

[PRESIDENTIAL DECREE NO. 968, July 24, 1976]

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 system that will promote the reformation of offenders and thereby reduce the incidence of recidivism;

WHEREAS, the confinement of all offenders in 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 program;

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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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 recognizance to the custody of a responsible member of the community who shall guarantee his appearance whenever required by the court.

SEC. 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 an 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.

SEC. 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.

SEC. 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

(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 the probation officer or an authorized social worker to visit his home and place of 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.

SEC. 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.

SEC. 12. *Modification of Conditions 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 of 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.

SEC. 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.

SEC. 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 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.

SEC. 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 provisions. 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.

SEC. 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 suspended 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.

SEC. 17. *Confidentiality of Records.*—The investigation report and the supervision history of a probationer obtained under this Decree shall be privileged and shall not