

Republic of the Philippines
HOUSE OF REPRESENTATIVES
CONGRESS OF THE PHILIPPINES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 5510



Introduced by Honorable REYNALDO V. UMALI

EXPLANATORY NOTE

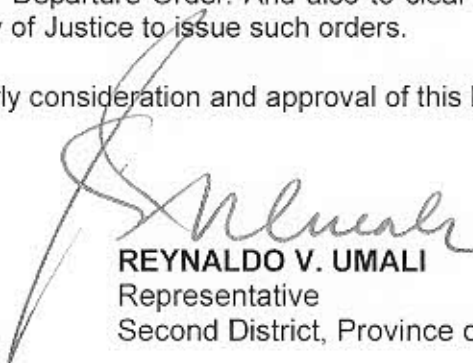
The fundamental law of the law state that "the liberty of abode and of changing of the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.

As laid down by jurisprudence, to quote "Significantly, the Bill of Rights itself does not purport to be an absolute guaranty of individual rights and liberties "Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's will."(*PASEI vs Drilon, G.R. No.81958*). Clearly the right to travel is not absolute. This right may be restricted or impaired under the conditions set forth by the Constitution.

Further, the Supreme Court, via a circular, allowed the issuance of the Hold Departure Order by the Regional Trial Courts against persons accused of criminal cases falling within its jurisdiction. However such circular is silent with respect to cases falling within the jurisdiction of court below the Regional Trial Courts and those cases pending the Department of Justice. The Secretary of Justice, by virtue of his/her office, in the absence of a clear law, may exercise residual powers in furtherance of the exercise of his/her right or in the performance of his/her duty. Included in such power, is the right or duty to issue a Hold Departure Order or Watch List Order.

This bill seeks to strengthen and institutionalized the existing measures, rules, regulations and procedure relative to the issuance of the Hold Departure Order, Watch List Orders and Approved Departure Order. And also to clear any cloud of doubt as to the power of the Secretary of Justice to issue such orders.

In view thereof, early consideration and approval of this bill is earnestly sought.


REYNALDO V. UMALI
Representative
Second District, Province of Oriental Mindoro

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Introduced by Honorable REYNALDO V. UMALI

**AN ACT TO STRENGTHEN AND INSTITUTIONALIZE THE POWER OF THE
SECRETARY OF JUSTICE TO ISSUE AND IMPLEMENT HOLD DEPARTURE
ORDERS, WATCHLIST ORDERS AND ALLOW DEPARTURE ORDERS AND FOR
OTHER PURPOSES**

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

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

(a) Against the accused, 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 the following:

- (i) a certified true copy of the complaint or information and
- (ii) 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:

- (i) a certified true copy of the subpoena or summons issued against the alien; and

- (ii) 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. Watch List Order (WLO). - The Secretary of Justice may issue a Watch List Order, under any of the following instances:

- (a) Against the accused, irrespective of nationality, in criminal cases pending trial before the Regional Trial Court.

The application under oath of an interested party must be supported by the following:

- (i) certified true copy of an Information filed with the court,
- (ii) a certified true copy of the Prosecutor's Resolution; and
- (iii) a Certification from the Clerk of Court concerned that criminal case is still pending.

- (b) Against the respondent, irrespective of nationality, in criminal cases pending preliminary investigation, 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:

- (i) certified true copy of the complaint filed, and
- (ii) 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. *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 be valid for two (2) 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.

Section 5. *Lifting or Cancellation.* - In the lifting or cancellation of the HDO/WLO issued pursuant to this Act, the following rules shall apply:

(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 denied and/or dismissed.

(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 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 contend 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 shall prescribe the imposable fees relative to the administrative cost in connection with issuance, lifting of the HDOs, WLOs, and ADOs and such other pertinent documents.

Section 10. *Repealing Clause.* - All other laws, decrees, orders, issuances, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 11. *Separability Clause.* -If any part or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in force and effect.

Section 12. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.