

Republic of the Philippines
SENATE OF THE PHILIPPINES
Pasay City



Senate
Office of the Secretary

14 MAR -6 P3:03

SIXTEENTH CONGRESS
First Regular Session

S. B. No. 2164

RECEIVED BY: *Ji*

INTRODUCED BY SENATOR SONNY M. ANGARA

AN ACT QUALIFYING THE CRIME OF LIBEL COMMITTED AGAINST PUBLIC OFFICERS OR PUBLIC FIGURES, AMENDING FOR THIS PURPOSE ARTICLE 354 AND 361 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE "REVISED PENAL CODE" AND CONSEQUENTLY SECTION 4 PARAGRAPH C, SUB-PARAGRAPH 4 OF REPUBLIC ACT NO. 10175, OTHERWISE KNOWN AS THE "CYBERCRIME PREVENTION ACT OF 2012"

EXPLANATORY NOTE

In a democratic society that enjoys the constitutional guaranty of freedom of speech and press, the expression of opinions relating to matters of public concern should be protected. Both American and Philippine doctrinal free speech cases have consistently held that "debate on public issues should be uninhibited, robust and wide-open" and "that such debate may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."

Unfortunately, our criminal libel law, which was passed way back in 1901, has remained despite the rapid expansion of the constitutional right to free speech. Therefore, there is a need to bring our libel law to the present and conform it to the meaning of the free speech clause in our bill of rights as interpreted in jurisprudence.

This bill revisits the libel provisions of the Revised Penal Code and considers as privileged any comment or remark against public officers and public figures, or any discussion of a matter that is subject of a public or general interest. This means that expressions of opinion against public figures and public officials, even if defamatory, would not be presumed malicious. A public figure or public official must prove that the alleged defamatory statement made against them made with actual malice - that is, "with knowledge that it was false or with reckless disregard of whether it was false or not."

This privilege also allows a defendant to avoid liability when a plaintiff qualifies for public figure status; the status attached to persons who have arrived at a position where public attention is focused upon them or when they have thrust themselves to the forefront of particular public controversies in order to influence the

resolution of the issues involved. More specifically, this status applies to persons who, by their accomplishments, fame, or mode of living, or by their adopting a profession or calling, have given the public a legitimate interest in their doings, their affairs, and their character. The public interest in robust debate regarding the actions of such persons is therefore as great as if they were officials. This privilege is also justified as a means of insuring press freedom to inform the public about those who have become legitimate matters of public interest.



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

SECTION 1. Article 354 of Act No. 3815, otherwise known as the Revised Penal Code, is hereby amended to read as follows.

"Art. 354. Requirement for publicity. - Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; [and]
2. A fair and true report, made in good faith, [without any comments or remarks,] of any judicial, legislative, or other official proceedings which are not of confidential nature, or of any statement, report, or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions[.]; AND
3. ANY COMMENT OR REMARK AGAINST PUBLIC OFFICERS AND PUBLIC FIGURES, OR ANY DISCUSSION OF ANY MATTER THAT IS SUBJECT OF A PUBLIC OR GENERAL INTEREST."

SECTION 2. Article 361 of the same Code is hereby amended to read as follows.

Art. 361. Proof of the truth AND ACTUAL MALICE. - In every criminal prosecution for libel, WHERE THE IMPUTED ACT OR OMISSION CONSTITUTES A CRIME, the truth may be given in

evidence to the court and if it appears that the matter charged as libelous is true, and, moreover, that it was published with good motives and for justifiable ends, the defendants shall be acquitted.

FOR DEFAMATORY IMPUTATION OF AN ACT OR OMISSION AGAINST PUBLIC OFFICERS OR PUBLIC FIGURES, WHETHER OR NOT IT CONSTITUTES A CRIME, TRUTH IS AN ABSOLUTE DEFENSE AND LIABILITY WILL LIE ONLY IF THE COMPLAINANT PROVES THAT THE DEFENDANT MADE THE FALSE DEFAMATORY IMPUTATION WITH ACTUAL MALICE, THAT IS, WITH KNOWLEDGE THAT IT WAS FALSE OR WITH RECKLESS DISREGARD OF WHETHER IT WAS FALSE OR NOT.

[Proof of the truth of an imputation of an act or omission not constituting a crime shall not be admitted, unless the imputation shall have been made against Government employees with respect to facts related to the discharge of their official duties.

In such cases if the defendant proves the truth of the imputation made by him, he shall be acquitted.]

SECTION 3. Section 4, paragraph c, sub-paragraph 4 of Republic Act 10175 which impliedly adopted Art. 354 of the Revised Penal Code is also accordingly amended.

SECTION 4. All provisions of existing laws, orders, rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 5. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,