


THIRTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
SECOND REGULAR SESSION )

5 DEC 01 P2:42

Senate  
S. B. No. 2171

RECEIVED BY: 

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Introduced by Sen. Juan Ponce Enrile

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**EXPLANATORY NOTE**

The Bill of Rights of the 1987 Constitution (Article III) embodies fundamental principles that, among others, serve to uphold and protect the rights of a person within the justice system of our country. Among these are the principles of equal protection of the laws [Sec. 1], free access to the courts and quasi-judicial bodies and adequate legal assistance [Sec. 11], right to a counsel [Sec. 12], due process of law [Sec. 14(1) and (2)], and speedy disposition of cases [Sec. 16].

These guarantees presuppose that the State affords each and every citizen the means by which he can claim these rights and make them operative. But in order for him to claim these rights, almost always, a legal proceeding is required. Therefore, one cannot overemphasize the constitutional requirement that adequate legal assistance be given to all, most especially the indigents or the marginalized.

The present Public Attorney's Office (PAO) is under the Department of Justice (DOJ) which is the legal counsel and prosecution arm of the government. PAO on the other hand, functions more on the defense side. The Secretary of Justice is thus forced to exercise dual functions that often result in the detriment of the defense. The Secretary of Justice cannot wear two hats at the same time. With this kind of set-up, due process can never be genuinely served for as long as the prosecution and the defense are housed in the same department, reporting to the same superior.

To avoid suspicion of collusion between the National Prosecution Service and the PAO, the latter should be allowed to take an independent legal position against any party upholding its clients' rights. It should be allowed to develop as an independent legal institution within the government because its ultimate aim is to give justice to the poor and the marginalized. By representing poor litigants, public service is rendered, justice is equally dispensed, their rights are protected and in terms of representation, party litigants are placed on equal footing.

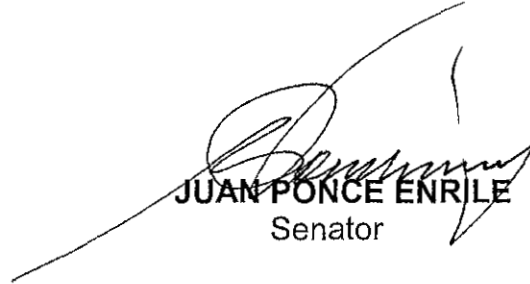
This bill thus assumes the designation of the Public Attorney's Office as an attached agency of the Department of Justice and further vesting it with independence and autonomy in the exercise of its functions. With the policy thrusts of the present administration to alleviate the plight of the less fortunate and impoverished, the task of addressing the legal and administrative inadequacies besetting the PAO requires immediate attention.

An examination of the resources which the State provides for their defense shows that such is pitiful and extremely inadequate for the purpose. Based on the accomplishment report of PAO for the period of January 2003 to June 30, 2004, they handled more than 8 million cases for which they spent only P872 million, or an average of P108.92 per case/client.



By establishing PAO as an independent, autonomous office attached to the Department of Justice, it would mean greater flexibility in the performance of its avowed legal mandate: to give life and meaning to the principles of justice, right to due process, and equal protection and access to law.

In view of the foregoing, the passage of this bill is urgently requested.



**JUAN PONCE ENRILE**  
Senator

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**AN ACT  
REORGANIZING AND STRENGTHENING THE PUBLIC ATTORNEY'S  
OFFICE (PAO), AMENDING PERTINENT PROVISIONS OF THE  
ADMINISTRATIVE CODE OF 1987, AS AMENDED,  
AND FOR OTHER PURPOSES**

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

**SECTION 1.** Section 14, Chapter 5, Title III, Book IV of Executive Order No. 292, otherwise known as The Administrative Code of 1987, is hereby amended to read as follows:

"SEC. 14. *Public Attorney's Office (PAO).* – The Citizen's Legal Assistance Office (CLAO) is renamed Public Attorney's Office (PAO). It shall exercise the powers and functions as are now provided by law for the Citizen's Legal Assistance Office or may hereafter be provided by law.

**THE PUBLIC ATTORNEY'S OFFICE SHALL BE AN INDEPENDENT AND AUTONOMOUS OFFICE ATTACHED TO THE DEPARTMENT OF JUSTICE IN ACCORDANCE WITH SEC. 38(3) i, CHAPTER 7 OF BOOK 4 OF THIS CODE.**

**THE PAO SHALL BE THE PRINCIPAL LAW OFFICE OF THE GOVERNMENT IN EXTENDING FREE LEGAL ASSISTANCE TO INDIGENT PERSONS IN ADMINISTRATIVE, LABOR, CIVIL AND CRIMINAL CASES."**



**SEC. 2.** A new section 15 is hereby introduced and inserted to read as follows:

**"SEC. 15. POWERS AND FUNCTIONS. - IT SHALL INDEPENDENTLY DISCHARGE ITS MANDATE TO RENDER, FREE OF CHARGE, LEGAL REPRESENTATION, ASSISTANCE, AND COUNSELING TO INDIGENT PERSONS IN ADMINISTRATIVE, LABOR, CIVIL, AND CRIMINAL CASES AFTER IT IS DETERMINED THAT THE INTEREST OF JUSTICE WILL BE SERVED THEREBY.**

**IN THE EXIGENCY OF THE SERVICE, THE PAO MAY BE CALLED UPON BY PROPER AUTHORITIES TO RENDER SUCH SERVICES TO OTHER PERSONS, SUBJECT TO EXISTING LAWS, RULES, AND REGULATIONS."**

**SEC. 3.** Section 15, Chapter 5, Title III, Book IV of E.O. No. 292 is hereby amended to read as follows:

"SEC. [15] 16. *Organizational Structure.* - The PAO shall consist of the following constituent units:

- (1) Office of the Chief Public Attorney and two (2) Deputy Chief Public Attorneys;
- (2) [Five (5)] **SIX** (6) line divisions in the Central Office, namely: Administrative, Financial, **PLANNING** and Management, Special and Appealed Cases, Legal Research [and Statistics], Field Services **AND STATISTICS, AND EXECUTIVE** Division; and,
- (3) Regional [and], Provincial[,], **CITY, AND MUNICIPAL** District Offices".

**SEC. 4.** Section 16, Chapter 5, Title III, Book IV of E.O. No. 292 is hereby amended to read as follows:

"SEC. [16] 17. *The Chief Public Attorney and Other PAO Officials.* - The PAO shall be headed by a Chief Public Attorney and shall be assisted by two (2) Deputy Chief Public Attorneys. Each PAO Regional Office established in each of the administrative regions of the country shall be headed by a Regional Public Attorney who shall be assisted by an Assistant Regional Public Attorney. **THE AUTHORITY AND RESPONSIBILITY FOR THE EXERCISE OF THE MANDATE OF THE PUBLIC ATTORNEY'S OFFICE AND FOR THE DISCHARGE OF ITS POWERS AND FUNCTIONS SHALL BE VESTED IN THE CHIEF PUBLIC ATTORNEY, WHO SHALL HAVE FULL SUPERVISION AND CONTROL OF THE OFFICE.**

[The Chief Public Attorney, Deputy Chief Public Attorneys, Regional Public Attorneys and Assistant Regional Public Attorneys shall be appointed by the President upon the recommendation of the Secretary.]

**THE OFFICE OF THE CHIEF PUBLIC ATTORNEY SHALL INCLUDE HIS IMMEDIATE STAFF, THE SIX (6) LINE DIVISIONS IN THE CENTRAL OFFICE, THE DEPUTY CHIEF PUBLIC ATTORNEYS AND THE REGIONAL, PROVINCIAL, CITY, AND MUNICIPAL DISTRICT OFFICES.**

**THE CHIEF PUBLIC ATTORNEY SHALL HAVE THE SAME QUALIFICATIONS FOR APPOINTMENT, RANK, SALARIES, ALLOWANCES, AND RETIREMENT PRIVILEGES AS THOSE OF THE PRESIDING JUSTICE OF THE COURT OF APPEALS. THE DEPUTY CHIEF PUBLIC ATTORNEYS SHALL HAVE THE SAME QUALIFICATIONS FOR APPOINTMENT, RANK, SALARIES, ALLOWANCES, AND RETIREMENT PRIVILEGES AS THOSE OF THE ASSOCIATE JUSTICE OF THE COURT OF APPEALS.**

**THE SERVICES HEREIN CREATED SHALL EACH BE HEADED BY A STAFF DIRECTOR WHO SHALL HAVE THE SAME QUALIFICATIONS FOR APPOINTMENT, RANK, SALARIES, ALLOWANCES AND PRIVILEGES AS THOSE OF AN ASSISTANT REGIONAL PUBLIC ATTORNEY HEREIN PROVIDED.**

**EACH OF THE PAO REGIONAL OFFICES SHALL BE HEADED BY A REGIONAL PUBLIC ATTORNEY WHO SHALL BE**

ASSISTED BY AN ASSISTANT REGIONAL PUBLIC ATTORNEY. THE REGIONAL OFFICES SHALL HAVE SUCH PROVINCIAL, CITY, AND/OR MUNICIPAL DISTRICT OFFICES AS MAY BE NECESSARY.

THE REGIONAL PUBLIC ATTORNEY AND THE ASSISTANT REGIONAL PUBLIC ATTORNEY SHALL HAVE THE SAME QUALIFICATIONS FOR APPOINTMENT, RANK, SALARIES, ALLOWANCES, AND RETIREMENT PRIVILEGES AS THOSE OF A REGIONAL TRIAL COURT JUDGE, PROVIDED THAT THE SALARY GRADE LEVELS SHALL BE WITHIN THE RANGE OF STEPS FIVE (5) TO EIGHT (8) FOR THE REGIONAL PUBLIC ATTORNEY AND STEPS ONE (1) TO FOUR (4) FOR THE ASSISTANT REGIONAL PUBLIC ATTORNEY.

THE PROVINCIAL PUBLIC ATTORNEY [PUBLIC ATTORNEY III-A] AND CITY PUBLIC ATTORNEY SHALL HAVE THE SAME QUALIFICATIONS FOR APPOINTMENT, RANK, SALARIES, ALLOWANCES AND RETIREMENT PRIVILEGES AS THOSE OF A METROPOLITAN TRIAL COURT JUDGE.

THE CITY DISTRICT PUBLIC ATTORNEY (PUBLIC ATTORNEY III-B) SHALL HAVE THE SAME QUALIFICATIONS FOR APPOINTMENT, RANK, SALARIES AND ALLOWANCES, AND RETIREMENT PRIVILEGES AS THOSE OF A MUNICIPAL TRIAL COURT JUDGE IN CITIES.

THE MUNICIPAL DISTRICT PUBLIC ATTORNEY (PUBLIC ATTORNEY III-C) SHALL HAVE THE SAME QUALIFICATIONS FOR APPOINTMENT, RANK, SALARIES, EMOLUMENTS, AND RETIREMENT PRIVILEGES AS THOSE OF A MUNICIPAL TRIAL COURT JUDGE.

THE OTHER ADMINISTRATIVE PERSONNEL IN THE PAO SHALL HAVE THE RANK AND SALARIES EQUIVALENT TO ONE (1) SALARY GRADE HIGHER THAN THEIR PRESENT POSITION."

**SEC. 5.** A new section is hereby introduced to read as follows:

**"SEC. 18. APPOINTMENT.** - THE CHIEF PUBLIC ATTORNEY AND THE DEPUTY CHIEF PUBLIC ATTORNEYS SHALL BE APPOINTED BY THE PRESIDENT. THE DEPUTY CHIEF PUBLIC ATTORNEYS AND REGIONAL PUBLIC ATTORNEYS SHALL BE APPOINTED BY THE PRESIDENT UPON THE RECOMMENDATION OF THE CHIEF PUBLIC ATTORNEY. THE CHIEF PUBLIC ATTORNEY, DEPUTY CHIEF PUBLIC ATTORNEYS AND REGIONAL PUBLIC ATTORNEYS SHALL NOT BE REMOVED OR SUSPENDED, EXCEPT FOR CAUSE PROVIDED BY LAW; *PROVIDED*, THAT THE DEPUTY CHIEF PUBLIC ATTORNEYS, THE REGIONAL PUBLIC ATTORNEYS AND THE ASSISTANT REGIONAL PUBLIC ATTORNEYS, THE PROVINCIAL PUBLIC ATTORNEYS, AND THE CITY PUBLIC ATTORNEYS SHALL PREFERABLY HAVE SERVED AS PUBLIC ATTORNEYS FOR AT LEAST FIVE (5) YEARS IMMEDIATELY PRIOR TO THEIR APPOINTMENT AS SUCH. THE ADMINISTRATIVE PERSONNEL AND OTHER LAWYERS IN THE PUBLIC ATTORNEY'S OFFICE SHALL BE APPOINTED BY THE

**CHIEF PUBLIC ATTORNEY, IN ACCORDANCE WITH CIVIL SERVICE LAWS, RULES, AND REGULATIONS.”**

**SEC. 6.** A new section is hereby introduced to read as follows:

**“SEC. 19. *ACTING CHIEF PUBLIC ATTORNEY – IN CASE OF DEATH, PERMANENT INCAPACITY, REMOVAL, OR RESIGNATION OF THE INCUMBENT CHIEF PUBLIC ATTORNEY, OR VACANCY THEREOF, THE PRESIDENT SHALL APPOINT A NEW CHIEF PUBLIC ATTORNEY OR SHALL DESIGNATE AN ACTING CHIEF PUBLIC ATTORNEY UNTIL A NEW CHIEF PUBLIC ATTORNEY SHALL HAVE BEEN APPOINTED. IN CASE OF TEMPORARY ABSENCE OF THE CHIEF PUBLIC ATTORNEY, THE LATTER MAY DESIGNATE AN OFFICER IN CHARGE TO BE THE CARETAKER OF THE OFFICE.*”**

**SEC. 7** A new section is hereby introduced to read as follows:

**“SEC. 20. *INCUMBENT OFFICIALS AND PERSONNEL – THE INCUMBENT OFFICIALS AND PERSONNEL OF THE PUBLIC ATTORNEY’S OFFICE SHALL REMAIN IN OFFICE WITHOUT THE NEED OF NEW APPOINTMENT.*”**

**SEC. 8** A new section is hereby introduced to read as follows:

**“SEC. 21. *EXEMPTION FROM FEES AND COSTS OF THE SUIT. – THE CLIENTS OF THE PUBLIC ATTORNEY’S OFFICE SHALL BE EXEMPT FROM PAYMENT OF DOCKET AND OTHER FEES INCIDENTAL TO INSTITUTING AN ACTION IN COURT, AS AN ORIGINAL PROCEEDING OR ON APPEAL. THE COSTS OF THE SUIT DUE THE CLIENT OF THE PUBLIC ATTORNEY’S OFFICE AFTER A SUCCESSFUL LITIGATION SHALL ACCRUE TO THE NATIONAL GOVERNMENT.*”**

**SEC. 9** A new section is hereby introduced to read as follows:

**“SEC. 22. *LOCAL GOVERNMENT SUPPORT. – LOCAL GOVERNMENT UNITS, SUBJECT TO THEIR CAPABILITIES, ARE AUTHORIZED TO EXTEND FINANCIAL AND OTHER SUPPORT IN THE FORM OF HONORARIA, FREE OFFICE SPACE, EQUIPMENT, FURNITURE, STATIONERY, AND MANPOWER TO THE PUBLIC ATTORNEY’S OFFICE.*”**

**SEC. 10.** A new section is hereby introduced to read as follows:

**“SEC. 23 *FRANKING PRIVILEGE. - THE PUBLIC ATTORNEY’S OFFICE MAY TRANSMIT THROUGH ORDINARY MAIL AND/OR REGISTERED MAIL WITH RETURN CARD, FREE OF CHARGE, ALL OFFICIAL COMMUNICATIONS AND PAPERS DIRECTLY CONNECTED WITH THE CONDUCT OF ITS DUTIES, FUNCTIONS AND/OR ITS EXERCISE OF ADMINISTRATIVE SUPERVISION OVER ITS PERSONNEL.***

**THE ENVELOPE OR WRAPPER OF THE PRIVILEGED MAIL LETTER MATTER SHALL BEAR ON THE LEFT UPPER CORNER “PUBLIC ATTORNEY’S OFFICE” TOGETHER WITH ITS ADDRESS AND ON THE RIGHT UPPER CORNER, THE WORD “PRIVATE OR**

**UNAUTHORIZED USE TO AVOID PAYMENT OF POSTAGE IS PENALIZED BY FINE OR IMPRISONMENT OR BOTH.”**

**SEC. 11.** A new section is hereby introduced to read as follows:

**“SEC. 24. CREATION OF ADDITIONAL ITEMS.- UPON THE EFFECTIVITY OF THIS ACT, ADDITIONAL ITEMS FOR PUBLIC ATTORNEYS AND SUPPORT STAFF PERSONNEL SHALL BE CREATED AS MAY BE DEEMED NECESSARY. WHENEVER THERE IS AN INCREASE IN THE NUMBER OF COURT SALAS, THERE SHALL BE A CORRESPONDING INCREASE IN THE NUMBER OF PUBLIC ATTORNEYS’ POSITION AT THE RATIO OF ONE (1) PUBLIC ATTORNEY TO A SALA., SUBJECT TO AVAILABILITY OF FUNDS.”**

**SEC. 12.** The succeeding provisions and sections of Executive Order 292 are hereby renumbered accordingly.

**SEC. 13.** Sections 41 and 42, Chapter 10, Book 1 of the same Code, as amended, is hereby further amended to read as follows:

**“SEC. 41. Officers Authorized to Administer Oaths. –** The following officers have general authority to administer oaths: President; Vice-President, Members and Secretaries of both Houses of the Congress; Members of the Judiciary; Secretaries of Departments; provincial governors and lieutenant-governors; city mayors; municipal mayors; bureau directors; regional directors; clerk of courts; registrars of deeds; other civilian officers in the public service of the government of the Philippines whose appointments are vested in the President and are subject to confirmation by the Commission on Appointments; all other constitutional officers; **PUBLIC ATTORNEY’S OFFICE LAWYERS IN CONNECTION WITH THE PERFORMANCE OF DUTY;** and notaries public.

**SEC. 42. Duty to Administer Oaths. –** Officers authorized to administer oaths, with the exception of notaries public, municipal judges and clerks of court, are not obliged to administer oaths or execute certificates save in matters of official business **OR IN RELATION TO THEIR FUNCTIONS AS SUCH;** and with the exception of notaries public, the officer performing the service in those matters shall charge no fee, unless specifically authorized by law.”

**SEC. 14. Appropriations. –** The amount necessary for the initial implementation of this Act shall be charged against the current fiscal year’s appropriations under the budget of the Public Attorney’s Office. Thereafter, such sums as may be necessary for the continued implementation of this act shall be included in the Annual General Appropriations Act.

**SEC. 15. Implementing Rules and Regulations. –** Within ninety (90) days from approval hereof, the Department of Budget and Management and the Public Attorney’s Office shall adopt and issue the rules and regulations for the effective implementation of this Act.


**SEC. 16. Repealing Clause. –** All laws, executive orders, presidential decrees, presidential proclamations, letters of implementation, rules and regulations or parts

thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**SEC. 1<sup>st</sup>. Separability Clause.** – If any provision of this Act is declared invalid or unconstitutional, the provisions not affected thereby shall continue to be in full force and effect.

**SEC. 1<sup>st</sup>. Effectivity.** – This Act shall take effect upon its approval fifteen (15) days following its publication in the Official Gazette or in two (2) newspaper of general circulation in the Philippines.

Approved,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.