

THIRTEENTH CONGRESS OF THE REPUBLIC  
OF THE PHILIPPINES  
First Regular Session

'04 JUN 30 P12:02

S E N A T E

S. NO. 23

RECEIVED BY: 

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Introduced by Senator Juan M. Flavier

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### EXPLANATORY NOTE


Pursuant to Memorandum Circular No. 3 issued by the Minister of Justice on September 25, 1978, service of warrants of arrests is prohibited during night time, on holidays, or on weekends except only in case of citizen's arrest' arrest of persons made as a result of surveillance and / or entrapment operations; persons being arrested for subversion and other crimes and offenses against national security; notorious and dangerous criminals for whom outstanding warrants of arrest have issued; and escapists and fugitives from justice.

In the words of the Circular – "Warrants of arrest should be served with the most careful adherence to the protections which the Constitution affords the individual citizen. In particular, it should be constantly borne in mind that the Constitution provides that in all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved. It likewise provides that no person should be deprived of liberty without due process of law.

"To ensure that these constitutional protections shall not be jeopardized, utmost care should be observe in serving warrants of arrest. Most specifically, no arrest should be made during nighttime, on holidays, or on weekends except as stated below. This prohibition is intended to avoid inconvenience on the part of the arrested person, who otherwise might find it difficult to post bond for his provisional liberty, or to secure the services of legal counsel while under detention."

In order to give more teeth to the Circular and to further strengthen the constitutional safeguards against unwarranted invasions and inroads on individual liberties, it is proposed to embody the aforementioned prohibitions in statutory form and to provide the corresponding sanctions for violations thereof.

Accordingly, it is most respectfully urged upon this august body to enact the proposed measure into law.

  
JUAN M. FLAVIER  
Senator

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**AN ACT  
PROHIBITING THE SERVICE OF WARRANTS OF ARRESTS IN  
CERTAIN CASES AND PROVIDING PENALTIES FOR VIOLATIONS  
THEREOF**

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

SECTION 1. Except only in cases of citizen's arrest, arrest of persons made as a result of surveillance and / or entrapment operations; persons being arrested for subversion and other crimes and offenses against national security; notorious and dangerous criminals for whom outstanding warrants of arrest have been issued; and escapist and fugitives from justice, it is hereby prohibited to serve warrants of arrests during nighttime, on legal holidays, or on weekends.

SEC. 2. Definition. – Nighttime shall cover the period from 6:00 p.m. to 6:00 a.m. and weekends shall cover the period from 12 o'clock p.m. (noon) of Friday to 6:00 p.m. of Sunday.

SEC. 3. Any violation of the provisions of this Act shall be punished by prision correccional.

SEC. 4. This Act shall take effect 15 days after its publication in at least 2 newspapers of general circulation.

Approved,