

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

1914 JUL 26 PM 11:17

SENATE
S. B. No. 1490

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The right to travel is a constitutionally protected right. It is a fundamental right which occupies a preferred position in the hierarchy of values enshrined in the Constitution. The right to travel is part of the liberty of which a citizen cannot be deprived without due process of law and only on clear and compelling grounds of national security, public health and public safety as mandated by the Constitution.

In the Philippines today, however, the right to travel has become illusory. Despite the constitutional safeguard, the right to travel has been repeatedly abridged, impaired and violated by courts despite absence of proof that the proposed travel is inimical to national security, public health and public safety. The impairment of the exercise of the right is made easy through the simple expedient of issuing a "hold departure" order which the courts currently issue even without notice and hearing, amounting to a blatant violation of due process of law.

The courts rest their "authority" to regulate the right to travel on certain decisions of the Supreme Court, most notably *Manotoc vs. Court of Appeals* (142 SCRA 149). Such reliance on jurisprudence is, however, misplaced. Worse, it is a mockery of a clearly-worded yet frequently ignored constitutional mandate: THAT THE RIGHT TO TRAVEL MAY ONLY BE IMPAIRED PURSUANT TO A LAW AND THAT MEANS A LAW PASSED BY CONGRESS, NOT A LAW PROMULGATED BY THE

JUDICIAL OR EXECUTIVE BRANCH OF GOVERNMENT. Absent such law, any act purporting to curtail or restrict the right to travel is unconstitutional.

This bill seeks to provided the law under which the right to travel may validly regulated. Its basic premise is that if a citizen's liberty to travel should be regulated, it must be pursuant to a law or the law-making functions of Congress.

In view of the foregoing, the early passage of this bill is earnestly sought.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

SENATE
S. B. No. **1490**

APPROVED BY: _____

Introduced by Senator Miriam Defensor Santiago

THE RIGHT TO TRAVEL ACT

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

SECTION 1. *Title.* – This Act shall be known as the “Right to Travel Act.”

SECTION 2. *Statement of Policy.* – It is hereby declared a national policy that the right to travel within the country and abroad shall not be denied a person without due process of law.

SECTION 3. *Right to Travel as Fundamental Right.* – The right to travel is a fundamental right which occupies a preferred position in the hierarchy of values. Any abridgement of the liberty to travel should therefore be strictly construed and always with full observance of due process of law. In case of equivalence of proof, courts should resolve in favor of the right to travel and the burden of proof rests on the person seeking to inhibit the exercise of the right.

SECTION 4. *Exceptions.* – The right to travel can only be restricted upon a clear showing of reasonable and compelling reasons that the proposed travel is plainly harmful conduct to national security, public safety, and public health.

SECTION 5. *Period To Resolve Motion.* – Courts shall resolve the Motion for the issuance of a “hold departure” order or seeking permission to travel within a reasonable period so as not to unduly prejudice or delay the purpose for which the travel is intended.

SECTION 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. *SECTION 6. Repealing Clause.* - All laws, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 7. -Repealing Clause. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provision of this Act is hereby repealed, modified or amended accordingly.

SECTION 8. Effectivity. - This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved.

FN: 281