

SENATE

8 DEC 17 P3:23

COMMITTEE REPORT NO. 235
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Submitted by the Committee on Justice and Human Rights on DEC 17 2008

Re: Senate Bill No. 2973.

Recommending its approval in substitution of Senate Bill No. 395.

Sponsor: Senator Escudero.

MR. PRESIDENT:

The Committee on Justice and Human Rights to which was referred Senate Bill No. 395, introduced by Senator Ejercito Estrada, entitled:

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

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached bill, Senate Bill No. 2973, prepared by the Committee, entitled:

**"AN ACT
PENALIZING DISOBEDIENCE TO THE WRIT OF HABEAS CORPUS"**

be approved in substitution of Senate Bill No. 395, with Senators Ejercito Estrada and Escudero as authors thereof.

Respectfully submitted:

Chairman:



FRANCIS "CHIZ" G. ESCUDERO
Committee on Justice and Human Rights

Vice-Chairman:



BENIGNO S. AQUINO III

Members:



ALAN PETER "COMPAÑERO" S. CAYETANO



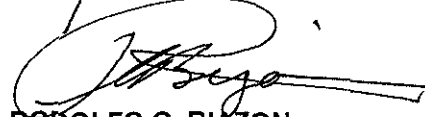
"COMPAÑERA" PIA S. CAYETANO

JUAN PONCE ENRILE

GREGORIO B. HONASAN II



RAMON BONG REVILLA JR.



RODOLFO G. BIAZON

M.A. MADRIGAL

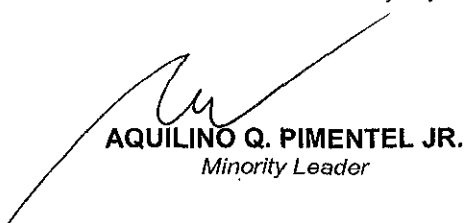
Ex-Officio Members:



JINGGOY EJERCITO ESTRADA
President Pro-Tempore



JUAN MIGUEL F. ZUBIRI
Majority Leader




AQUILINO Q. PIMENTEL JR.
Minority Leader

Hon. JUAN PONCE ENRILE

*Senate President
Senate of the Philippines
Pasay City*

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SENATE

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S. No. 2973

(In substitution of SB No. 395)

Prepared by the Committee on Justice and Human Rights with Senators Ejercito Estrada and Escudero as authors thereof

AN ACT
PENALIZING DISOBEDIENCE TO THE WRIT OF HABEAS CORPUS

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

1 SECTION 1. *Title.* - This Act shall be known as "The Compliance to the Writ of
2 Habeas Corpus Act of 2008."

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

10 SEC. 3. *How Committed.* - Disobedience to the writ of habeas corpus shall be
11 committed in the following manner:

1 (1) Every person, to whom a writ of habeas corpus may be directed, who
2 neglects or refuses to obey the command thereof after proper service;

3 (2) Every person who, either solely or as a member of the court, knowingly
4 and unlawfully recommit, imprisons, or restrains for the same cause, any
5 person who has been discharged upon a writ of habeas corpus;

6 (3) Every clerk of court who refuses to issue the writ after grant thereof by the
7 court and demand therefor by the petitioner; or

8 (4) Every person having in his custody, or under his restraint of power, any
9 person for whose relief a writ of habeas corpus has been issued, who, with
10 the intent to elude the service of such writ or to avoid the effect thereof,
11 transfers such person to the custody of another, or places him under the
12 control or power of another, or conceals or changes the place of his
13 confinement or restraint, or removes him outside the jurisdiction of the court
14 or judge issuing the writ.

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

20 SEC. 5. *Liability of Superior Officer.* -The superior officer of the public officer or
21 employee to whom the writ was directed or issued against shall be solidarily liable
22 for damages arising from the acts punished under this Act if the superior officer is

1 informed or knowledgeable of the issuance of the writ, such acts by the public officer
2 or employee concerned, and no immediate appropriate action is taken thereon.

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

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

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

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

15 SEC. 10. *Effectivity.* - This Act shall take effect fifteen (15) days after its
16 complete publication in the Official Gazette or at least two (2) newspapers of general
17 circulation.

18 Approved,