

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

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SENATE
S. No. 1777

RECEIVED BY: [Signature]

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article III, Section 19, paragraph 2, provides that:

“The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.”

One of the most crucial problems in the various custodial facilities in the country is over congestion. According to the Bureau of Jail Management and Penology (BJMP) in its report presented last 29 November 2006, the total number of inmates in custodial facilities throughout the country is 60,041 while the ideal number should only be 18,955. This ideal number of inmates was computed based on the standards set by the United Nations which is one inmate per three square meters (1:3). Over-congestion in itself creates an inhumane condition for inmates inside custodial facilities. It causes the spread of disease among inmates and it is also the usual cause of scuffles. Because of over-congestion, the ideal custodian ration of one prison officer for every seven inmates (1:7) is not achieved. The present custodial ratio is one prison officer for every sixty four inmates (1:64). Given this problem of over congestion in custodial facilities, it is necessary to create measures to immediately decongest out jails.

This bill seeks to help alleviate the over-congestion in penal facilities by increasing the daily rate of subsidiary penalties from P8.00 to P350.00. By increasing the daily rate for subsidiary penalties, convicts are able to more quickly discharge any subsidiary penalties the courts may have imposed on them. This new amount is based on the minimum wage in the National Capital Region, as provided under Wage Order No. NCR-12.*

[Signature]
MIRIAM DEFENSOR SANTIAGO

* This bill was originally filed during the Thirteenth Congress, Third Regular Session.

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1 AN ACT
2 TO AMEND ARTICLE 39 OF REPUBLIC ACT NO. 3815,
3 OTHERWISE KNOWN AS THE PENAL CODE, AS AMENDED, ON THE DAILY RATE OF
4 THE SUBSIDIARY PENALTY OF IMPRISONMENT IN CASE OF INSOLVENCY

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

7 SECTION 1. Article 39 of Republic Act. No. 3815, otherwise known as the Penal Code,
8 as amended, is hereby amended to read as follows:

9 "Art. 39. *Subsidiary penalty.* — If the convict has no property with which
10 to meet the fine mentioned in the paragraph 3 of the next preceding article, he
11 shall be subject to a subsidiary personal liability at the rate of one day for [each
12 eight pesos] EVERY THREE HUNDRED AND FIFTY PESOS (P350.00),
13 subject to the following rules:

14 1. If the principal penalty imposed be *prision correccional* or *arresto* and
15 fine, he shall remain under confinement until his fine referred to in the preceding
16 paragraph is satisfied, but his subsidiary imprisonment shall not exceed one-third
17 of the term of the sentence, and in no case shall it continue for more than one
18 year, and no fraction or part of a day shall be counted against the prisoner.

19 2. When the principal penalty imposed be only a fine, the subsidiary
20 imprisonment shall not exceed six months, if the culprit shall have been
21 prosecuted for a grave or less grave felony, and shall not exceed fifteen days, if
22 for a light felony.

1 3. When the principal imposed is higher than *prision correccional*, no
2 *subsidiary imprisonment shall be imposed upon the culprit.*

3 4. If the principal penalty imposed is not to be executed by confinement in
4 a penal institution, but such penalty is of fixed duration, the convict, during the
5 period of time established in the preceding rules, shall continue to suffer the same
6 deprivations as those of which the principal penalty consists.

7 5. The subsidiary personal liability which the convict may have suffered
8 by reason of his insolvency shall not relieve him, from the fine in case his
9 financial circumstances should improve. (As amended by RA 5465, April 21,
10 1969).”

11 SECTION 2. *Separability Clause.* – If any provision or part thereof, is held invalid or
12 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
13 valid and subsisting.

14 SECTION 3. *Repealing Clause.* – Any law, presidential decree or issuance, executive
15 order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent
16 with the provisions of this Act is hereby repealed, modified or amended accordingly.

17 SECTION 4. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
18 publication in at least two (2) newspapers of general circulation.

19 Approved,

RCC 11/30/06