

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

HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez

House Bill No. **3742**

EXPLANATORY NOTE

Jails and prisons are primarily designed to promote justice, public order and safety by the humane safekeeping and development and rehabilitation of those accused of crimes and convicted offenders, respectively. The unabated increase of jail population, however, has caused an appalling environment of jail and prison congestion that spawned human rights violations, corruption, inmate illness and deaths, perennial escape of inmates and other adverse jail incidents aggravated by the incessant insufficiency of resources especially manpower that ironically undermine public safety and national security.

Currently, the congestion rate at BJMP jails is 442%. For the National Capital Region, the congestion rate is at 608%. This is a big loss to the economy on two terms; one, by the loss of valuable human resource or labour that could be more wisely used to meet the demands of the growing national economy or meet the much needed social services required by the citizenry, and second, by the huge amount of funds appropriated for the basic provisions of the inmates, construction of facilities and equipment on top of the compensation and other benefits of prison and jail personnel. To address just the current congestion and maintain the ideal capacity of 4.7 square meters per inmate, BJMP estimates a budget of at least Php 5 Billion for Metro Manila alone. This amount could be reduced substantially by reducing the number of detainees and prisoners by equally effective means of restraint and rehabilitation that require less resource but provide more meaningful and effective treatment of criminals. In sum, the proposed measure will reduce government expenditure but will provide a better restraint of those accused of crimes and a more rationalized system of rehabilitative punishment of criminals resulting to a higher degree of reintegration and ultimately healing and restoration between and among the offenders and the community bringing about justice that leads to peace.

At the outset, imprisonment is not the only plausible means or a panacea cure to protect public safety or carry out the ends of justice. Aside from being extremely costly, it creates stigma or public labelling that makes it more difficult to facilitate the reintegration of inmates whether convicted or not, into the mainstream of society. Worse, victims are not compensated merely because offenders are not able to work gainfully once detained, hence, the latter is unable to produce money to compensate the former. Imprisonment thus becomes an excuse to the offender from being accountable to the victims of their indiscretion. Too, substantial amount of government resource is unduly wasted yet unable to effectively resolve crime, by our inclination, unbridled overuse or almost exclusive use of imprisonment as an instrument of justice. On the other hand, there are other available instruments or tools to attain the same ends of justice with the least economic burden to the government and the smallest amount of socio-economic cost to the offenders and the community. Prison and jails should be reserved only to those who are violent and recalcitrant.

Hence, passage of this bill is most respectfully sought.


RUFUS B. RODRIGUEZ



HOUSE OF REPRESENTATIVES

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AN ACT

ADOPTING COMMUNITY SERVICE, RESTITUTION, REPARATION OR INDEMNIFICATION, FINE, *DESTIERRO*, HOUSE ARREST AND OTHER RESTORATIVE JUSTICE MEASURES AND PROCESSES INCLUDING COMPLIANCE TO ATTACHED CONDITIONS SUCH AS COUNSELLING, INSTITUTIONAL OR NON-INSTITUTIONAL REHABILITATION, AS ALTERNATIVES TO IMPRISONMENT.

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

SECTION 1. This Act shall be known as the "Alternative Modes to Imprisonment Act".

SECTION 2. The duty and discretion of the courts of justice to determine the most appropriate penalty or imprisonment which may be imposed based on the felony or offense committed under the Revised Penal Code or other laws, based on their responsiveness to the needs of all stakeholders and the maintenance of public safety is recognized and expanded.

SECTION 3. In making its decision, the Courts, taking into consideration the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be consulted whenever appropriate, are hereby allowed to impose, in lieu of penalties of up to six (6) years imprisonment, any of the following sanctions as alternatives to imprisonment:

- a. Admonition, reprimand and warning, verbal or written;
- b. Conditional discharge, suspended or deferred sentence;
- c. Community service order;
- d. Work or education order
- e. Confiscation or an expropriation order;
- f. Restitution to the victim or compensation order;
- g. Referral to an attendance centre;
- h. Fine;
- i. House arrest;
- j. *Destierro*;
- k. Other restorative justice measure/s or any other mode of non-institutional treatment and some combination of the measures listed above.

SECTION 4. Any of the alternatives to imprisonment or combination thereof may be imposed as an equivalent penalty with the same duration or less, as deemed applicable and at the discretion of the court, if imprisonment would have been imposed for the felony or offense committed. The courts may also impose in combination with a reduced sentence of imprisonment, at the discretion of the court, any or a combination of the foregoing sanctions where the penalty that may be imposed for an offense is higher than six (6) years.

SECTION 5. Before the imposition of any of the alternatives to imprisonment aforementioned, the courts may refer a case for thorough study by a psychologist or psychiatrist and for investigation to a probation officer, to determine with greater certainty the appropriateness of the alternative sanction/s to be imposed.

SECTION 6. Where appropriate, the police, the prosecution service and/or other agencies dealing with criminal cases are hereby empowered to discharge the offender if they consider that it is not necessary to proceed with the case for the protection of society, crime prevention or the promotion of respect for the law and the rights of victims. For the purpose of deciding upon the appropriateness of discharge or determination of proceedings, a set of established criteria shall be crafted jointly by the Department of Justice and the Department of the Interior and Local Government. For cases where the imposable penalty does not exceed six years, the prosecutor may recommend suitable non-custodial measures or that bail shall not be necessary.

SECTION 7. The Department of Social Welfare and Development, the Department of Interior and Local Government, particularly, the Philippine National Police and the Bureau of Jail Management and Penology, and the Department of Justice, particularly, the Bureau of Corrections, Board of Pardons and Parole, the Parole and Probations Administration, and the National Bureau of Investigation shall be tasked to assist the court in the implementation of its order imposing any or a combination of the alternatives to imprisonment. For this purpose, the agencies concerned shall submit a report of their compliance to the court order.

SECTION 8. If any provision of this Act is rendered invalid or unconstitutional, the other provisions which are not declared unconstitutional shall remain valid and subsisting.

SECTION 9. Any law or executive issuance inconsistent with this Act shall be repealed, modified or amended accordingly.

SECTION 10. This Act shall take effect fifteen (15) days following its publication in the Official Gazette.

Approved,