

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )

SENATE  
OFFICE OF THE SECRETARY

5 SEP -6 P2:15

SENATE  
S.B. No. 2109

RECEIVED BY: 

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Introduced by Senator Miriam Defensor Santiago

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#### EXPLANATORY NOTE

The first sentence of Article VI, Section 11, of the 1987 Constitution provides that:

“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, Article 145 of the Penal Code provides that:

“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 inconsistent with the provision of the Constitution. According to the 1987 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 prision 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 prision mayor. The duration of prision mayor is six years and 1 day to 12 years.

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


  
MIRIAM DEFENSOR SANTIAGO

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AN ACT  
AMENDING ARTICLE 145 OF ACT NO. 3815 ALSO KNOWN AS  
THE REVISED PENAL CODE, AS AMENDED

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

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

Article 145. 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 by A PENALTY OF PRISON CORRECCIONAL OR HIGHER.

SECTION 2. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 3. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,