

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session



House Resolution No. 05

Introduced by Rep. **SALACNIB F. BATERINA**

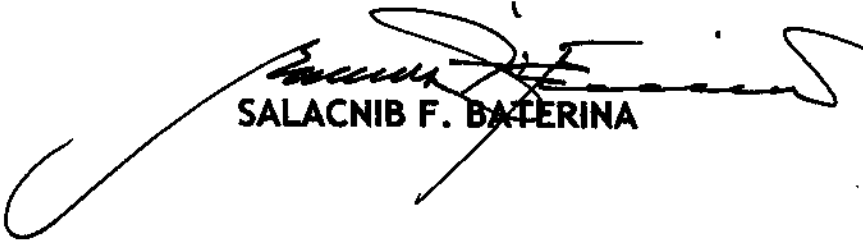
EXPLANATORY NOTE

The law on infidelity in the custody of prisoners is of 1930 vintage. The penalties considered harsh and cruel during those days are probably too tame in today's milieu where crimes of unparalleled cruelty have become a daily occurrence. At the same time, the escape of prisoners or the flight of criminals who are virtually captured has very often scandalized society. The government official or employee who has charge of a prisoner more often commit such infidelity in the custody because the penalty for such a dastardly act is light, and therefore, the lure to illegally free a prisoner through bribery is very great if not too tempting. One who frees a prisoner is part of the commission of the offense perpetrated by the prisoner. A guard who frees an inmate not only participates *post litem* to the commission of the crimes of the offender but turned traitor to the government and the laws he is sworn to protect and respect.

In the Penal Code the penalty for the crime of freeing a convicted prisoners by their guard/keepers is *prision correctional* in its medium to its maximum period, therefore, the penalty begins at two (2) years and one day to 6 years. However for the crime of infidelity in the custody of prisoners who are merely in detention, the penalty is *prision correctional* in its minimum period, which is 6 months and one day to two (2) years. The emphasis of the imposition of the penalty is based on whether the prisoner is convicted or merely in detention. To us, this categorization is not proper and is insufficient because it is not based on the gravity of the offense of the prisoner. True, the accused is deemed innocent until he is convicted. But today, there are occurrence of crimes that are so odious and atrocious that it despoils the human being and violate the sensibilities of man.

The commission of crimes that are heinous, like murder, the massacre or the extermination of a family, terrorism, genocide by the use of weapon of mass destruction like dynamite and explosion have become nightmares which threaten the stability of the government. Yet every now and then we are scandalized by the rampant escape of those accused of terrorism, economic sabotage, massacre and similar terrible felonies from their high security incarceration while the officials and the personnel in charge of the detainee literally go scot-free because the highest penalty they can be meted out is two years imprisonment. Society must therefore act through the law-making body of the government. The imposition of a steeper penalty is but a defense of society against government officials and employees who desecrate their duty as care takers of detention prisoners. It is not only valid but logical as dictated by necessity that the penalty of the crime of infidelity of a custodian be made in proportion to the gravity of the crimes of the illegally freed offender.

The approval of this bill into law at the earliest possible time is our paramount concern.



SALACNIB F. BATERINA

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 05

Introduced by Rep. **SALACNIB F. BATERINA**

AN ACT DEFINING THE CRIME OF BETRAYAL OF DUTY IN THE CUSTODY OF PRISONERS PROVIDING FOR ADDITIONAL RULES ON THE IMPRISONMENT, DETENTION, CONFINEMENT AND CUSTODY OF PRISONERS AND DETAINEES, SPECIFYING ADDITIONAL WORK AND RESPONSIBILITIES OF GOVERNMENT PERSONNEL CHARGED WITH THE CUSTODY OF SUCH PRISONERS AND STATING THE PENALTIES THEREFORE, AND FOR OTHER PURPOSES

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

1 SECTION 1. Any provision of law to the contrary notwithstanding, the crime
2 of betrayal of duty in the custody of prisoners and detained persons is hereby
3 defined as an act or series of acts whereby a person or persons charged with
4 the custody of prisoners, detained persons under preventive imprisonment,
5 persons arrested in the act of committing a crime, persons who are wanted in
6 foreign countries by which the Philippines has a treaty of reciprocity for
7 extradition, persons who committed heinous crimes, terrorist and war criminals or
8 one engaged in economic sabotage, shall allow without legal justification the
9 escape of such prisoner or persons similarly situated shall be punished with a
10 penalty which is one degree lower than the penalty imposed for the offense
11 which the detainee is charged with or convicted of, PROVIDED THAT in no case
12 shall the penalty imposed be lower than *priison correctional* in its minimum

1 period. PROVIDED FURTHER THAT for the escape of a detainee wanted by a
2 foreign country, the penalty of *prision correctional* in its maximum period shall
3 be meted out, and, PROVIDED FURTHERMORE THAT for the escape of the
4 prisoners who are accused of the commission of heinous, terrorism, war crimes
5 and economic sabotage, the penalty of life imprisonment shall be imposed
6 without any provision for parole, PROVIDED FINALLY THAT the persons convicted
7 of the crime of betrayal of duty in the custody of prisoners shall likewise suffer
8 special permanent disqualification if the detainee shall have been convicted or
9 who has admitted his guilt in open court, even if the decision of conviction has
10 not been rendered.

11 SECTION 2. In addition to the requirement considered necessary in the
12 custody of prisoners, imposed by present rules and regulations, the office or
13 institution for high risk detainees, shall establish or add to existing rules, a record
14 of the time the detained person was accepted by the institution, name of the
15 persons guarding the detainee or detainees, the time and date there were turn
16 over of guards, properly signed and acknowledged by said personnel guarding
17 the detainee(s), the movement of the detainees from and to his room or cell
18 of detention, his transfer from one institution or detention to another and such
19 record shall at all time be properly signed and acknowledged in the said
20 records by the persons ort person in custody.

21 SECTION 3. Person, though not in charge of the detainee, who enjoys a
22 higher rank than the custodian of the prisoner who shall cause, aid, abet and
23 facilitate the escape of a detainee, shall suffer the same penalty as the persons
24 who are in custody of the prisoner but that in imposing the penalty, the court or
25 tribunal shall impose the same in its maximum period, where the same is
26 divisible. Provided, however, that the court shall , in every case, impose

- 1 penalties under this Act in the degree that will be fair and humane as the case
- 2 may be.

- 3 SECTION 4. This Act shall take effect fifteen (15) days from its publication in
- 4 at least two newspapers of general circulation in the Philippines.

Approved.