

SENATE

Senate Bill No. 1295

INTRODUCED BY SEN. MANNY VILLAR

EXPLANATORY NOTE

Before a person is convicted and if he cannot afford bail or if his criminal case is one which is not bailable under the law, he undergoes preventive imprisonment. The present law provides that one must voluntarily agree in writing that he will abide by the same disciplinary rules imposed upon convicted prisoners and the same disciplinary rules imposed upon convicted prisoners and if no such written agreement is made, he will only be entitled to four-fifths of the period of detention. Review of many cases of prisoners show that this written agreement is often not completed for many reasons: (a) the apprehending officers do not know this provision of law or have no forms; (b) the prisoner himself is not aware of the requirement; or (c) neglect on the part of the prison officials such that the written agreement may be lost or misplaced. It has been the considered view of the Board of Pardons and Parole who review the cases of prisoners that the legal requirement should be reversed. The prisoner should be entitled in full for preventive imprisonment, except in cases specifically provided by law, without any written agreement. Only if he does not agree to abide with such rules, should be required to do so in writing and then he shall be entitled to only four-fifths of the period of detention.

Thus measure seeks to correct this wrong procedure and thus gives the offender full credit for his preventive imprisonment as the general rule without any written agreement.

Another case of injustice is when a prisoner has undergone preventive imprisonment for the possible maximum imprisonment of the offenses charged and he is not released. A paragraph under Article 29 by virtue of Batas Pambansa Blg. 85 corrects this injustice. However, the amendment needs further refinement. The offender under detention should not undergo detention more than such maximum, it should be equal to the possible maximum imprisonment. Moreover, since if the prisoner were to be convicted, he would enjoy good conduct time allowance for actual period of detention, then the computation for purposes of immediate release should be the actual period of detention plus good conduct time allowance = maximum possible imprisonment. It is unjust to unduly delay the proceedings of a person already under detention. He should be given every possible opportunity to enjoy the benefit of law. If good conduct time

allowance is granted to convicted prisoners, this benefit should also be extended to the detention prisoner under Article 29 as amended by Batas Pambansa Blg. 85.

Every day that a prisoner stays in prison when he should have been released is justice delayed and denied. Approval of this measure is urgently requested.



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AN ACT
AMENDING ARTICLE 29 OF ACT NO. 3815, AS AMENDED, THE REVISED
PENAL CODE, IN ORDER TO GIVE OFFENDERS THE FULLEST BENEFIT
OF PREVENTIVE IMPRISONMENT AND FOR OTHER PUPOSES

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

SECTION 1. Article 29 of Act No.3815, as amended, the Revised Penal
Code, is hereby further amended to read as follows:

"ART. 29. *Period of Preventive Imprisonment deducted from
term of imprisonment.* – Offenders who have undergone preventive
imprisonment shall be credited in the service of their sentence
consisting of deprivation of liberty, with the full time during which
they have undergone preventive imprisonment, if the detention
prisoner agrees voluntarily [in writing] to abide by the same
disciplinary rules imposed upon convicted prisoners, except in the
following cases:

1. When they are recidivists, or have been convicted
previously twice or more times of any crime; and
2. When upon being summoned for the execution of
their sentence they have failed to surrender
voluntarily.

If the detention prisoner does not agree to abide by the
same disciplinary rules imposed upon convicted prisoners, he shall
DO SO IN WRITING AND SHALL be credited in the service of his
sentence with four-fifths of the time during which he has undergone
preventive imprisonment.

Whenever an accused has undergone preventive
imprisonment for a period equal to [or more than] the possible
maximum imprisonment of the offense charged to which he may be
sentence and his case is not yet terminated, he shall be released
immediately without prejudice to the continuation of the trial thereof
or the proceeding on appeal, the same is under review.

COMPUTATION OF PREVENTIVE IMPRISONMENT FOR PURPOSES OF IMMEDIATE RELEASE UNDER THIS PARAGRAPH, SHALL BE THE ACTUAL PERIOD OF DETENTION WITH GOOD MORAL CONDUCT TIME ALLOWANCE... [unless he is detained by virtue of an arrest, search and seizure order (ASSO).] In case the maximum penalty to which the accused may be sentenced is *destierro*, he shall be released after thirty (30) days of preventive imprisonment.

CREDIT FOR PREVENTIVE IMPRISONMENT FOR A PENALTY OF *RECLUSION PERPETUA* SHALL BE DEDUCTED FROM THIRTY (30) YEARS."

SECTION 2. This Act shall take effect upon completion of its publication in at least two (2) national newspapers of general circulation.

Approved,