

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

House Bill No. **7829**



Introduced by MAGDALO Party-List Representative
HON. GARY C. ALEJANO

EXPLANATORY NOTE

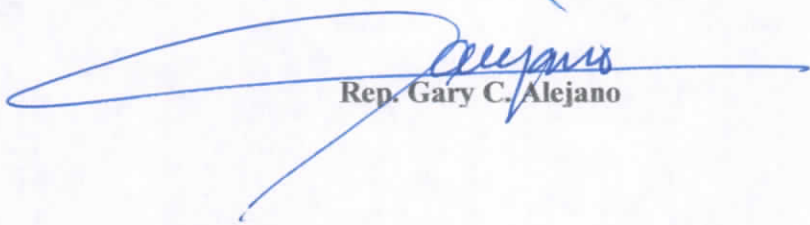
The law on infidelity in the custody of prisoners has been in force since the 1930s. News of criminals escaping custody has always been a source of public concern. In such incidences, Government officials or employees who has custody of such criminals cannot be said to be completely guiltless of the fact that these outlaws take flight. In fact, with the penalty for allowing criminals escape being so lenient, these officials are susceptible to the all too tempting allure of bribery.

Someone who frees a detainee is no lesser, perhaps even worse, than someone who is complicit in the commission of a criminal act. He is a traitor to the principles of justice that we uphold, a traitor to the people whom he has sworn to protect, and ultimately an enemy of the state who would rather sell his dignity for some coin, than to maintain the order that the State wishes to preserve.

In the Penal Code, the penalty for the crime of freeing a convicted prisoner(s) by their guard or keepers is *prison correctional* in its medium to maximum period, which means the penalty begins at two (2) years and one day to six (6) years. However, for the crime of infidelity in the custody of prisoners who are merely in detention, the penalty is *prison correctional* in its minimum period, which is six (6) months and one day to two (2) years. The emphasis of the penalty is based on whether the prisoner is convicted or merely in detention.

This categorization is improper and is ultimately insufficient, since it does not take into account the gravity of the prisoner's offense. Prisoners who are suspects for committing heinous crimes such as murder, terrorism, genocide and other such horrible deeds is and always will be a threat to the stability of the government and as such, we must do everything in our power to prevent their escape and penalize steeply the persons responsible for the escape of such detainees if they be proven to have aided such persons to escape. It is not only valid, but logical as dictated by necessity that the penalty of the crime of infidelity of a custodian be meted in proportion to the gravity of the crimes of the offender freed without legal justification.

In view of the foregoing, approval of this measure is earnestly sought.


Rep. Gary C. Alejano

SEC. 3. *Crime of Betrayal of Duty*—Any provision of law to the contrary notwithstanding, the crime of betrayal of duty in the custody of prisoners and detained persons is hereby defined as an act or series of acts whereby a person or persons charged with the custody of prisoners, detained persons under preventive imprisonment, persons arrested in the act of committing a crime, persons who are wanted in foreign countries by which the Philippines has a treaty of reciprocity for extradition, persons who committed heinous crimes, terrorist and war criminals or one engaged in economic sabotage, shall allow without legal justification the escape of such prisoner or persons similarly situated shall be punished with a penalty which is one degree lower than the penalty

1 imposed for the offense, which the detainee is charged with or convicted of, PROVIDED THAT in
2 no case shall the penalty imposed be lower than *prison correctional* in its minimum period.
3 PROVIDED
4 FURTHERMORE THAT for the escape of the prisoners who are accused of the commission of the
5 heinous, terrorism, war crimes and economic sabotage, the penalty of life imprisonment shall be
6 imposed without any provision for parole, PROVIDED FINALLY THAT the persons convicted of
7 the crime of betrayal of duty in the custody of prisoners shall likewise suffer special permanent
8 disqualification if the detainee shall have been convicted or has admitted guilt in open court, even if
9 the decision of conviction has not been rendered.

10
11 **SEC. 4. Records on Detained Persons**—In addition to the requirement considered
12 necessary in the 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 of the time the
14 detained person was accepted by the institution, name of the persons guarding the detainee or
15 detainees, the time and date there were turn-over of guards, proper signed and acknowledged by
16 said personnel guarding the detainee(s), the movement of the detainees from and to his room or cell
17 of detention, his transfer from one institution or detention to another and such record shall at all
18 time be properly signed and acknowledged in the said records by the person(s) in custody.

19
20 **SEC. 5.**—Any person, though not in charge of the detainee, who enjoys a higher rank than
21 the custodian of the prisoner who shall cause, aid, abet and facilitate the escape of a detainee, shall
22 suffer the same penalty as the persons who are in custody of the prisoner, but that in imposing the
23 penalty, the court or tribunal shall impose the same in its maximum period, where the same is
24 divisible. Provided, however, that the court shall, in every case, impose penalties under this Act in
25 the degree that will be fair and humane as the case may be.

26
27 **SEC. 6. Effectivity**—This Act shall take effect fifteen (15) days from its publication in at
28 least two newspapers of general circulation.

Approved,