

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

SENATE
S. No. 1775

RECEIVED BY 16

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The first sentence of the Constitution, Article VI, Section 11, 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 not consistent 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.

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 6 years and 1 day to 12 years, thereby, violating the provisions of the Constitution.

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
MIRIAM DEFENSOR SANTIAGO
spch

* This bill was originally filed during the Thirteenth Congress, Second Regular Session.

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

7 1916 71

SENATE
S. No. 1775

RECEIVED BY: 14

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:*

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 prison
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 *prison 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 [higher than *prison*
mayor] 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.

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

3 Approved,