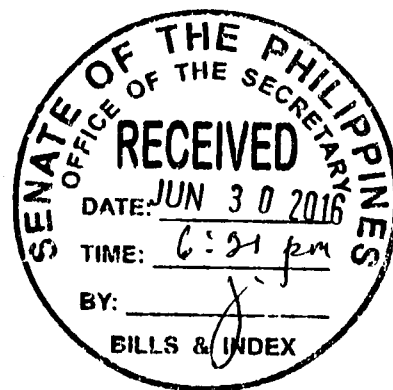


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

SENATE BILL NO. 197

Introduced by SENATOR LEILA M. DE LIMA

AN ACT TO ABOLISH THE PENALTY OF IMPRISONMENT IN LIBEL CASES, TO MAKE ANY DISCUSSION OF ANY MATTER OF PUBLIC CONCERN, OR CRITICISM OF OFFICIAL CONDUCT PRIVILEGED, AND TO PROPERLY DETERMINE THE VENUE OF CASES AND PERSONS RESPONSIBLE FOR LIBEL, AMENDING FOR THE PURPOSE ARTICLES 354, 355, 357, 360 AND 361 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND SECTION 4 (c) (4), CHAPTER II OF REPUBLIC ACT NO. 10175, OTHERWISE KNOWN AS CYBERCRIME PREVENTION ACT OF 2012, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Media should be encouraged to perform their social responsibility of exposing misconduct without fear of being harassed through the arbitrary filing of libel cases against them. Upholding press freedom as an institution for checks and balances is crucial to a strong and robust democracy.

This bill seeks to remove the penalty of imprisonment in cases of libel as it constitutes a prior restraint upon our people's freedom of expression, especially among members of the media who serve as watchdogs against wrongdoings in government and society. Further amendments are introduced to pinpoint the persons actually responsible for a defamatory material, and to properly determine the venue for filing of a criminal case for libel, and a civil action for damages arising from a defamatory material.

However, the crime of libel cannot go unpunished especially in instances of absolutely malicious remarks that damage the honor and reputation of private individuals. As such, this bill also seeks to retain and increase fine as a penalty.

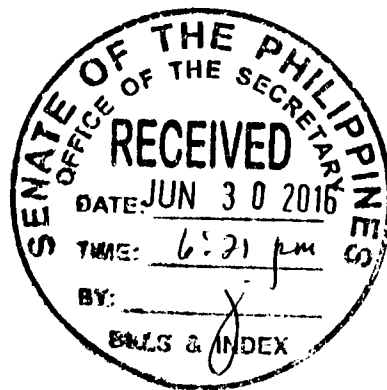
Under this bill, discussions of matters of public concern and criticisms of official conduct are considered qualifiedly privileged. This means that allegations, even if

defamatory, will not be presumed malicious. The complainant has the burden of proving that the defendant acted with malice, which means that the latter has the knowledge of the falsity of the imputation, or he or she is in a reckless disregard of truth.

Now is the opportune time to enact this piece of legislation. The passage thereof is earnestly sought.


LEILA M. DE LIMA

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PENAL CODE, AND SECTION 4 (c) (4), CHAPTER II OF REPUBLIC ACT NO.
10175, OTHERWISE KNOWN AS CYBERCRIME PREVENTION ACT OF
2012, AND FOR OTHER PURPOSES**

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

1 Section 1. *Short Title.* This Act shall be known as the "Libel Law Reform Act of 2016."
2

3 SEC. 2. Any discussion of any matter of public concern, or any criticism of the conduct
4 of government officials shall not be presumed to be malicious. Article 354 of Act No.
5 3815, otherwise known as the Revised Penal Code, as amended, is further amended as
6 follows:
7

1 “Article 354. – *Requirement of Publicity*. Every defamatory imputation is
2 presumed to be malicious, even if it be true, if no good intention and justifiable
3 motive for making it be shown, except in the following cases:

4
5 1. A private communication made by any person to another in the
6 performance of any legal, moral or social duty; [and]

7
8 2. A fair and true report made in good faith without any comments or
9 remarks of any judicial, legislative or other official proceedings which are not of
10 confidential nature, or any statement, report, or speech delivered in said
11 proceedings, or of any other act performed by public officers in the exercise of
12 their functions; AND

13
14 3. ANY DISCUSSION OF ANY MATTER OF PUBLIC CONCERN, OR
15 ANY CRITICISM OF THE CONDUCT OF GOVERNMENT OFFICIALS, UNLESS
16 SUCH MATTER IS SHOWN BY THE PROSECUTION TO BE FALSE AND TO
17 HAVE BEEN MADE BY THE ACCUSED KNOWING ITS FALSITY, OR WITH
18 RECKLESS DISREGARD OF WHETHER IT IS TRUE OR NOT.”

19
20 SEC.3. A new Article 361 to replace the old one under Act No. 3815, as amended,
21 otherwise known as the Revised Penal Code, reads as follows:
22

1 “Art. 361. *Proof of the Truth* – In every criminal prosecution for libel, the
2 truth of the imputation, or of the acts or omissions constituting the crime may be
3 given in evidence to the court, and if it appears that the matter charged as
4 libelous is true, and moreover, that it was published with good motives and
5 justifiable ends, the defendant shall be acquitted.

6 For a case involving a discussion of a matter of public concern, or a
7 criticism of the conduct of government officials, the prosecution has the burden
8 of proving that the imputation was false, and that the defendant had knowledge
9 of its falsity, or that he recklessly disregarded the truth.

10
11 SEC. 4. The penalty of imprisonment for libel is abolished. The penalty of fine is
12 retained with adjustment as to amounts. Article 355 of Act No. 3815, as amended,
13 otherwise known as the Revised Penal Code, is further amended as follows:

14
15 “Article 355. *Libel by means of writings or similar means*. – A libel
16 committed by means of writing, printing, lithography, engraving, radio,
17 phonograph, painting, theatrical exhibition, cinematographic exhibition, or any
18 similar means, shall be punished by [*prison correccional* in its *minimum and*
19 *medium period or*] a fine ranging from [200 to 6,000 pesos, or both] ONE
20 HUNDRED THOUSAND PESOS (100,000 Php) TO THREE HUNDRED
21 THOUSAND PESOS (300,000 Php), in addition to the civil action which may be
22 brought by the offended party.

1 THE PROVISIONS OF ARTICLE 90 AND 91 TO THE CONTRARY
2 NOTWITHSTANDING, THE CRIME OF LIBEL AND THE CORRESPONDING
3 PENALTY IMPOSED ABOVE SHALL PRESCRIBE IN SIX (6) MONTHS
4 COUNTED FROM THE DATE OF THE FIRST PUBLICATION OR EXHIBITION
5 OF THE LIBELOUS MATERIAL.”
6

7 SEC. 5. Article 356 of Act No. 3815, as amended, otherwise known as the Revised Penal
8 Code, is further amended as follows:
9

10 “Article 356. *Threatening to punish and offer to present such publication*
11 *for a compensation.* – The penalty of [arresto mayor or] a fine ranging from [200
12 to 2,000, or both] FIFTY THOUSAND PESOS (50,000 Php) TO ONE HUNDRED
13 THOUSAND PESOS (100,000 Php) [or both] shall be imposed on any person
14 who threatens another to publish a libel concerning him, or the parents, spouse,
15 child, or other members of the family of the latter, or upon anyone who shall offer
16 to prevent the publication of such libel for a compensation or money
17 consideration.”
18

19 SEC. 6. Article 357 of Act No. 3815, as amended, otherwise known as the Revised Penal
20 Code, is further amended as follows:
21

22 “Article 357. *Prohibited publication of acts referred to in the course of*
23 *official proceedings.* - The penalty of [arresto mayor or] a fine ranging from [200

1 to 2,000, or both] ONE HUNDRED THOUSAND PESOS (100,000 Php) TO
2 THREE HUNDRED THOUSAND PESOS (300,000 Php) [or both] shall be
3 imposed upon any reporter, editor, manager of a newspaper or magazine, who
4 shall publish facts connected with the private life of another and offensive to the
5 honor, virtue, and reputation of said person, even though said publication be
6 made in in connection with or under the pretext that it is necessary in the
7 narration of any judicial or administrative proceedings wherein such facts have
8 been mentioned.”
9

10 SEC. 7. To better determine the persons responsible for libel, there is a new Article
11 360 to replace the old one under Act No. 3815, as amended, otherwise known as the
12 Revised Penal Code, which reads as follows:
13

14 “Art. 360. *Persons Responsible* – The author of the libelous material
15 published in print, online or broadcast shall be responsible.
16

17 If the defamatory content passed through and was approved for
18 publication or exhibition by an editor, publisher, business manager, or producer,
19 then such editor, publisher, business manager, or producer shall likewise be
20 responsible.”
21

22 SEC. 8. To fix the proper venue for the filing of a criminal action for libel, or the civil
23 action for damages arising from a defamatory material, a new provision to be referred to

1 as Article 360-A shall be inserted in Act No. 3815, as amended, otherwise known as the
2 Revised Penal Code, which reads as follows:

3
4 “Art. 360-A. *Venue for Cases.* – The criminal case for libel, and the civil
5 action for damages arising from a defamatory material shall be filed in either of
6 the following venues:

7
8 a) where the respondent resides or conducts business; or

9 b) where the main office of the organization or outfit is located, if the
10 respondent is a member or contributor thereof, and the said
11 organization or outfit caused the original release and publication of the
12 defamatory material.”

13
14 SEC. 9. Following the removal of the penalty of imprisonment for libel, but the
15 retention with upgrading of fines pursuant to this Act, a similar change is made in the
16 sanctions for the cybercrime of libel under Section 4, sub-section (c), paragraph (4),
17 Chapter II of Republic Act No. 10175, otherwise known as the Cybercrime Prevention
18 Act of 2012.

19
20 SEC. 10. *Separability Clause.* – If any provision of this Act is declared invalid, the
21 remainder of this Act or any provision not affected thereby shall remain in force and in
22 effect.

1 SEC. 11. *Repealing Clause.* – All laws, presidential decrees, executive orders and their
2 implementing rules, inconsistent with the provision of this act are hereby repealed,
3 amended or modified accordingly.

4
5 SEC. 12. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in
6 at least two (2) national newspapers of general circulation.

7
8 Approved,