

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5480



Introduced by **HON. ROMERO FEDERICO "MIRO" S. QUIMBO**

EXPLANATORY NOTE

Section 6, Article III of the 1987 Philippine Constitution provides that "[t]he liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.

In observance of this constitutional prescription, the Supreme Court issued S.C. Circular No. 39-97. The said Circular allows the issuance of Hold Departure Orders against persons accused in criminal cases within the exclusive jurisdiction of the Regional Trial Courts. The Circular, however, is silent with respect to cases falling within the jurisdiction of courts below the Regional Trial Courts and those pending determination by government prosecution offices.

This proposed measure seeks to grant congressional and statutory authority to the Secretary of Justice, as head of the principal law agency of the government mandated to, inter alia, investigate the commission of crimes, prosecute offenders, and provide immigration regulatory services, to issue, and lift, Hold Departure Orders (HDOs), Watchlist Orders (WLOs) and Allow Departure Orders (ADOs) to prevent any miscarriage of justice, protect national security, guard public safety and ensure public health.

This proposed measure also seeks to strengthen existing mechanisms, rules and regulations already in place governing the issuance of HDOs, WLOs and ADOs. The passage of this measure will put to rest all doubts on the power of the Justice Secretary to issue Hold Departure Orders and Watchlist Orders designed to ensure that the hands of justice are not curtailed and circumvented by the flight of the accused.

In view thereof, the expedient approval of this bill is strongly recommended.


HON. ROMERO FEDERICO "MIRO" S. QUIMBO
Representative, 2nd District Marikina City

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**AN ACT GOVERNING THE ISSUANCES AND IMPLEMENTATION OF HOLD
DEPARTURE ORDERS, WATCHLIST ORDERS, AND ALLOW DEPARTURE
ORDERS BY THE DEPARTMENT OF JUSTICE AND FOR OTHER PURPOSES**

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

Section 1. Hold Departure Order. - The Secretary of Justice may issue a Hold Departure Order (HDO), under any of the following instances:

(a) Against any accused in a criminal case, irrespective of nationality, in criminal cases falling within the jurisdiction of courts below the Regional Trial Courts (RTCs).

If the case against the accused is pending trial, the application under oath of an interested party must be supported by (a) a certified true copy of the complaint or information and (b) a Certification from the Clerk of Court concerned that criminal case is still pending.

(b) Against the alien whose presence is required either as a defendant, respondent, or witness in a civil or labor case pending litigation, or any case before an administrative agency of the government.

The application under oath of an interested party must be supported by (a) a certified true copy of the subpoena or summons issued against the alien and (b) a certified true copy complaint in civil, labor or administrative case where the presence of the alien is required.

(c) The Secretary of Justice may likewise issue an HDO against any person, either motu proprio, or upon the request by the Head of a Department of the Government; the head of a constitutional body or commission; the Chief Justice of the Supreme Court for the Judiciary; the Senate President or the House Speaker for the Legislature, when the adverse party is the Government or any of its agencies or instrumentalities, or in the interest of national security, public safety or public health.

Section 2. Watchlist Order. - The Secretary of Justice may issue a Watchlist Order (WLO), under any of the following instances:

(a) Against any accused in a criminal case, irrespective of nationality, in criminal cases falling within the jurisdiction of courts below the Regional Trial Courts (RTCs).

The application under oath of an interested party must be supported by (a) certified true copy of an Information filed with the court, (b) a certified true copy of the Prosecutor's Resolution; and (c) a Certification from the Clerk of Court concerned that criminal case is still pending.

(b) Against the respondent, irrespective of nationality, in criminal cases undergoing preliminary investigation or with a pending petition for review or motion for reconsideration before the Department of Justice or any of its provincial or city prosecution offices.

The application under oath of an interested party must be supported by (a) certified true copy of the complaint filed, and (b) a Certification from the appropriate prosecution office concerned that the case is pending preliminary investigation, petition for review, or motion for reconsideration, as the case may be.

(c) The Secretary of Justice may likewise issue a WLO against any person, either motu proprio, or upon the request of any government agency, including commissions, task forces or similar entities created by the Office of the President and/or in connection with any investigation being conducted by it, or in the interest of national security, public safety or public health.

Section 3. *Completeness of Information.* - To ensure the proper identification of the subject of the HDO/WLO and to avoid inconvenience to any innocent party, all applications or requests, including the HDO/WLO to be issued, shall contain the following information of the subject:

- a. Complete name, i.e. given name, middle name or initial and surname;
- b. Alias/es, if any;
- c. Date and place of birth;
- d. Place of last residence;
- e. Passport details, if available;
- f. Recent photograph, if available;
- g. Complete title and docket number of the case; and
- h. Specific nature of the case.

Section 4. *HDO/WLO Validity.* - The validity period of any HDO/WLO issued pursuant to this Act shall be reckoned from the date of its issuance. The HDO shall valid for five (5) years unless sooner terminated. On the other hand, the WLO shall be valid for sixty (60) days

unless sooner terminated or extended, for a non-extendible period of not more than sixty (60) days.

(a) The HDO may be lifted or cancelled under any of the following grounds:

1. When the validity period of the HDO as provided for in the preceding section has already expired;
2. When the accused subject of the HDO has been allowed to leave the country during the pendency of the case, or has been acquitted of the charge, or the case in which the warrant/order of arrest was issued has been dismissed or the warrant/order of arrest has been recalled;
3. When the civil or labor case or case before an administrative agency of the government wherein the presence of the alien subject of the HDO/WLO has been dismissed by the court or by appropriate government agency, or the alien has been discharged as a witness therein, or the alien has been allowed to leave the country;

(b) The WLO may be lifted or cancelled under any of the following grounds:

1. When the validity period of the WLO as provided for in the preceding section has already expired;
2. When the accused subject of the WLO has been allowed by the court to leave the country during the pendency of the case, or has been acquitted of the charge; and
3. When the preliminary investigation is terminated, or when the petition for review, or motion for reconsideration has been resolved in favor of the respondent or accused.

(c) All applications for lifting/cancellation of HDOs/WLOs must be under oath and accompanied by certified true copies of the documentary evidence in support of the ground relied upon.

(d) Any HDO/WLO issued by the Secretary of Justice either motu proprio or upon request of government functionaries/offices mentioned in Sections 1 and 2, when the adverse party is the Government or any of its agencies or instrumentalities, or in the interest of national security, public safety or public health, may be lifted or recalled anytime if the application is favorably indorsed by the government functionaries/offices who requested the issuance of the aforesaid HDO/WLO.

Section 6. *Implementation of HDO/WLO/ADO Issuance and Lifting/Cancellation.* - All rules, regulations and orders issued pursuant to this Act shall be immediately transmitted to the Commissioner of Immigration for implementation, copy furnished the person/s subject

thereof, to give the latter adequate opportunity to content the Order or request consideration thereof.

Section 7. Allow Departure Order (ADO). - Any person subject of HDO/WLO issued pursuant to this Act who intends, for some exceptional reasons, to leave the country may, upon application under oath with the Secretary of Justice, be issued an ADO.

The ADO may be issued upon submission of the following requirements:

- a. Affidavit stating clearly the purpose, inclusive period of the intended travel, and containing an undertaking to immediately report to the DOJ upon return; and
- b. Authority to travel or travel clearance from the court or appropriate government office where the case upon which the issued HDO/WLO was based is pending, or from the investigating prosecutor in charge of the subject case.

Section 8. Issuance of Clearance/Certification of Not the Same Person. - Any person who is prevented from leaving the country because his name appears to be the same as the one that appears in the HDO/WLO issued pursuant to this Act may, upon application under oath, be issued a Certification to the effect that said person is not the same person whose name appears in the issued HDO/WLO.

The Certification may be issued upon submission of the following requirements:

- a. Affidavit of Denial;
- b. Photocopy of the page of the passport bearing the personal details;
- c. Latest clearance from the National Bureau of Investigation (NBI); and
- d. Clearance from the court or appropriate government agency, whenever applicable.

Section 9. Processing Fees. - The Secretary of Justice has the authority to prescribe, impose and collect appropriate fees to cover the administrative costs for services rendered by the Department of Justice in relation with the issuance or lifting of HDOs, WLOs and ADOs and the issuance of any certifications authorized under this Act.

Section 10. Repealing Clause. - All laws, rules, regulations, instructions and issuances inconsistent with this Act are hereby amended or repealed accordingly.

Section 11. Separability Clause. - The finding of nullity or invalidity of any provision of this Act shall not affect the validity of the other provisions.

Section 12. Effectivity. - These rules shall take effect fifteen (15) days after publication in the Official Gazette or at least two (2) newspapers of general circulation.

Approved,