

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Thirteenth Congress
First Regular Session

House Bill No. 2930



Introduced by Representative **Imee R. Marcos**

EXPLANATORY NOTE

Under Article 81, ultimate paragraph, of the Revised Penal Code, the execution of the sentence of a person convicted of *death penalty* shall be carried out not earlier than one (1) year nor later than eighteen (18) months after the judgment has become final and executory. Despite this express order of the law, there are still cases wherein the death sentence is not carried out within the prescribed period. This notwithstanding the use of the word "shall", which, in statutory construction, generally means that the order is mandatory and not merely directory.

This brings us to the question, "what is the implication of this provision?" Is this provision mandatory, such that non-observance of the period fixed would result to a prescription of the death sentence?

The Supreme Court once said that non-compliance of the period set by law does not result to a prescription of the death sentence and that "Congress would not have intended such an absurdity."

Indeed, Congress did not intend to make a law which would ultimately defeat the whole concept and purpose of *death penalty*. The failure of the government officials concerned to observe the law does not change the *heinousness* of the felony committed. This author is of the opinion that the failure to comply with the fixed period does not result to an extinction of the crime but merely to a disciplinary action on the person(s) responsible for such non-compliance.

In view of the foregoing, this author seeks the immediate approval of this bill.

Imee R. Marcos
Imee R. Marcos
Representative
2nd District, Ilocos Norte

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AN ACT
AMENDING ARTICLE 81 OF ACT NUMBERED THIRTY EIGHT HUNDRED AND FIFTEEN
(ACT NO. 3815) OTHERWISE KNOWN AS THE REVISED PENAL CODE, AS AMENDED

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

SECTION 1. Article 81 of the Revised Penal Code is hereby amended to read as follows:

Article 81. *When and How the Death Penalty is to be executed.* – xxx

xxx

xxx

xxx

The death sentence shall be carried out not earlier than one (1) year nor later than eighteen (18) months after the judgment has become final and executory without prejudice to the exercise by the President of his executive clemency powers at all times. **PROVIDED: THAT, FAILURE TO COMPLY WITH THIS PROVISION SHALL NOT RESULT TO A PRESCRIPTION OF THE DEATH SENTENCE.**

PROVIDED FURTHER: THAT, THE OFFICIALS RESPONSIBLE FOR THE NON-COMPLIANCE OF THIS PROVISION, WITHOUT REASONABLE JUSTIFICATION, SHALL SUFFER ADMINISTRATIVE PENALTIES, IN ACCORDANCE WITH LAW.

SECTION 2. Separability Clause. – If any provision or section of this Act or the application thereof to any person or circumstance is held to be invalid, the other provisions or sections of this Act, and the application of such provision or section to other persons or circumstances, shall not be affected thereby.

SECTION 3. Repealing Clause. - Any law, presidential decree or issuance, executive order, rule or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

SECTION 4. Effectivity. - This Act shall take effect fifteen (15) days following its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,