

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

SENATE  
OFFICE OF THE SECRETARY

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SENATE  
S. No. 2202

RECEIVED BY: 

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Introduced by Senator Miriam Defensor Santiago

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#### 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 their "authority" to regulate the right to travel on certain decisions of the Supreme Court, most notably *Manotoe vs Court 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. Hence, 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. 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.\*

*miriam defensor santiago*  
MIRIAM DEFENSOR SANTIAGO

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\* This bill was originally filed during the Thirteenth Congress, First Regular Session,

FIFTEENTH CONGRESS OF THE REPUBLIC )  
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1 AN ACT  
2 SAFEGUARDING THE PEOPLE'S THE RIGHT TO TRAVEL BY PROVIDING  
3 GUIDELINES UNDER WHICH SUCH RIGHT MAY BE REGULATED

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

4 SECTION 1. *Short Title.* - This Act shall be known as the "Right to Travel Act."

5  
6 SECTION 2. *Declaration of Policy.* - It is hereby declared a national policy that the right  
7 to travel within the country and abroad shall not be denied a person without due process of law.

8  
9 SECTION 3. *Right to Travel as Fundamental Right.* - The right to travel is a fundamental  
10 right which occupies a preferred position in the hierarchy of values. Any abridgement of the  
11 liberty to travel should therefore be strictly construed and always with full observance of due  
12 process of law. In case of equivalence of proof, courts should resolve in favor of the right to  
13 travel and the burden of proof rests on the person seeking to inhibit the exercise of the right.

14  
15 SECTION 4. *Exceptions.* - The right to travel can only be restricted upon a clear showing  
16 of reasonable and compelling reasons that the proposed travel is plainly harmful conduct to  
17 national security, public safety, and public health.

18  
19 SECTION 5. *Period to Resolve Motion.* - Courts shall resolve the Motion for the issuance  
20 of a "hold departure" order or seeking permission to travel within a reasonable period so as not  
21 to unduly prejudice or delay the purpose for which the travel is intended.

1           SECTION 6. *Separability Clause.* - If any provision or part hereof, is held invalid or  
2 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
3 valid and subsisting.

4  
5           SECTION 7. *Repealing Clause.* - Any law, presidential decree or issuance, executive  
6 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent  
7 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

8  
9           SECTION 8. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its  
10 publication in at least two (2) newspapers of general circulation.

Approved,