

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

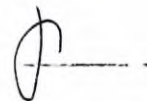
Office of the Secretary

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SENATE

S. No. 885

RECEIVED



Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
AMENDING SECTION 2 OF ACT NO. 4103, AS AMENDED, OTHERWISE
KNOWN AS THE INDETERMINATE SENTENCE LAW

EXPLANATORY NOTE

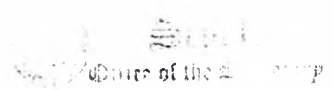
This bill seeks to amend Act No. 4103, also known as the Indeterminate Sentence Law, in order to include the criminal offenses against minors in the enumeration of certain crimes to which the provisions of the Act do *not* apply.

According to the Supreme Court, the positivist theory of criminal law states that the basis for criminal liability is the sum total of the social and economic phenomena to which the offense is expressed. The State is concerned not only in the imperative necessity of protecting the social organization against the criminal acts of destructive individuals but also in redeeming the individual for economic usefulness and other social ends (*People v. Ducosin*, 59 Phil. 109 [1933]). The adoption of this theory is exemplified in the Indeterminate Sentence law.

However, the non-application of this law is limited with the exclusion of persons convicted of certain crimes or offenses due to its heinous nature, severity and gravity of the offense. The mere nature and seriousness of offenses (especially sexual offenses) against a minor justifies its inclusion in the enumeration.



FRANCIS G. ESCUDERO *ap*



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

1 Section 1. Section 2 of Act No. 4103, as amended, otherwise known as the
2 Indeterminate Sentence Law, is hereby further amended to read as follows:

3 "Sec. 2. This Act shall not apply to persons convicted of offenses
4 punished with death penalty or life-imprisonment; to those convicted
5 of treason, conspiracy or proposal to commit treason; to those
6 convicted of misprision of treason, rebellion, sedition or espionage; to
7 those convicted of piracy; **TO THOSE CONVICTED OF CRIMINAL**
8 **OFFENSES AGAINST A MINOR, WHICH IS COMPARABLE TO OR**
9 **EXCEEDS ANY OF THE FOLLOWING: KIDNAPPING OF A**
10 **MINOR, EXCEPT BY A PARENT; CRIMINAL SEXUAL CONDUCT**
11 **TOWARD A MINOR; SOLICITATION OF A MINOR TO ENGAGE**
12 **IN SEXUAL CONDUCT; USE OF A MINOR IN A SEXUAL**
13 **PERFORMANCE; SOLICITATION OF A MINOR TO PRACTICE**
14 **PROSTITUTION; ANY CONDUCT THAT BY ITS NATURE IS A**
15 **SEXUAL OFFENSE AGAINST A MINOR; PRODUCTION OR**
16 **DISTRIBUTION OF CHILD PORNOGRAPHY; CHILD-**
17 **TRAFFICKING; AND USING CHILDREN IN DRUG**

1 **TRAFFICKING**; to those who are habitual delinquents; to those who
2 have escaped from confinement or evaded sentence; to those who
3 having been granted conditional pardon by the Chief Executive shall
4 have violated the terms thereof; to those whose maximum term of
5 imprisonment does not exceed one year, not to those already
6 sentenced by final judgment at the time of approval of this Act, except
7 as provided in Section 5 hereof.”

8 *Sec. 2. Separability Clause.* - If any provision of this Act is held invalid or
9 unconstitutional, the remainder of the Act or the provision not otherwise affected
10 shall remain valid and subsisting.

11 *Sec. 3. Repealing Clause.* - Any law, presidential decree or issuance, executive
12 order, letter of instruction, administrative rule or regulation contrary to or
13 inconsistent with the provisions of this Act is hereby repealed, modified or amended
14 accordingly.

15 *Sec. 4. Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
16 publication in the Official Gazette or at least two (2) newspapers of general
17 circulation.

Approved,