

SIXTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

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


Senate
Office of the Secretary

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SENATE

Senate Bill No. 1055

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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. 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 decision of the Supreme Court, most notably *Manotoc v. 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 provide the law under which the right to travel may be 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.


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT
UPHOLDING THE RIGHT TO TRAVEL AND PROVIDING GROUNDS FOR
TRAVEL RESTRICTIONS

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

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

SEC. 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.

SEC. 3. Right to Travel as Fundamental Right. - The right to travel is a fundamental right, which occupies a preferred position in the hierarchy of rights. 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 absence of proof, courts should resolve in favor of the right to travel. The burden of proof rests on the person seeking to inhibit the exercise of the right.

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

SEC. 5. Hearing of the Motion. - No motion for the issuance of a hold departure order shall be granted by the court unless, there is proper showing that the person against whom the order is sought, is duly notified of the date and time of the hearing of the motion to enable him to present any controverting evidence. 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.

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 - All laws, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 7. Effectivity Clause. - This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved,