

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



HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez

House Bill No. **2776**

EXPLANATORY NOTE

Under Republic Act No. 8239, otherwise known as the "Philippine Passport Act of 1996," a passport is a document issued by the Philippine government to its citizens, the issuance of which is equivalent to a request to other governments to allow Philippine citizens to pass safely and freely, and in case of need, to give them lawful aid and protection. More importantly, a passport is a proclamation of the citizenship of a Filipino; hence, it is a document superior to all other official documents such that the unauthorized withholding or retention of a passport brings untold hardships to its holder whose mobility and capacity to transact are greatly impaired.

Many of our Overseas Filipino Workers (OFWs) suffer from this unfair act as their passports are withheld or retained either by their recruitment agencies here in the Philippines or by their employers overseas, for various reasons. The unauthorized withholding of passports of our OFWs is a form of coercion that needs to be criminalized in order to afford full protection to our OFWs, who we consider to be our modern-day heroes.

In recognition of the unique situation faced by our OFWs, this bill provides for its extraterritorial application and a mechanism for any person who has personal knowledge of the commission of any offense under this Act to file the appropriate complaint. With these two mechanisms in place, our OFWs and their respective families would not be left without a remedy to enforce their rights under the law.

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


RUFUS B. RODRIGUEZ

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AN ACT

PROVIDING FOR THE CRIME OF "ILLEGAL WITHHOLDING OF PASSPORT" AND A MECHANISM FOR ITS PROSECUTION, AND FOR OTHER PURPOSES

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

Section 1. Short Title. - This Act shall be known as the "**Illegal Withholding of Passport Act.**"

Section 2. Declaration of Policy. - It is hereby declared a policy of the State to protect the rights and promote the welfare of every person, especially the Overseas Filipino Worker (OFW). Towards this end, the State shall endeavor to protect the OFW from all threats and coercion done through the confiscation, retention, or withholding of the OFW's Philippine passport, which is considered the property of the State.

Section 3. Definition of Terms. - As used in this Act, the following terms shall mean:

(a) "Overseas Filipino worker" or "OFW" refers to a person who is engaged, or has been engaged in a remunerated activity in a state of which he or she is not a citizen or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes or on an installation located offshore or on the high seas; to be used interchangeably with migrant worker; and

(b) "Applicant worker" refers to a person who is in the process of applying as an OFW.

Section 4. Prohibited Act. - Any person who confiscates, retains, or withholds, without any legal authority, any valid Philippine passport issued to an OFW shall be guilty of the crime of "Illegal Withholding of Passport"; Provided that, the act of withholding or denying passports or travel documents from applicant workers before departure, for monetary or financial considerations, or for any other reasons, other than those authorized under the Labor Code and its implementing rules and regulations, shall continue to be considered as "illegal recruitment" and be penalized as such crime under Section 6 (k) and Section 7, respectively, of Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022.

Section 5. Penalties and Sanctions. -

a. Any person found guilty of the crime of "Illegal Withholding of Passport" under Section 4 of this Act shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years, and shall pay a fine of not less than One Million Pesos (P1,000,000.00) but not more than Two Million Pesos (P2,000,000.00);

b. If the offender is a public official, in addition to the prescribed penalties, he or she shall be dismissed from service and shall suffer perpetual absolute disqualification to hold public office;

c. If the offender is a corporation, partnership, association, or any juridical person, then the penalty shall be imposed upon the president, partner, manager, and/or any responsible officer of the organization who directly participated in the commission of the violation of this Act or who knowingly permitted its commission, or who, having knowledge of the perpetration of the violation of this Act, allowed its perpetuation and continuance; provided that, in every case, the criminal conviction of the liable officer(s) shall cause and carry the automatic revocation of the business license and/or special certificate of accreditation or certificate of registration of the corporation, partnership, association, or juridical person; and, provided further that, these entities and their officers who are criminally held liable for the violation of this Act shall not be allowed to operate similar establishments under different names;

d. If the offender is an alien in Philippine territory, he or she shall, in addition to the penalties prescribed above, be deported after serving his or her sentence and be permanently barred from entering the country.

Section 6. Prosecution of Cases. - Any person who has personal knowledge of a violation of this Act may file a complaint for Illegal Withholding of Passport.

Section 7. Extra-Territorial Jurisdiction. - The provisions of this Act shall be enforced not only within the Philippines but also outside of Philippine territory, whether or not the act or acts constitute an offense at the place of commission, except to the extent that this may be limited by treaty obligations.

Section 8. Court of Proper Jurisdiction if Prohibited Act is Committed Outside the Philippines. - If the prohibited act is committed outside Philippine territory, the Regional Trial Court where the criminal action is first filed shall take cognizance of the case to the exclusion of all other courts; provided that, no prosecution may be commenced against a person under this Act if a foreign government, in accordance with jurisdiction recognized by the Philippines, has prosecuted or is prosecuting such person for the same conduct constituting violation of this Act, except upon the approval of the Secretary of Justice.

Section 9. Separability Clause. Should any provision of this Act or part hereof be declared unconstitutional, the other provisions or parts not affected thereby shall remain valid and effective.

Section 10. Repealing Clause. All laws, decrees, orders, and issuances, or portions thereof: which are inconsistent with the provisions of this Act, are hereby repealed, amended or modified accordingly.

Section 11. Effectivity Clause. This Act shall take effect after fifteen (15) days from its publication in two (2) newspapers of general circulation.

Approved,