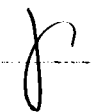


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SENATE

S. No. 487

FILED BY: 

Introduced by Senator Antonio "Sonny" F. Trillanes IV

AN ACT
PROHIBITING COURT ORDERS, WRITS AND INJUNCTIONS WHICH PREVENT
MEDIA REPORTS AND COMMENTARIES ON, OR PUBLICATION OF,
PROCEEDINGS SUB JUDICE, EXCEPT UNDER CERTAIN CIRCUMSTANCES

EXPLANATORY NOTE

Referring to any matter that is presently under judicial consideration, *sub judice* rule embodies the struggle between the competing interests of free press on the one hand and the independence of the judiciary on the other. This indicates that any question related to the facts and issues involved in a case being heard or tried before a court is deemed *sub judice*. This is aimed at protecting the independence and integrity of judicial proceedings from too much exposure to public attention, harassment, opinion and biased information which the media are able to provide¹.

In the Philippines, to prohibit the press and other media from reporting, commenting on, or publishing events surrounding a trial, courts invoke the *sub judice* rule. This rule has endeared itself as a reasonable restriction on the constitutional guarantees of free press and of the people's right to petition and information on matters of public concern.

The *sub judice* rule in the United States also used to be seen as a reasonable restriction on the freedom of the press. However, at present, most of their Supreme Court decisions regard this rule as an unconstitutional impairment of press freedom.

This trend only shows that freedom of speech is still given much importance, and that constitutional guarantees of free press and right to information, in spite of everything, is substantially looked upon.

¹ Data retrieved at <http://www.sunstar.com.ph/davao/carrillo-media-and-sub-judice-rule> on 28 January 2009

Recognizing that discussion of public affairs in a free society such as ours cannot depend on the preliminary grace of judicial censors, this bill provides for the elimination of the *sub judice* rule.


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


ANTONIO "SONNY" R. TRILLANES IV
Senator

16 JUL 19 AM 39

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*Be in 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 "*Judicial Right to Know*
2 *Act*".

3
4 **SEC. 2. *Declaration of Policy.*** - Conformably with the constitutional guarantees of
5 free press and of the people's right to petition and to information on matters of public
6 concern, it is hereby declared a national policy that no court order, writ, or injunction shall
7 issue that would have the effect of enjoining the press and other media from publishing
8 information in connection with a criminal, civil, or administrative case of widespread concern
9 to the community.

10
11 **SEC. 3. *Gag Orders Generally Unlawful; Exception.*** - Court orders, writs or
12 injunctions which prohibit media reports and commentaries on, or publication of, proceedings
13 held in public or on events that transpire in the courtroom shall be invalid.

14
15 In cases where the report, commentary, or publication is based on information gained
16 from other sources, a gag order may lawfully issue only upon prior showing by the party who
17 seeks its issuance that the report, commentary, or publication will likely prevent, directly and
18 irreparably, a fair and impartial resolution of the case, This requires a clear showing that the
19 report, commentary, or publication will prejudice the outcome of the proceedings of the case
20 and that no less restrictive alternatives are available.

1 Notwithstanding, such a showing, a gag order, writ or injunction may not issue unless
2 it is also shown that a previous report, commentary, or publication will not render the order,
3 writ, or injunction inefficacious.
4

5 **SEC. 4. *Separability Clause.*** - If any provision of this Act shall at any time be found
6 to be unconstitutional or invalid, the remainder thereof not affected by such declaration shall
7 remain in full force and effect.
8

9 **SEC. 5. *Repealing Clause.*** - All laws, decrees, rules or regulations inconsistent with
10 the provisions of this Act are hereby repealed or modified accordingly.
11

12 **SEC. 6. *Effectivity Clause.*** - This Act shall take effect after fifteen (15) days
13 following its complete publication in the Official Gazette or in two (2) newspapers of general
14 circulation.

Approved,