

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session

HOUSE BILL NO. 1385



Introduced by REPRESENTATIVE FREDENIL H. CASTRO

EXPLANATORY NOTE

R.A. No. 10071, otherwise known as the National Prosecution Service Act of 2010, greatly improved the ability of the National Prosecution Service to represent the State in the criminal justice system. The law re-tooled our prosecutors in the pursuit of justice, prosecution of the guilty, and protection of the innocent.

Eight years on, the Department notes several aspects of the law that requires a revisit by the legislature, particularly on the appointment, assignment, and other personnel matters required to effectively and efficiently utilize the human resources of the National Prosecution Service.


Salient among the features of the proposed amendment is authorizing the Secretary of Justice to appoint Prosecution Attorneys, Prosecutor I (Associate Provincial or City Prosecutors), II (Assistant State, Provincial, or City Prosecutors) and III (Senior Assistant State, Provincial, or City Prosecutors).

Pursuant to the current law, the President appoints all prosecutors, including the Prosecutor General, from the rank of Prosecutor I to V. Considering that the appointment of assistant prosecutors requires immediate attention in order to fully serve the Courts and the public, it is highly recommended that the Secretary of Justice be authorized to appoint prosecutors of the said rank, reserving the appointment of Chiefs of Offices and High-level prosecutor ranks to the President.

Moreover, the proposed amendatory law includes a provision empowering the Secretary of Justice to temporarily re-assign prosecutors to field offices in the interest of the services and in order to address immediate needs. The adage that justice delayed is justice denied finds its most important meaning in the investigation stage of the criminal justice system. Having field prosecution offices underserved leaves the public vulnerable to prolonged incarceration or unduly protracted settings of preliminary investigation. In granting the Department of Justice appropriate power to temporarily augment the prosecutors serving a particular station, backlogs and other concerns in local Courts and offices will be addressed and accordingly acted upon.

Alas, an effective and efficient National Prosecution Service envisioned under the abovementioned proposals obliges a commensurate protection granted to our prosecutors. Thus, the proposed amendatory law also provides adequate benefits for the prosecutors in the form of retirement rules, legislated forfeitable leaves, and hazard pay. It is hoped that with the benefits granted, the heavy burden of prosecutorial work will be alleviated and recompensed enough for the National Prosecution Service a viable option for the best and the brightest lawyers of the country.

For these reasons, the passage of this bill is most urgently sought.



Fredenil H. Castro
Representative
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AN ACT
TO STRENGTHEN THE NATIONAL PROSECUTION SERVICE ACT, AMENDING FOR
THE PURPOSE, SECTION 16 AND 19 OF REPUBLIC ACT NO. 10071, OTHERWISE
KNOWN AS "PROSECUTION SERVICE ACT OF 2010, AND FOR OTHER PURPOSES

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

SECTION 1. Section 16 of Republic Act No. 10071 is hereby amended to read
as follows:

"Section 16. ***Qualifications, Ranks, and
Appointments of Prosecutors, and other
Prosecution Officers.*** - Prosecutor with the rank of
Prosecutor V shall have the same qualification for
appointment, rank, category, prerogatives, salary grade,
and salaries, allowances, and emoluments and other
privileges, shall be subject to the same inhibitions and
disqualifications, and shall enjoy the same retirement and
other benefits as those of an associate justice of the Court
of Appeals.

Prosecutors with the rank of Prosecutor IV shall
have the same qualifications for appointment, rank,
category, prerogatives, salary grade and salaries,
allowances, emoluments and other privileges, shall be
subject to the same inhibitions and disqualifications, and
shall enjoy the same retirement and other benefit as those
of a Judge of the Regional Trial Court.

Prosecutor with the rank of Prosecutor III shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefit as those of a Judge of the Metropolitan Trial Court.

Prosecutor with the rank of Prosecutor II shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefit as those of a Judge of the Municipal Trial Court in cities.

Prosecutor with the rank of Prosecutor III shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefit as those of a Judge of the Metropolitan Trial Court in municipalities.

Any increase after the approval of this Act in the salaries, allowances or retirement benefits or any upgrading of the grades or levels thereof of any or all of the Justices or Judges referred to herein to whom said emoluments are assimilated shall apply to the corresponding prosecutors.

All the above prosecutors shall be selected from among qualified and professionally trained members of the legal profession who are of proven integrity and competence. Prosecutor V and IV shall be appointed by the President of the Philippines upon the recommendation of the Secretary of Justice, while Prosecutor III, II and I shall be appointed by the Secretary of Justice. The prosecutors shall serve until they reach the age of sixty-five (65) years old: Provided: however, That the ages of "seventy (70) years" and "sixty-five (65) years" and the years of service "twenty (20) years" provided in Republic Act No. 910 as amended, and other retirement laws for judges shall be understood as "sixty-five (65) years" and "sixty (60) years" and "fifteen (15) years", respectively when applied to prosecutors.

A prosecution attorney or special counsel shall be a member of the bar in good standing and shall have a salary under Salary Grade 25. Such prosecution officer shall be appointed by the Secretary of Justice: Provided, however, That with respect to a special counsel, his/her appointment shall be upon the recommendation of the provincial governor or city mayor and with the endorsement of the provincial prosecutor or city prosecutor, as the case may be.

Subject to Section 20 hereof, the salaries and allowances of regional, provincial and city prosecutors and their assistants, and the members of the prosecution staff, including the prosecution attorneys, shall be paid entirely out of national funds and included in the annual appropriations of the DOJ: Provided, however, That this provision is without prejudice to the grant of allowances to the above-mentioned prosecutors by their respective local governments in amounts not exceeding fifty percent (50%) of their basic salaries; Provided, further, That the whole of the allowances or portion thereof, whether granted by the national or local government shall be exempt from the income tax.

The salaries, allowances and other emoluments herein fixed shall not apply to officers other than those of prosecutors in the National Prosecution Service, notwithstanding any provision of law assimilating the salaries of other officers to those herein mentioned."

SEC. 2. Section 19 of Republic Act No. 10071 is hereby amended to read as follows:

Section 19. ***No Undermining of Security of Tenure*** –

Nothing in this Act shall be construed to allow the transfer, except as provided herein or in case of temporary assignment or detail, as public interest may require, of any prosecutor, including any regional, provincial or city prosecutor, to any place or station in the National Prosecution Service. Such temporary assignment or detail shall, when the exigencies of the service so require, be effective until the Secretary of Justice so decides that such temporary assignment is no longer necessary.

SEC. 3. A new Section 21-A shall be inserted in Republic Act No. 10071 to read as follows:

Section 21-A. ***Forfeitable Leave Privilege.*** – All prosecutors in the National Prosecution Service shall be entitled annually to thirty (30) days forfeitable leave with pay in addition to the fifteen (15) days vacation leave and fifteen (15) days sick leave privileges provided by law. In the computation thereof, Saturdays, Sundays and holidays shall be excluded.

The forfeitable leave privilege shall be non-cumulative and non-convertible to cash.

SEC. 4. A new Section 21-B shall be inserted in Republic Act No. 10071 to read as follows:

Section 21-B. ***Hazard Pay.*** – All prosecutors in the National Prosecution shall, during the incumbency, be entitled to a monthly incentive in the form of a tax-exempt hazard pay in the amount equivalent to twenty-five percent (25%) of their basic salary per month.

SEC. 5. A new Section 21-C shall be inserted in Republic Act No. 10071 to read as follows:

Section 21-C. ***Survivorship Benefits.*** – Upon death of any prosecutor of the National Prosecution Service, if said prosecutor has retired or was in the service at the time of death, the surviving legitimate spouse and dependent children of said prosecutor shall be entitled to receive on a monthly basis all the retirement benefits that the deceased was receiving or entitled to receive at the time of death under the provisions of the applicable retirement laws then in force.

A "dependent" means a legitimate, illegitimate or legally adopted child who is chiefly dependent on the above-enumerated deceased NPS prosecutors, if such dependent is not more than twenty-one (21) years of age, unmarried and not gainfully employed, or if such dependent, regardless of age, is incapable of self-support because of mental or physical defect.

The said surviving legitimate spouse shall continue to receive such retirement benefits during his/her lifetime or until he/she remarries; Provided, that if the surviving legitimate spouse is receiving benefits under existing retirement laws, he/she shall only be entitled to the difference between the amount provided for in this Act and

the benefits he/she is receiving; Provided further, that said benefits shall be granted all aforementioned prosecutors of the NPS who died or retired prior to the effectivity of this Act.

Funds for the initial implementation of this Section shall be taken out of the current appropriations for the retirement of the prosecutors of the NPS and/or savings of said office. Thereafter, such sums as may be necessary for the continued implementation of this Section shall be included in the annual general appropriations act."

SEC. 6. ***Separability Clause.*** – if any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 7. ***Repealing Clause.*** – All laws, presidential decrees or issuances, executive orders, letters of instruction, administrative orders, rules and regulations, contrary to or inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

SEC. 8. ***Effectively.*** – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,