

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



23 SEP 26 P 6 :42

SENATE
S. No. 2453

RECEIVED BY:

Introduced by Senator Robinhood Padilla

AN ACT
AMENDING ACT NO. 4103, AS AMENDED, OTHERWISE KNOWN AS THE
INDETERMINATE SENTENCE LAW, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The fundamental principle of the Indeterminate Sentence Law is to rehabilitate the offenders. It provides for the application of the precept, "A man cannot suffer more punishment than the law assigns, but he may suffer less." The State concerns itself not only against criminal acts but with preventing unnecessary and excessive deprivation of liberty and economic usefulness.

Nonetheless, the application of this law is limited to the extent that only persons convicted of offenses that are heinous in nature are excluded from its benefits. The severity and seriousness of certain crimes, including economic sabotage and offenses against minors, are hence justified to be included in the enumeration.

This bill seeks to amend the Indeterminate Sentence Law to exclude from the coverage those convicted of economic sabotage and crimes against minors such as kidnapping (except by a parent), criminal sexual conduct, solicitation to engage in sexual conduct, sexual performance, and practice of prostitution, any conduct that by its nature a sexual offense, production or distribution of child pornography, child trafficking and use of children in drug trafficking.

More so, if an individual is subject to imprisonment penalties according to specific laws unless there are exceptions, the court must mandate that the accused

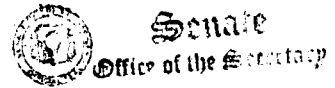
serve a minimum sentence, which cannot be shorter than the statutory minimum for the offense, and a maximum sentence that does not surpass the legal maximum.

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




ROBINHOOD PADILLA
Senator

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

Section 1. Section 1 of Act No. 4103, as amended, is further amended to read as follows:

~~"SECTION 1. [Hereafter, in imposing a prison sentence for an offense punished by acts of the Philippine Legislature, otherwise than by the Revised Penal Code, the court shall order the accused to be imprisoned for a minimum term, which shall not be less than the minimum term of imprisonment provided by law for the offense, and for a maximum term which shall not exceed the maximum fixed by law; and where the offense is punished by the]~~ **WHEN AN OFFENSE IS PUNISHABLE WITH IMPRISONMENT UNDER THE Revised Penal Code, or amendments thereto, the court shall sentence the accused to such maximum as may, in view of attending circumstances, be properly imposed under the present rules of the said Code, and to a minimum which shall not be less than the minimum imprisonment period of the penalty next lower to that prescribed by said Code for the offense. IN CASE OF IMPRISONMENT PENALTIES IMPOSABLE UNDER SPECIAL**

LAWS, UNLESS OTHERWISE EXEMPTED, THE COURT SHALL ORDER THE ACCUSED TO BE IMPRISONED FOR A MINIMUM TERM, WHICH SHALL NOT BE LESS THAN THE MINIMUM TERM OF IMPRISONMENT PROVIDED BY LAW FOR THE OFFENSE, AND FOR A MAXIMUM TERM WHICH SHALL NOT EXCEED THE MAXIMUM FIXED BY LAW. Except as provided in section two hereof, any person who shall have been so convicted and sentenced and shall have served the minimum sentence imposed hereunder, may be released on parole in accordance with the provisions of this Act."

Sec. 2. Section 2 of the same Act, as amended, is further amended to read as follows:

"SEC. 2. This Act shall not apply to persons convicted of offenses punished with death penalty [or], life imprisonment, **OR RECLUSION PERPETUA**; to those convicted of treason, conspiracy or proposal to commit treason; to those convicted of misprision of treason, sedition or espionage; to those convicted of piracy; **TO THOSE CONVICTED OF A CRIME INVOLVING ECONOMIC SABOTAGE, TO THOSE CONVICTED OF CRIMINAL OFFENSES AGAINST A MINOR, WHICH IS COMPARABLE TO OR EXCEEDS ANY OF THE FOLLOWING: KIDNAPPING OF A MINOR, EXCEPT BY A PARENT; CRIMINAL SEXUAL CONDUCT TOWARD A MINOR; SOLICITATION OF A MINOR TO ENGAGE IN SEXUAL CONDUCT; USE OF A MINOR IN A SEXUAL PERFORMANCE; SOLICITATION OF A MINOR TO PRACTICE PROSTITUTION; ANY CONDUCT THAT BY ITS NATURE IS A SEXUAL OFFENSE AGAINST A MINOR; PRODUCTION OR DISTRIBUTION OF CHILD PORNOGRAPHY; CHILD- TRAFFICKING; AND USING CHILDREN IN DRUG TRAFFICKING**; to those who are habitual delinquents; to those who shall have escaped from confinement or evaded sentence; to those who having been granted conditional

pardon by the Chief Executive shall have violated the terms thereof; to those whose maximum term of imprisonment does not exceed one year; nor to those already sentenced by final judgment at the time of approval of this Act except as provided in section five hereof."

Sec. 3. Section 5 of the same Act is hereby amended to read as follows:

"SEC. 5. It shall be the duty of the Board of [~~Indeterminate Sentence~~] **PARDONS AND PAROLE** to look into the physical, mental and moral record of the prisoners who shall be eligible to parole and to determine the proper time of release of such prisoners. Whenever any prisoner shall have served the minimum penalty imposed on him, and it shall appear to the Board of [~~Indeterminate Sentence~~] **PARDONS AND PAROLE**, from the reports of the prisoner's work and conduct which may be received in accordance with the rules and regulations prescribed, and from the study and investigation made by the Board itself, that such prisoner is fitted by his training for release, that there is a reasonable probability that such prisoner will live and remain at liberty without violating the law, and that such release will not be incompatible with the welfare of society, and Board of [~~Indeterminate Sentence~~] **PARDONS AND PAROLE** may, in its discretion, and in accordance with the rules and regulations adopted hereunder, authorize the release of such prisoner on parole, upon such terms and conditions as are herein prescribed and as may be prescribed by the Board. The said Board of [~~Indeterminate Sentence~~] **PARDONS AND PAROLE** shall also examine the records and status of prisoners who shall have been convicted of any offense other than those named in section two hereof, and been sentenced for more than one year by final judgment prior to the date on which this Act shall take effect, and shall make recommendations in all such cases to the [~~Governor-General~~] **PRESIDENT** with regard to the parole of such prisoners as they shall deem qualified for parole as herein provided, after they shall have served a period of imprisonment not less than the

minimum period for which they might have been sentenced under this Act for the same offense.”

Sec. 4. Section 7 of the same Act is hereby amended to read as follows:

“SEC. 7. The Board shall file with the court which passed judgment on the case, and with the ~~[Chief of Constabulary]~~ **PHILIPPINE NATIONAL POLICE**, a certified copy of each order of conditional or final release and discharge issued in accordance with the provisions of the next preceding two sections.”

Sec. 5. Section 8 of the same Act, as amended, is further amended to read as follows:

“Whenever any prisoner released on parole by virtue of this Act shall, during the period of surveillance, violate any of the conditions of his parole, the Board of ~~[Indeterminate Sentence]~~ **PARDONS AND PAROLE** may issue an order for his re-arrest which may be served in any part of the Philippine Islands by any police officer. In such case the prisoner so re-arrested shall serve the remaining unexpired portion of the maximum sentence for which he was originally committed to prison ~~[, unless the Board of Indeterminate Sentence shall, in its discretion, grant a new parole to the said prisoner].~~”

Sec. 6. If any part or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in force and effect.

Sec. 7. The provisions of any law, whether general or special, rules and regulations and other issuances or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

Sec. 8. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,