

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

10 JUL 26 P3:33

RECEIVED BY: 

SENATE

S.B. No. 2014

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Introduced by Senator EDGARDO J. ANGARA

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#### EXPLANATORY NOTE

Our present penal law provides that in instances where a person is convicted of a non-bailable offense or he is convicted of a bailable offense but cannot afford bail, he shall undergo preventive imprisonment. Once entitled to preventive imprisonment, he must voluntarily agree in writing that he will abide by the same disciplinary rules imposed upon convicted prisoners. Otherwise, if no such written agreement is made, he will only be entitled to four-fifths of the period of detention.

A review of many cases of prisoners show that this written agreement is often not completed for many reasons, *either*: a) the apprehending officers do not know this provision of law **or** have no forms; or b) the prisoner himself is not aware of the requirement; or c) neglect on the part of the prison officials as when the written agreement is lost or misplaced.

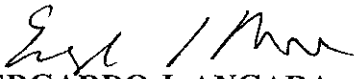
No less than the Board of Pardons and Parole who review the cases of prisoners is of the view that the legal requirement should be reversed. The prisoner should be entitled in full for preventive imprisonment, except in cases specifically provided by law, without any written agreement. This measure seeks to correct this iniquitous procedure and thus gives the offender full credit for his preventive imprisonment as the general rule without any written agreement. If and when he does not agree to abide with said rules, should he be required to do so in writing and then be entitled to only four-fifths (4/5) of the period of detention.

Another instance of inequity is when a prisoner has undergone preventive imprisonment for the possible maximum imprisonment of the offenses charged and he is not released. A paragraph under Article 29 by virtue of BP Blg. 85 corrects this injustice. This amendment, however, needs further refinement. The offender under detention should not undergo detention more than the maximum, instead it should be equal to the possible maximum imprisonment. Moreover, since the prisoner, if he were to be convicted, would enjoy good conduct time allowance for actual period of detention, then the computation for purposes of immediate release should be the actual period of detention plus good conduct time allowance as the maximum possible imprisonment.

It is unjust to unduly delay the proceedings of a person already under detention, he should be given every possible opportunity to enjoy the benefits of the law. If good

conduct time allowance is granted to convicted prisoners, this benefit should also be extended to the detention prisoner under Article 29, as amended by BP Blg. 85.

In view of the foregoing, approval of this measure is earnestly sought.

  
**EDGARDO J. ANGARA**

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AN ACT  
AUTHORIZING THE COURT TO REQUIRE COMMUNITY SERVICE IN LIEU  
OF IMPRISONMENT FOR THE PENALTY OF *ARRESTO MENOR*, AMENDING  
FOR THAT PURPOSE ARTICLE 88 OF THE REVISED PENAL CODE,  
AND FOR OTHER PURPOSES

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

1 SECTION 1. Act No. 3815, as amended, Article 88 is hereby amended to read as  
2 follows:

3 "ART. 88. *Arresto Menor*. - The penalty of *arresto menor* shall be  
4 served on the municipal OR CITY jail or in the house of the defendant  
5 himself under the surveillance of an officer of the law, when the court so  
6 provides in its decision, taking into consideration which may seem  
7 satisfactory to it.

8 THE COURT MAY, IN LIEU OF SERVICE IN JAIL, *MOTU*  
9 *PROPIO*, REQUIRE THAT THE PENALTY OF *ARRESTO MENOR*  
10 BE SERVED BY THE DEFENDANT BY RENDERING  
11 COMMUNITY SERVICE IN THE PLACE WHERE THE CRIME  
12 WAS COMMITTED,

13 UNDER SUCH TERMS AS THE COURT SHALL  
14 DETERMINE AND UNDER THE SURVEILLANCE OF THE  
15 BARANGAY CAPTAIN OF THE COMMUNITY AND A  
16 PROBATION OFFICER. IN REQUIRING COMMUNITY  
17 SERVICE, THE COURT SHALL CONSIDER THE WELFARE OF  
18 THE SOCIETY AND THE REASONABLE PROBABILITY THAT

1 THE PERSON SENTENCED SHALL REMAIN AT LIBERTY  
2 WITHOUT VIOLATING THE LAW.

3 COMMUNITY SERVICE SHALL CONSIST OF ANY  
4 ACTUAL PHYSICAL ACTIVITY WHICH INCULCATES CIVIC  
5 CONSCIOUSNESS, AND IS INTENDED TOWARDS THE  
6 IMPROVEMENT OF A PUBLIC WORK OR PROMOTION OF A  
7 PUBLIC SERVICE. SHOULD THE PERSON SENTENCED  
8 VIOLATE THE TERMS FOR RENDERING COMMUNITY  
9 SERVICE, THE COURT SHALL ORDER HIS RE-ARREST AND  
10 THE PENALTY SHALL BE SERVED IN JAIL.

11 SHOULD THE PERSON SENTENCED COMPLY WITH  
12 THE TERMS FOR RENDERING COMMUNITY SERVICE, THE  
13 COURT SHALL RENDER AN ORDER THAT SENTENCE HAVE  
14 BEEN FULLY SERVED.

15 THE PRIVILEGE OF RENDERING COMMUNITY  
16 SERVICE IN LIEU OF SERVICE IN JAIL SHALL BE AVAILED  
17 OF ONLY ONCE.

18  
19 **SEC. 2. *Separability Clause.*** If any provision, or part hereof held invalid or  
20 unconstitutional, the remainder of the law or the provision not otherwise affected shall  
21 remain valid and subsisting.

22  
23 **SEC. 3. *Repealing Clause.*** Articles 27 and 88 of the Revised Penal Code, is hereby  
24 amended and any law, presidential decree or issuance, executive order, letter of instruction,  
25 administrative order, rule or regulation contrary to, or inconsistent with the provisions of  
26 this Act is hereby repealed, modified, or amended accordingly.

27  
28 **SEC. 4. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its  
29 publication in the Official Gazette or in at least two (2) newspapers of general circulation,  
30 whichever comes first.

31  
32 *Approved,*