in the government to render *Pro Bono* Legal Aid Services on official time, and the corresponding guidelines therefor.

What is pertinent may be seen in Rule XII, Section 136 of the 2017 Omnibus Rules on Appointments and Other Personnel Actions (Revised, July 2018) which states that:

SECTION 136. No officer or employee, whether in a permanent or regular capacity, temporary, casual, or hold-over, shall engage directly or indirectly in any private business or practice of profession. Exemptions may be allowed, subject to the limitations provided under RA No. 6713 and other special laws. Provided, further that the following requirements/conditions are met: a. Written permission from head of agency must be secured and renewed annually; b. Time devoted outside of office hours shall not impair in any way the efficiency of the officer or employee nor pose a conflict or tend to conflict with the official functions and must be fixed by the head of agency; and c. Government facilities, equipment and supplies shall not be used while engaged in private business or practice of profession.

Hence, in view of the emphasized portions of the quoted laws above and in particular to government lawyers, there is currently no provision in the Constitution or a law that allows the private practice of profession. What is only available is Rule XII, Section 136 of the 2017 Omnibus Rules on Appointments and Other Personnel Actions (Revised, July 2018).

On another note, legal aid remains elusive in this country. According to a 2019 World Justice Project report⁴, only 20% of the Philippine respondents who experienced a legal problem were able to obtain information, advice, or representation. Of those who obtained legal assistance, 72% received it from family or friends. Only 15% of Philippine respondents received it from a lawyer or professional advice service, and only 9% received it from a government legal aid office.⁵ As recognized by the Supreme Court, this data indicates the breadth of the legal aid needs of the public and their access to competent legal service providers.⁶

Compared to other countries, the Philippines also performed poorly in the World Justice Project Rule of Law Index for 2022, in which it ranked 97th out of 140 countries in terms of accessibility and affordability of civil justice. The country scored 0.47 (with 1.0 as having access to justice and 0 as having no access), falling below the global average of 0.55. In terms of the overall parameter for civil justice, which includes accessibility and affordability of civil justice, among other factors, the Philippines ranked 104th and scored 0.45, likewise below the global average of 0.54.⁷

Thus, to help resolve the lack of legal aid in the country and address the unsatisfactory state of the accessibility and affordability of seeking justice—and in consonance with the principle that a public office is a public trust—this proposed measure aims to fill a legal gap and establish a framework as to how the legal aid may be undertaken by government lawyers with the oversight and coordination of the ULAS Board as constituted by A.M. No. 22-11-01-SC, the head of agency of the government lawyer, the Integrated Bar of the Philippines, and the Department of Justice, particularly through the Public Attorney's Office.⁸

The bill also sets limitations to the legal aid practice of government lawyers, with special regard to the recently promulgated CPRA and ULAS of the Supreme Court, which is constitutionally empowered to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure

⁴ World Justice Project, *Global Insights on Access to Justice 2019*, available at <https://worldjusticeproject.org/our-work/research-and-data/global-insights-access-justice-2019>.

⁵ *Id.*

⁶ Supreme Court, *Strategic Plan for Judicial Innovations 2022-2027*, available at <https://sc.judiciary.gov.ph/spji/>. See also Karina Mae P. Garcia, *Combating the Motivational Constraint Barrier in Legal Aid Participation by Lawyers in the Judiciary*, 96 PHIL. L.J. [Awaiting Publication] (2024).

⁷ World Justice Project, *WJP Rule of Law Index: Philippines*, available at <https://worldjusticeproject.org/rule-of-law-index/country/2022/Philippines/>.

⁸ See also Karina Mae P. Garcia, *Combating the Motivational Constraint Barrier in Legal Aid Participation by Lawyers in the Judiciary*, 96 PHIL. L.J. 764 (2023).

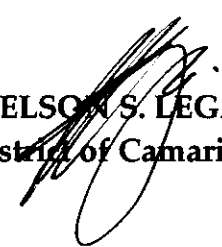
in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged.⁹

The proposed measure also delineates the qualified beneficiaries who may avail of legal aid services. Additionally, incentives are provided to the government lawyer who participates in legal aid. Under no circumstances shall the primary official functions and duties of the government lawyer be compromised.

The Constitution is replete with provisions that underscore the lofty goals envisioned by this measure: Article II, Section 11, provides that it is the declared policy of the State to value the dignity of every human person and to guarantee respect for human rights; Article II, Section 9, declares as a State policy the promotion of a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all; and concretely, Article III, Section 11 mandates that free access to the courts and quasi-judicial bodies, and adequate legal assistance shall not be denied to any person by reason of poverty.

Public office is a public trust. *Pro bono* is short for the Latin phrase *pro bono publico*, which means "for the public good." We must allow our government lawyers to serve the public trust by permitting them to serve the public good through free legal aid.

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


NELSON S. LEGACION
Representative, 3rd District of Camarines Sur

⁹ Art. VIII, §5(5), Const.

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House Bill No. **2364**

Introduced by Representative Nelson S. Legacion
3rd Congressional District, Camarines Sur

AN ACT
AUTHORIZING GOVERNMENT LAWYERS TO PROVIDE LEGAL AID TO
QUALIFIED BENEFICIARIES, AND ESTABLISHING A FRAMEWORK AND
LIMITATIONS THEREFOR

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 "*Government Lawyer Legal Aid Act*".

Section 2. *Declaration of Policy.* - It is the declared policy of the State to value the dignity of every human person and guarantee the rights of every individual, particularly those who cannot afford the services of legal counsel, or are marginalized, underserved, or otherwise unable to secure justice. Furthermore, it is the policy of the State to promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies and programs that provide adequate social services and improve the quality of life for all. Thus, it is the policy of the State to enhance access to justice and ensure free and quality legal representation for underserved, marginalized, and indigent populations. To this end, government lawyers, whose expertise and assistance can be of significant help to those in need of legal aid, are hereby authorized to provide legal aid under specified conditions and reasonable limitations to ensure that their main government functions remain unimpaired.

Section 3. *Definition of Terms.* - For purposes of this Act, the following terms shall be defined as follows:

- (a) *Accredited Legal Outreach Programs and Legal Missions* refer to community-based outreach programs and legal missions which are accredited by the Unified Legal Aid Service (ULAS) Board, as constituted by A.M. No. 22-11-01-SC or the Rules on Unified Legal Aid Service, provided that such programs and missions are geared towards providing legal education and/or assistance to Qualified Beneficiaries as defined in this Act, including, but not limited to, legal seminars, legal consultations, and assistance in drafting legal forms;
- (b) *Authorized deductions* in relation to net income shall be understood to include all deductions as reflected in the pay slip, as well as other deductions with the expressed written consent of the employee and in agreement with the employer, and all other deductions that can be substantiated by the employee;
- (c) A *government lawyer* means any member of the Philippine Bar who is a public officer or employee in the service of the government or any of its agencies, divisions, subdivisions, or instrumentalities whose status with the Integrated Bar of the Philippines (IBP) is not terminated, who is not retired in accordance with the IBP By-Laws, and is not excluded under Section 5 of this Act;
- (d) *Head of agency* means the public officer in charge of the government lawyer's agency, division, subdivision, or instrumentality;
- (e) *Integrated Bar of the Philippines (IBP)* refers to the official organization of all Philippine lawyers whose names appear in the Roll of Attorneys of the Supreme Court;
- (f) *Legal Aid* refers to the performance of acts that involve the application of law, legal procedure, or legal knowledge, training and experience, which legal services are provided free of charge, and rendered to Qualified Beneficiaries as defined by this Act. These legal services include, but are not limited to, the following:
 - (i) Representation in the courts in civil and criminal cases and quasi-judicial bodies in administrative cases, including proceedings for mediation, voluntary or compulsory arbitration, and alternative dispute resolution. The representation extends to the drafting and filing of all pleadings and written submissions in said cases;
 - (ii) Legal counseling, rendering assistance in contract negotiations and drafting of legal documents, including pleadings, motions, briefs, memoranda of law, affidavits, contracts, and other legal papers.

Drafting may include policy work involving legal research and advocacy;

- (iii) Developmental legal assistance consisting of rights awareness, capacity-building, and training in basic human rights, documentation, and affidavit-making;
 - (iv) Participation in Accredited Legal Outreach Programs and Missions, including the mentorship and supervision of law students under Rule 138-A of the Law Student Practice Rule;
 - (v) Rendition of assistance to lawyers of the Public Attorney's Office or other government lawyers directly providing legal aid; and
 - (vi) Such other similar legal services as may be defined in the implementing rules and regulations consistent with the declared policies and provisions of this Act;
- (g) *Net income* shall be understood to refer to the basic income of the litigant less statutory and authorized deductions, and shall not include the pension received by retirees;
- (h) *Public Interest Cases* refer to cases which would affect the general public or a significant portion thereof in a significant manner such as those who belong to marginalized sectors as delineated in Section 11. These cases include, among others, cases involving civil rights and liberties, women's rights, children and youth services and rights, workers' rights, labor and employment law, public benefits, gender and sexuality issues, environmental law, prisoners' rights, migrant worker rights, and criminal law.
- (i) *Qualified Beneficiaries* are those persons enumerated in Section 11 of this Act who may avail of legal aid from a government lawyer; and
- (j) *Statutory deductions* in relation to net income shall refer to withholding taxes, Government Service Insurance System (GSIS), Social Security System (SSS), and Pag-Ibig contributions, Health Insurance and PhilHealth premiums, loan amortizations, and other deductions of similar nature, duly supported by written contracts.

Section 4. *Authorization to Render Legal Aid; Voluntary Application.* - Government lawyers are hereby authorized to voluntarily enlist themselves in the legal aid programs of chapters of the IBP. The government lawyer shall submit his or her *curriculum vitae* and indicate his or her preferred areas of practice or types of legal aid. The IBP may request such other information from the applicant, consistent with the provisions and declared policies of this Act, as specified in the implementing rules and regulations.

Section 5. *Exclusions from Authorization.* - Laws, rules and regulations, and jurisprudence, such as Section 90(a) of Rep. Act No. 7160 or the Local Government Code of 1991 and Section 35 of Rule 138 of the Rules of Court, that absolutely prohibit certain lawyers in the government from the practice of the legal profession shall still apply.

Section 6. *Legal Aid Program; Roster.* - Each chapter of the IBP, in coordination with the Department of Justice and the Public Attorney's Office in particular, shall establish or modify existing legal aid programs to ensure compliance with and facilitate the provisions of this Act. The IBP chapter shall integrate the Clinical Legal Education Program of local law schools in their legal aid program.

Each IBP chapter shall maintain an active and updated roster of government lawyers who are qualified and have been duly accepted into the legal aid program.

Section 7. *Matching.* - The legal aid program may match or assign cases, tasks, or legal matters eligible for legal aid that are not feasible, practical, or otherwise convenient, at the discretion of the IBP, for handling by private practitioners providing legal aid or the Public Attorney's Office, provided that such assignments or referrals shall not prejudice the qualified beneficiary. The program may assign these cases or tasks to government lawyers who, by expertise and qualification, are deemed capable of handling the matter. A government lawyer may, however, decline such referral if they determine themselves unable to fulfill the requirements of the case or task effectively, in which event the matter shall be promptly reassigned to another qualified lawyer within the legal aid program.

Section 8. *Supervision of Government Lawyer; Co-signing of Legal Papers.* - Representation in civil and criminal cases before courts and in administrative cases before quasi-judicial agencies and the rendition of other legal aid services shall be under the direct supervision of the chairperson of the legal aid program of the concerned IBP chapter, who shall ensure that the government lawyer works efficiently and effectively.

Any and all pleadings, motions, briefs, memoranda, or other papers to be filed in court or any quasi-judicial agency must be co-signed by the chairperson.

Section 9. *Conditions and Limitations to Practice Legal Aid.* - Government lawyers may engage in private legal aid work provided that:

- (a) The lawyer shall not represent any cause of action or interest adverse to the government;

- (b) The legal aid work shall not create or imply any conflict of interest with the lawyer's official duties or impair the lawyer's official functions;
- (c) Such legal aid work requires the express written consent of the head of agency of the lawyer, stating the specific authorized term, purpose(s), and/or engagement(s);
- (d) Any time spent on legal aid work shall only be during an approved leave of absence, except when the government lawyer is not otherwise prohibited to perform such work during official time or when the legal aid work aligns with the lawyer's official duties and responsibilities; and
- (e) Legal aid work must not involve the use of any government funds, facilities, or property.

Section 10. Duty of Head of Agency; Power to Recall. - It shall be the duty of the head of agency to ensure that the legal aid work of the government lawyer shall not impair the official duties and functions of the lawyer. The written consent granted may be recalled at any time should the government lawyer fail at his or her main governmental functions, provided that sufficient arrangements with the IBP chapter concerned must first be made prior to the recall to ensure that the concerned qualified beneficiary is not prejudiced.

Section 11. Qualified Beneficiaries. - The following are Qualified Beneficiaries:

- (a) A person to whom a *counsel de officio* was appointed by any court, tribunal, or other government agency, with respect to the *counsel de officio* so appointed and the case in which the appointment was made;
- (b) An indigent party or litigant as defined and determined in Rule III, Section 21 of the Rules of Court;
- (c) An indigent party or litigant whose monthly net income is insufficient to cover his or her family's food, shelter, medication, and other basic necessities, to be defined in the implementing rules and regulations and to be regularly updated after analyzing the most recent Family Income and Expenditure Survey of the Philippine Statistics Authority, and who do not own real property with an assessed value of more than four hundred thousand pesos (PHP 400,000.00);
- (d) A person not covered by the preceding subsections but nevertheless has no sufficient means to afford adequate legal services, based on an Affidavit of Indigency executed by the person claiming to be an indigent. The Affidavit

of Indigency must describe briefly the indigency and must be supported by any of the following documents:

- (i) Latest Income Tax Return or pay slip, or other proof of net income;
 - (ii) Certificate of Indigency from the Department of Social Welfare and Development (DSWD), or the City/Municipal Social Welfare and Development Office having jurisdiction over the residence of the person claiming to be an indigent;
 - (iii) Certificate of Indigency and/or No Income from the Office of the Punong Barangay/Barangay Chairperson having jurisdiction over the residence of the person claiming to be an indigent; and
 - (iv) Such other document as may be determined in the implementing rules and regulations consistent with the foregoing and the provisions of this Act.
- (e) Members of marginalized sectors with public interest cases such as those who belong to underserved and disadvantaged sectors as defined in Rep. Act No. 8425 or the Social Reform and Poverty Alleviation Act of 1997:
- (i) Farmer-peasants;
 - (ii) Artisanal fisherfolk;
 - (iii) Workers in the formal sector and migrant workers;
 - (iv) Workers in the informal sector;
 - (v) Indigenous peoples and cultural communities;
 - (vi) Women;
 - (vii) Persons with disabilities;
 - (viii) Senior citizens;
 - (ix) Victims of calamities and disasters;
 - (x) Youth and students;
 - (xi) Children;
 - (xii) Urban poor; and
 - (xiii) Such other similar marginalized, underserved, or disadvantaged sector as may be defined in the implementing rules and regulations consistent with the provisions of this Act;
- (f) Non-governmental and non-profit organizations with respect to cases or matters that are beneficial to Qualified Beneficiaries; and
- (g) Such other similar qualified beneficiaries to be determined in the implementing rules and regulations consistent with the provisions of this Act.

Section 12. *Incentives.* – The government lawyer shall be entitled to a reduction in annual income tax liability equivalent to the amount that would have been collectible for the actual free legal aid services rendered, computed according to the prevailing professional fee rates prescribed by the IBP, or up to ten percent (10%) of the lawyer's annual gross compensation income, whichever is lower.

The Supreme Court may, by virtue of its rule-making power, prescribe the amount of credit units that may be earned by government lawyer in the course of their rendition of legal aid services for purposes of Mandatory Continuing Legal Education compliance.

The IBP National Center for Legal Aid shall establish an official recognition program, with certificates or awards for government lawyers who provide substantial or exemplary legal aid service.

Legal aid experience may also be, consistent with existing laws, rules and regulations, considered in performance evaluations, appropriate crediting for certain metrics, and/or as a factor in eligibility for promotions and other similar benefits.

Legal aid rendered during weekends, holidays, or otherwise days where the government lawyer was not obligated to work shall, consistent with existing laws, rules and regulations, be counted towards paid and/or credited leaves.

Section 13. *Appropriations.* -The amount necessary for the initial implementation of this Act shall be sourced from the current appropriations of the government agencies mentioned in this Act. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

Section 14. *Implementing Rules and Regulations.* - Within ninety (90) days from the effective date of this Act, the Department of Justice, with the assistance of the Integrated Bar of the Philippines and with input from the ULAS Board, shall promulgate the implementing rules and regulations necessary for the full and effective implementation of this Act.

The Bureau of Internal Revenue shall issue the relevant issuance to properly implement and operationalize the tax incentive granted in section 12.

Section 15. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected by such declaration shall remain in full force and effect.

Section 16. *Repealing Clause.* - All laws, executive orders, administrative orders and rules and regulations inconsistent with this Act are hereby repealed or amended accordingly.

Section 17. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,