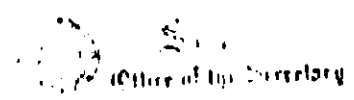


SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Third Regular Session )



15 DEC 16 P4 55

SENATE  
S. No. 3037

RECEIVED BY:

---

Introduced by Senator Miriam Defensor Santiago

---

AN ACT  
AMENDING ARTICLE 145 OF ACT NO. 3815, ALSO KNOWN AS THE REVISED  
PENAL CODE, AS AMENDED, ON THE DURATION OF THE PENALTY FOR THE  
CRIME WHICH A MEMBER OF CONGRESS HAS COMMITTED BEFORE HE OR  
SHE CAN BE PREVENTED FROM ATTENDING SESSIONS OF CONGRESS, IN  
ORDER TO MAKE THE SAME CONSISTENT WITH THE CONSTITUTION

EXPLANATORY NOTE

The first sentence of the Constitution, Article 6, Section 11, provides:

A Senator or Member of the House of Representatives shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest while the Congress is in session.

On the other hand, the Penal Code, Article 145 provides:

*Violation of parliamentary immunity.* – The penalty of prision mayor shall be imposed upon any person who shall use force, intimidation, threats, or fraud to prevent any member of the National Assembly (Congress of the Philippines) from attending the meetings of the Assembly (Congress) or of any of its committees or subcommittees, constitutional commissions or committees or divisions thereof, from expressing his opinions or casting his vote; and the penalty of prision correccional shall be imposed upon any public officer or employee who shall, while the Assembly (Congress) is in regular or special session, arrest or search any member thereof, except in case such member has committed a crime punishable under this Code by a penalty higher than prision mayor.

It is noticeable that the provision on the Penal Code is not consistent with the provision of the Constitution. According to the Constitution, a Senator or Member of the House of Representatives shall be privileged from arrest while the Congress is in session, in all offenses punishable by not more than six years imprisonment. Using the terms of the Penal Code, a term of imprisonment which is not more than six years is also called

*prison correccional*. In the Penal Code, a Senator or Member of the House of Representatives is privileged from arrest while the Congress is in session, except if he or she commits a crime punishable by a penalty higher than *prison mayor*. The duration of *prison mayor* is six years and one day to 12 years.

Therefore, if we use the language of the Penal Code, it would seem that a Representative or a Senator is privileged from arrest even if he or she commits a crime punishable by six years and one day to 12 years, thereby, violating the provisions of the Constitution.

This bill aims to make the Penal Code, Article 145 consistent with the provisions of the fundamental law of the land, the Constitution.<sup>1</sup>

  
MIRIAM DEFENSOR SANTIAGO  
70

---

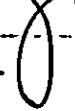
<sup>1</sup> This bill was filed during the Fourteenth Congress, First Regular Session.

SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Third Regular Session )

Office of the Secretary

15 DEC 16 P4 55

SENATE  
S. No. 3037

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

AN ACT  
AMENDING ARTICLE 145 OF ACT NO. 3815, ALSO KNOWN AS THE REVISED  
PENAL CODE, AS AMENDED, ON THE DURATION OF THE PENALTY FOR THE  
CRIME WHICH A MEMBER OF CONGRESS HAS COMMITTED BEFORE HE OR  
SHE CAN BE PREVENTED FROM ATTENDING SESSIONS OF CONGRESS, IN  
ORDER TO MAKE THE SAME CONSISTENT WITH THE CONSTITUTION

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

1 SECTION 1. Article 145 of Act No. 3815, also known as the Revised Penal Code,  
2 on Violation of Parliamentary Immunity is hereby amended to read as follows:

3 Article 145. *Violation of parliamentary immunity.* – The penalty of  
4 prison mayor shall be imposed upon any person who shall use force,  
5 intimidation, threats, or fraud to prevent any member of the National  
6 Assembly (Congress of the Philippines) from attending the meetings of the  
7 Assembly (Congress) or of any of its committees or subcommittees,  
8 constitutional commissions or committees or divisions thereof, from  
9 expressing his opinions or casting his vote; and the penalty of prison  
10 correccional shall be imposed upon any public officer or employee who  
11 shall, while the Assembly (Congress) is in regular or special session, arrest  
12 or search any member thereof, except in case such member has committed a  
13 crime punishable by a penalty [~~higher than prison mayor~~] OF PRISION  
14 CORRECCIONAL OR HIGHER.

1           SECTION 2. *Repealing Clause.* – All laws, decrees, orders, and issuances, or  
2 portions thereof, which are inconsistent with the provisions of this Act, are hereby  
3 repealed, amended or modified accordingly.

4           SECTION 3. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after  
5 its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,

/ml9Nov2015