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SENATE

S. No. 1165

RECEIVED BY: 

Introduced by Senator Antonio "Sonny" F. Trillanes IV

EXPLANATORY NOTE

Jail congestion is one of the biggest problems of the Bureau of Jail Management and Penology (BJMP). This can be illustrated by our city our city jails. Caloocan City Jail, for instance, is congested by 1124 percent; the detention center has an ideal capacity of 136 inmates, yet the BJMP managed to fit in 1,665 people in it. According to BJMP website, 20,497 inmates are detained in the National Capital Region alone in a facility meant for 5,926 people. Particularly, Metro Manila jails are congested by almost 1000 percent. The nationwide congestion rate falls for an average of four to five inmates per square meter. The figures were based on the ideal ratio of three square meters for every one inmate¹.

According to the Revised Penal Code, the duration of the penalty of *arresto menor* shall be from one day to thirty days. It further indicates that:

"Art. 88. Arresto menor. — The penalty of arresto menor shall be served in the municipal jail, or in the house of the defendant himself under the surveillance of an officer of the law, when the court so provides in its decision, taking into consideration the health of the offender and other reasons which may seem satisfactory to it."

Under several Articles of the same Code, *arresto menor* is imposed in crimes which include, among others:

- Art. 175 – using false certificates
- Art. 202 – vagrancy
- Art. 313 – altering boundaries or landmarks
- Art. 364 – intriguing against honor
- Art. 365 – imprudence and negligence constituting light felony

This bill² is put forward in the hope that flexibility in our sentencing procedure will decongest our local jails and prevent altogether the criminalization of the offender by his confinement in our overcrowded jails. This bill specifically authorizes the court to require community service in lieu of service in jail for offenses punishable by *arresto menor* as the court may determine fit.

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


ANTONIO "SONNY" F. TRILLANES IV
Senator

¹ Information retrieved from <http://www.catanduanestribune.com/article/2A5A> on 25 June 2013.

² This bill was filed in the 15th Congress by Representatives Angara, Rodriguez (R.), De Jesus, Paez, Aggabao, Ortega (F.), Gullas, Ong And Primicias-Agabas, Per Committee Report No. 294



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

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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
THE PURPOSE CHAPTER FIVE, TITLE THREE, BOOK ONE OF ACT NO. 3815, AS
AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE

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

1 **SECTION 1.** Chapter 5, Title 3, Book I of Act No. 3815, as amended, otherwise known
2 as the Revised Penal Code, is hereby further amended to include an additional article to read as
3 follows:

4 "ART. 88-A. COMMUNITY SERVICE. – THE COURT MAY, IN LIEU
5 OF SERVICE IN JAIL, MOTU PROPRIO, REQUIRE THAT THE PENALTIES
6 OF ARRESTO MENOR BE SERVED BY THE DEFENDANT BY
7 RENDERING COMMUNITY SERVICE IN THE PLACE WHERE THE
8 CRIME WAS COMMITTED, UNDER SUCH TERMS AS THE COURT
9 SHALL DETERMINE AND UNDER THE SURVEILLANCE OF THE
10 BARANGAY CAPTAIN OF THE COMMUNITY OR A PROBATION
11 OFFICER. FURTHER, THE ABOVEMENTIONED DEFENDANT SHALL BE
12 SUBJECTED TO REHABILITATIVE COUNSELING.

13 "IN REQUIRING COMMUNITY SERVICE, THE COURT SHALL
14 CONSIDER THE WELFARE OF THE SOCIETY AND THE REASONABLE

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

3 “COMMUNITY SERVICE SHALL CONSIST OF ANY ACTUAL
4 PHYSICAL ACTIVITY WHICH INCULCATES CIVIC CONSCIOUSNESS,
5 AND IS INTENDED TOWARDS THE IMPROVEMENT OF A PUBLIC
6 WORK OR PROMOTION OF A PUBLIC SERVICE.

7 “SHOULD THE PERSON SENTENCED VIOLATE THE TERMS FOR
8 RENDERING COMMUNITY SERVICE, THE COURT SHALL ORDER HIS
9 RE-ARREST AND THE PENALTY SHALL BE SERVED IN JAIL. SHOULD
10 THE PERSON SENTENCED COMPLY WITH THE TERMS FOR
11 RENDERING COMMUNITY SERVICE, THE COURT SHALL RENDER AN
12 ORDER THAT SENTENCE HAS BEEN FULLY SERVED.

13 “THE PRIVILEGE OF RENDERING COMMUNITY SERVICE IN
14 LIEU OF SERVICE IN JAIL SHALL BE AVAILED OF ONLY ONCE.”

15
16 **SEC. 2. *Implementing Rules and Regulations (IRR).*** – The Department of Justice and
17 the Department of Social Welfare and Development shall issue the rules and regulations for the
18 implementation of the provisions of this Act within ninety (90) days from its effectivity.

19
20 **SEC. 3. *Separability Clause.*** - If any provision or part hereof is held invalid or
21 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
22 valid and subsisting.

23
24 **SEC. 4. *Repealing Clause.*** - Chapter 5, Title 3, Book I of the Revised Penal Code is
25 hereby amended and any law, presidential decree or issuance, executive order, letter of
26 instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions
27 of this Act is hereby repealed, modified or amended accordingly.

1 **SEC. 5. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication in
2 any two (2) newspapers of general circulation.

Approved,