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Introduced by Senator Maria Lourdes Nancy S. Binay

AN ACT ALLOWING HOUSE ARREST OR CONFINEMENT IN PLACES OTHER
THAN REGULAR DETENTION FACILITY FOR DETENTION PRISONERS

EXPLANATORY NOTE

The recent death of an infant of a pregnant detention prisoner, including other detention prisoners with health or other special conditions, have generated interest in “house arrest”, “hospital arrest” and other alternative ways of confinement of certain detention prisoners who by their situation and personal circumstances require a particular care or attention.

The term “house arrest” however does not appear in the Philippine Rules of Criminal Procedure.

In the statute books however, the term “house arrest” appears in Republic Act 9372 or the Human Security Act of 2007. Section 26 states that:

“SEC. 26. *Restriction on Travel.* - In cases where evidence of guilt is not strong, and the person charged with the crime of terrorism or conspiracy to commit terrorism is entitled to bail and is granted the same, the court, upon application by the prosecutor, shall limit the right of travel of the accused to within the municipality or city where he resides or where the case is pending, in the interest of national security and public safety, consistent with Article III, Section 6 of the Constitution. Travel outside of said municipality or city, without the authorization of the court, shall be deemed a violation of the terms and conditions of his bail, which shall then be forfeited as provided under the Rules of Court.

He/she may also be placed under **house arrest by order of the court** at his or her usual place of residence.

While under **house arrest**, he or she may not use telephones, cellphones, e-mails, computers, the internet or other means of communications with people outside the residence until otherwise ordered by the court.

The restrictions abovementioned shall be terminated upon the acquittal of the accused or of the dismissal of the case filed against him or earlier upon

the discretion of the court on motion of the prosecutor or of the accused.”
(*Emphasis supplied.*)

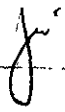
Notwithstanding the reference to “house arrest”, there is insufficient legal basis under existing laws for courts to issue such alternative mode of confinement for detention prisoners. In some states in the United States of America, alternative forms of confinement are allowed. One such possible model is Oklahoma’s Correction Act of 1967, which even extends alternative forms of confinement to prisoners by final judgment. While extending this privilege to prisoners by final judgment is worth further study, it is worthwhile to test and apply this to detention prisoners, who after all are entitled to the constitutional presumption of innocence until their guilt is established beyond reasonable doubt.

In view of the foregoing, the passage of this bill is earnestly recommended.



MARIA LOURDES NANCY S. BINAY
Senator

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5 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
6 *assembled:*
7

8 SECTION 1. *Declaration of Policy.* The State upholds the constitutional right of the accused
9 to be presumed innocent until the contrary is proved beyond reasonable doubt. Consistent
10 with this presumption, the State recognizes the right of detention prisoners or prisoners
11 awaiting final judgment for a more humane and comfortable treatment that can be rightfully
12 enjoyed by innocent persons.
13

14 SECTION 2. *Authority of the courts.* The court where the criminal case of a detention
15 prisoner is pending, may upon recommendation of the Department of Justice (DOJ) extend
16 the limits of the place of confinement of a detention prisoner or prisoner awaiting decision of
17 his/her case in by authorizing such committed offender under special conditions to be away
18 from such detention facility for humanitarian reasons such as but not limited to the following
19 purposes:
20

- 21 (a) To attend the funeral of a relative;
22
23 (b) To visit a critically ill relative;
24
25 (c) To obtain medical, psychiatric and other health services;
26

27 For the purpose of this section, "relative" means the offender's father, mother, child,
28 stepchild or adopted child, brother, sister, current spouse, or grandparents, and upon
29 acceptable documentation, any person who served a parental capacity.
30

31 A person away from a detention facility shall be accompanied by a member of the Philippine
32 National Police at all times.
33

34 SECTION 3. *House Arrest or other alternative forms of confinement.* Courts in the exercise
35 of sound discretion may order the detention of a detention prisoner in his/her house, or
36 hospital where he/she is presently confined. A person subjected to alternative forms of
37 confinement shall be accompanied by a member of the Philippine National Police at all
38 times.

1 SECTION 4. *Implementing Rules.* The Department of Justice in coordination with the
2 Supreme Court shall formulate the rules implementing this Act within ninety (90) days from
3 promulgation of this Act.

4
5 SECTION 5. *Effectivity.* This Act shall take effect fifteen (15) days after its complete
6 publication in at least two (2) newspapers of general circulation.

7
8 Approved,