

Presidential Decree No. 968, s. 1976

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MALACAÑANG MANILA

PRESIDENTIAL DECREE No. 968

ESTABLISHING A PROBATION SYSTEM, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES.

WHEREAS, one of the major goals of the government is to establish a more enlightened and humane correctional systems that will promote the reformation of offenders and thereby reduce the incidence of recidivism;

WHEREAS, the confinement of all offenders prisons and other institutions with rehabilitation programs constitutes an onerous drain on the financial resources of the country; and

WHEREAS, there is a need to provide a less costly alternative to the imprisonment of offenders who are likely to respond to individualized, community-based treatment programs;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree the following:

Section 1. *Title and Scope of the Decree.* This Decree shall be known as the Probation Law of 1976. It shall apply to all offenders except those entitled to the benefits under the provisions of Presidential Decree numbered Six Hundred and three and similar laws.

Section 2. *Purpose.* This Decree shall be interpreted so as to:

(a) promote the correction and rehabilitation of an offender by providing him with individualized treatment;

(b) provide an opportunity for the reformation of a penitent offender which might be less probable if he were to serve a prison sentence; and

(c) prevent the commission of offenses.

Section 3. *Meaning of Terms.* As used in this Decree, the following shall, unless the context otherwise requires, be construed thus:

(a) "Probation" is a disposition under which a defendant, after conviction and sentence, is released subject to conditions imposed by the court and to the supervision of a probation officer.

(b) "Probationer" means a person placed on probation.

(c) "Probation Officer" means one who investigates for the court a referral for probation or supervises a probationer or both.

Section 4. *Grant of Probation.* Subject to the provisions of this Decree, the court may, after it shall have convicted and sentenced a defendant and upon application at any time of said defendant, suspend the execution of said sentence and place the defendant on probation for such period and upon such terms and conditions as it may deem best.

Probation may be granted whether the sentence imposes a term of imprisonment or a fine only. An application for probation shall be filed with the trial court, with notice to the appellate court if an appeal has been taken from the sentence of conviction. The filing of the application shall be deemed a waiver of the right to appeal, or the automatic withdrawal of a pending appeal.

An order granting or denying probation shall not be appealable.

Section 5. *Post-sentence Investigation.* No person shall be placed on probation except upon prior investigation by the probation officer and a determination by the court that the ends of justice and the best interest of the public as well as that of the defendant will be served thereby.

Section 6. *Form of Investigation Report.* The investigation report to be submitted by the probation officer under Section 5 hereof shall be in the form prescribed by the Probation Administrator and approved by the Secretary of Justice.

Section 7. *Period for Submission of Investigation Report.* The probation officer shall submit to the court the investigation report on a defendant not later than sixty days from receipt of the order of said court to conduct the investigation. The court shall resolve the petition for probation not later than five days after receipt of said report.

Pending submission of the investigation report and the resolution of the petition, the defendant may be allowed on temporary liberty under his bail filed in the criminal case; Provided, That, in case where no bail was filed or that the defendant is incapable of filing one, the court may allow the release of the defendant on recognize the custody of a responsible member of the community who shall guarantee his appearance whenever required by the court.

Section 8. *Criteria for Placing an Offender on Probation.* In determining whether an offender may be placed on probation, the court shall consider all information relative, to the character, antecedents, environment, mental and physical condition of the offender, and available institutional and community resources. Probation shall be denied if the court finds that:

- (a) the offender is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or
- (b) there is undue risk that during the period of probation the offender will commit another crime; or
- (c) probation will depreciate the seriousness of the offense committed.

Section 9. *Disqualified Offenders.* The benefits of this Decree shall not be extended to those:

- (a) sentenced to serve a maximum term of imprisonment of more than six years;
- (b) convicted of any offense against the security of the State;
- (c) who have previously been convicted by final judgment of an offense punished by imprisonment of not less than one month and one day and/or a fine of not less than Two Hundred Pesos;
- (d) who have been once on probation under the provisions of this Decree; and
- (e) who are already serving sentence at the time the substantive provisions of this Decree became applicable pursuant to Section 33 hereof.

Section 10. *Conditions of Probation.* Every probation order issued by the court shall contain conditions requiring that the probationer shall:

- (a) present himself to the probation officer designated to undertake his supervision at such place as may be specified in the order within seventy-two hours from receipt of said order;
- (b) report to the probation officer at least once a month at such time and place as specified by said officer.

The court may also require the probationer to:

- (a) cooperate with a program of supervision;
- (b) meet his family responsibilities;
- (c) devote himself to a specific employment and not to change said employment without the prior written approval of the probation officer;
- (d) undergo medical, psychological or psychiatric examination and treatment and enter and remain in a specified institution, when required for that purpose;
- (e) pursue a prescribed secular study or vocational training;
- (f) attend or reside in a facility established for instruction, recreation or residence of persons on probation;
- (g) refrain from visiting houses of ill-repute;
- (h) abstain from drinking intoxicating beverages to excess;
- (i) permit to probation officer or an authorized social worker to visit his home and place or work;
- (j) reside at premises approved by it and not to change his residence without its prior written approval;
or
- (k) satisfy any other condition related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience.

Section 11. *Effectivity of Probation Order.* A probation order shall take effect upon its issuance, at which time the court shall inform the offender of the consequences thereof and explain that upon his failure to comply with any of the conditions prescribed in the said order or his commission of another offense, he shall serve the penalty imposed for the offense under which he was placed on probation.

Section 12. *Modification of Condition of Probation.* During the period of probation, the court may, upon application of either the probationer or the probation officer, revise or modify the conditions or period of probation. The court shall notify either the probationer or the probation officer of the filing such an application so as to give both parties an opportunity to be heard thereon.

The court shall inform in writing the probation officer and the probationer of any change in the period or conditions of probation.

Section 13. *Control and Supervision of Probationer.* The probationer and his probation program shall be under the control of the court who placed him on probation subject to actual supervision and visitation by a probation officer.

Whenever a probationer is permitted to reside in a place under the jurisdiction of another court, control over him shall be transferred to the Executive Judge of the Court of First Instance of that place, and in such a case, a copy of the probation order, the investigation report and other pertinent records shall be furnished said Executive Judge. Thereafter, the Executive Judge to whom jurisdiction over the probationer is transferred shall have the power with respect to him that was previously possessed by the court which granted the probation.

Section 14. *Period of Probation.*

(a) The period of probation of a defendant sentenced to a term of imprisonment of not more than one year shall not exceed two years, and in all other cases, said period shall not exceed six years.

(b) When the sentence imposes a fine only and the offender is made to serve subsidiary imprisonment in case of insolvency, the period of probation shall not be less than nor to be more than twice the total number of days of subsidiary imprisonment as computed at the rate established, in Article thirty-nine of the Revised Penal Code, as amended.

Section 15. *Arrest of Probationer; Subsequent Disposition.* At any time during probation, the court may issue a warrant for the arrest of a probationer for violation of any of the conditions of probation. The probationer, once arrested and detained, shall immediately be brought before the court for a hearing, which may be informal and summary, of the violation charged. The defendant may be admitted to bail pending such hearing. In such a case, the provisions regarding release on bail of persons charged with a crime shall be applicable to probationers arrested under this provision. If the violation is established, the court may revoke or continue his probation and modify the conditions thereof. If revoked, the court shall order the probationer to serve the sentence originally imposed. An order revoking the grant of probation or modifying the terms and conditions thereof shall not be appealable.

Section 16. *Termination of Probation.* After the period of probation and upon consideration of the report and recommendation of the probation officer, the court may order the final discharge of the probationer upon finding that he has fulfilled the terms and conditions of his probation and thereupon the case is deemed terminated.

The final discharge of the probationer shall operate to restore to him all civil rights lost or suspend as a result of his conviction and to fully discharge his liability for any fine imposed as to the offense for which probation was granted.

The probationer and the probation officer shall each be furnished with a copy of such order.

Section 17. Confidentiality of Records. The investigation report and the supervision history of a probationer obtained under this Decree shall be privileged and shall not be disclosed directly or indirectly to anyone other than the Probation Administration or the court concerned, except that the court, in its discretion, may permit the probationer or his attorney to inspect the aforementioned documents or parts thereof whenever the best interest of the probationer make such disclosure desirable or helpful: Provided, Further, That, any government office or agency engaged in the correction or rehabilitation of offenders may, if necessary, obtain copies of said documents for its official use from the proper court or the Administration.

Section 18. The Probation Administration. There is hereby created under the Department of Justice an agency to be known as the Probation Administration herein referred to as the Administration, which shall exercise general supervision over all probationers.

The Administration shall have such staff, operating units and personnel as may be necessary for the proper execution of its functions.

Section 19. Probation Administration. The Administration shall be headed by the Probation Administrator, hereinafter referred to as the Administrator, who shall be appointed by the President of the Philippines. He shall hold office during good behavior and shall not be removed except for cause.

The Administrator shall receive an annual salary of at least forty thousand pesos. His powers and duties shall be to:

- (a) act as the executive officer of the Administration;
- (b) exercise supervision and control over all probation officers;
- (c) make annual reports to the Secretary of Justice, in such form as the latter may prescribe, concerning the operation, administration and improvement of the probation system;
- (d) promulgate, subject to the approval of the Secretary of Justice, the necessary rules relative to the methods and procedures of the probation process;
- (e) recommend to the Secretary of Justice the appointment of the subordinate personnel of his Administration and other offices established in this Decree; and
- (f) generally, perform such duties and exercise such powers as may be necessary or incidental to achieve the objectives of this Decree.

Section 20. Assistant Probation Administrator. There shall be an Assistant Probation Administrator who shall assist the Administrator perform such duties as may be assigned to him by the latter and as may be provided by law. In the absence of the Administrator, he shall act as head of the Administration.

He shall be appointed by the President of the Philippines and shall receive an annual salary of at least thirty-six thousand pesos.

Section 21. Qualifications of the Administrator and Assistant Probation Administrator. To be eligible for Appointment as Administrator or Assistant Probation Administrator, a person must be at least thirty-five years of age, holder of a master's degree or its equivalent in either criminology, social work, corrections, penology, psychology, sociology, public administration, law, police science, police administration, or related fields, and should have at least five years of supervisory experience, or be a member of the Philippine Bar with at least seven years of supervisory experience.

Section 22. Regional Office; Regional Probation Officer. The Administration shall have regional offices organized in accordance with the field service area patterns established under the Integrated Reorganization Plan.

Such regional offices shall be headed by a Regional Probation Officer who shall be appointed by President of the Philippines in accordance with the Integrated Reorganization Plan and upon the recommendation of the Secretary of Justice.

The Regional Probation Officer shall exercise supervision and control over all probation officer within his jurisdiction and such duties as may assigned to him by the Administrator. He shall have an annual salary of at least twenty-four thousand pesos.

He shall, whenever necessary, be assisted by an Assistant Regional Probation Officer who shall also be appointed by the President of the Philippines, upon recommendation of the Secretary of Justice, with an annual salary of at least twenty thousand pesos.

Section 23. Provincial and City Probation Officers. There shall be at least one probation officer in each province and city who shall be appointed by the Secretary of Justice upon recommendation of the Administrator and in accordance with civil service law and rules.

The Provincial or City Probation Officer shall receive an annual salary of at least eighteen thousand four hundred pesos.

His duties shall be to:

(a) investigate all persons referred to him for investigation by the proper court or the Administrator;

- (b) instruct all probationers under his supervision of that of the probation aide on the terms and conditions of their probations;
- (c) keep himself informed of the conduct and condition of probationers under his charge and use all suitable methods to bring about an improvement in their conduct and conditions;
- (d) maintain a detailed record of his work and submit such written reports as may be required by the Administration or the court having jurisdiction over the probationer under his supervision;
- (e) prepare a list of qualified residents of the province or city where he is assigned who are willing to act as probation aides;
- (f) supervise the training of probation aides and oversee the latter's supervision of probationers;
- (g) exercise supervision and control over all field assistants, probation aides and other personnel; and
- (h) perform such duties as may be assigned by the court or the Administration.

Section 24. Miscellaneous Powers of Provincial and City Probation Officers. Provincial or City Probation Officers shall have the authority within their territorial jurisdiction to administer oaths and acknowledgments and to take depositions in connection with their duties and functions under this Decree. They shall also have, with respect to probationers under their care, the powers of police officer.

Section 25. Qualifications of Regional, Assistant Regional, Provincial, and City Probation Officers. No person shall be appointed Regional or Assistant Regional or Provincial or City Probation Officer unless he possesses at least a bachelor's degree with a major in social work, sociology, psychology, criminology, penology, corrections, police science, administration, or related fields and has at least three years of experience in work requiring any of the abovementioned disciplines, or is a member of the Philippine Bar with at least three years of supervisory experience.

Whenever practicable, the Provincial or City Probation Officer shall be appointed from among qualified residents of the province or city where he will be assigned to work.

Section 26. *Organization.* Within twelve months from the approval of this Decree, the Secretary of Justice shall organize the administrative structure of the Administration and the other agencies created herein. During said period, he shall also determine the staffing patterns of the regional, provincial and city probation offices with the end in view of achieving maximum efficiency and economy in the operations of the probation system.

Section 27. Field Assistants, Subordinate Personnel, Provincial or City Probation Officers shall be assisted by such field assistants and subordinate personnel as may be necessary to enable them to carry out their duties effectively.

Section 28. *Probation Aides.* To assist the Provincial or City Probation Officers in the supervision of probationers, the Probation Administrator may appoint citizens of good repute and probity to act as probation aides.

Probation Aides shall not receive any regular compensation for services except for reasonable travel allowance. They shall hold office for such period as may be determined by the Probation Administrator. Their qualifications and maximum case loads shall be provided in the rules promulgated pursuant to this Decree.

Section 29. *Violation of Confidential Nature of Probation Records.* The penalty of imprisonment ranging from six months and one day to six years and a fine ranging from hundred to six thousand pesos shall be imposed upon any person who violates Section 17 hereof.

Section 30. *Appropriations.* There is hereby authorized the appropriation of the sum of Six Million Five Hundred Thousand Pesos or so much as may be necessary, out of any funds in the National Treasury not otherwise appropriated, to carry out the purposes of this Decree. Thereafter, the amount of at least Ten Million Five Hundred Thousand Pesos or so much as may be necessary shall be included in the annual appropriations of the national government.

Section 31. *Repealing Clause.* All provisions of existing laws, orders and regulations contrary to or inconsistent with this Decree are hereby repealed or modified accordingly.

Section 32. *Separability of Provisions.* If any part, section or provision of this Decree shall be held invalid or unconstitutional, no other parts, sections or provisions hereof shall be affected thereby.

Section 33. *Effectivity.* This Decree shall take effect upon its approval: Provided, However, That, the application of its substantive provisions concerning the grant of probation shall only take effect twelve months after the certification by the Secretary of Justice to the Chief Justice of the Supreme Court that the administrative structure of the Probation Administration and of the other agencies has been organized.

DONE in the City of Manila, this 24th day of July in the year of Our Lord, nineteen hundred and seventy-six.

(Sgd.) **FERDINAND E. MARCOS**

By the President:
(Sgd.) J. C. TUVERA
Presidential Assistant

Source: **Malacañang Records Office**

RESOURCES

- [PDF] Presidential Decree No. 0968, July 24, 1976
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