

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

7 JUL -2 P 1:16

SENATE

RECEIVED BY: 

S.B. No. 395

Introduced by Senator JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Article III, Section 1 of the 1987 Constitution provides that, "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

One of man's most cherished possessions is his liberty against any form of restraint. To reinforce this, the law grants to an individual the right to avail of the writ of *habeas corpus*. Upon the issuance of a writ, a person who restrains another is directed to produce the restrained person before the court or judge designated in the writ at the time and place therein specified.

The present law on *habeas corpus*, specifically Rule 102 Section 16 of the Revised Rules of Court, provides for a penalty of contempt and a fine of One Thousand pesos (P1,000.00) in case a person disobeys the writ or if the clerk of court refuses to issue one without just reasons. In effect, the Rules of Court imposes the said penalty only in two (2) instances: refusal of the clerk of court to issue the writ after allowance thereof and demand therefore, and neglect or refusal of a person to whom a writ is directed to obey or make return of the same according to the command thereof or refuses, upon demand made by or on behalf of the prisoner, to deliver to the person demanding, within six (6) hours after the demand therefore a true copy of the warrant or order of commitment.

The bill proposes to punish disobedience to the writ in four (4) instances:

- (1.) A person who refuses or neglects to obey the writ;
- (2.) A member of the court who knowingly recommits to prison a person already discharged;
- (3.) A clerk of court who refuses without reason to issue a writ;
- (4.) A person who intently transfers residence or transfers a person under his custody of restraint to elude the service of the writ.

This bill is filed for the purpose of giving aggrieved citizens a means to protect their rights. By providing stiffer penalties in addition to the one imposed under the Rules, abusive individuals will be deterred from further committing the said acts.


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


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT PENALIZING DISOBEDIENCE TO THE WRIT OF HABEAS CORPUS AND OTHER ACTS AND FOR OTHER PURPOSES

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 Compliance to the *Writ of Habeas Corpus Act of 2007.*"

Sec. 2. Declaration of Policy. - The State shall maintain peace and order, protect the life of its citizens, and shall promote their general welfare. The Bill of Rights enshrined in our Constitution declares that, "No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws." Towards this end, all acts curtailing freedom of individuals without just cause and evading or disobeying writs duly issued by competent court authorities are declared unlawful.

Sec. 3. How Committed. - Disobedience to the writ of *habeas corpus* may be committed in the following manner:

- (1) Every officer or person to whom a writ of *habeas corpus* may be directed, who after service thereof, neglects or refuses to obey the command thereof
- (2) Every person who, either solely or as a member of the court, knowingly and unlawfully recommits, imprisons, or restrains for the same cause, any person who has been discharged upon a writ of *habeas corpus*;
- (3) Every clerk of court who refuses to issue the writ after allowance thereof and demand therefore;
- (4) Every person having in his custody, or under his restraint of power, any person for whose relief a writ of *habeas corpus* has been issued, who, with the intent to elude the service of such writ or to avoid the effect thereof, transfers such person to the custody of another, or places him under the control or power of another, or conceals or changes the place of his confinement or restraint, or removes him outside the jurisdiction of the court or judge issuing the writ.

Sec. 4. Liability. - Any person who violates any provision of this Act shall, upon conviction, be penalized by imprisonment of not less than six (6) months but not more than six (6) years, or a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than One Hundred Thousand Pesos (P100,000.00), or both such fine and imprisonment at the discretion of the court.

Sec. 5. Liability of Superior Officer. - The superior officer of the public officer or employee to whom the writ was directed or issued against shall be solidarily liable for damages arising from the acts punished under this Act if the superior officer is informed of issuance of the writ of such acts by the public officer or employee and no immediate action is taken thereon.

Sec. 6. Independent Action for Damages. - Nothing in this Act shall preclude the offended party from instituting a separate and independent action for damages and other affirmative relief.

Sec. 7. Administrative Liability. - If the offender is a public officer or employee, the filing of civil and/or criminal action against him will not be a bar to any administrative liability.

Sec. 8. Separability Clause. - If any portion or provision of this Act is declared void or unconstitutional, the remaining portions or provisions hereof shall not be affected by such declaration.

Sec. 9. Repealing Clause. - All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed and modified accordingly.

Sec. 10. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,