

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

7 OCT 16 P 6:04

SENATE
S. No. 1747

RECEIVED BY: [Signature]

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article III, Section 4, provides:

No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

In line with such declaration, the Penal Code, Article 131, paragraph 3, penalizes a public officer or employee who shall prohibit or hinder any person from addressing, either alone or together with others, any petition to the authorities for the correction of abuses or redress of grievances.

However, the people's right to peaceably assemble, though fundamental and constitutionally protected, is not absolute. Reasonable regulations based on time, place and manner may be necessary to further significant governmental interests, and are permitted. The nature of a place, "the pattern of its normal activities, dictate the kinds of regulations of time, place, and manner that are reasonable." *Cox v. Louisiana*, 379 U.S. 559 (1965); *Adderley v. Florida*, 385 U.S. 39 (1966). For instance, making a speech in a library would certainly infringe upon the convenience and welfare of others, but that same speech should be perfectly appropriate in a park.

This proposed bill focuses on one area that may certainly be considered as deserving of governmental interest, that is, the protection of residential privacy. The Penal Code failed to specify certain exceptions to the rule that no public officer or employee shall prohibit or hinder any person from addressing, either alone or together with others, any petition to the authorities for the correction of abuses or redress of grievances.


The US Supreme Court, whose decisions have certainly influenced our own interpretation of constitutional issues, has had the opportunity to address cases where the right to peaceably

assemble was weighed against residential privacy. In the case of *Carey v. Brown* 447 US 455, the Court held that:

"The State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society." Our prior decisions have often remarked on the unique nature of the home, "the last citadel of the tired, the weary, and the sick," *Gregory v. Chicago*, 394 U.S. 111, 125 (1969) (Black, J., concurring), and have recognized that "[p]reserving the sanctity of the home, the one retreat to which men and women can repair to escape from the tribulations of their daily pursuits, is surely an important value."

This bill contemplates the mass or concerted action that is narrowly directed at the household, not the public. The type of picketers or rallyists banned by the new section are those who do not seek to disseminate a message to the general public, but simply aims to intrude upon the targeted resident, and to do so in an especially offensive way.

The protection of the unwilling listener is an important aspect of residential privacy. The home should offer security from those who seek to enforce their opinions and conduct upon other persons. "That we are often 'captives' outside the sanctuary of the home and subject to objectionable speech . . . does not mean we must be captives everywhere." *Rowan v. Post Office Dept.*, 397 U.S. 728, 738 (1970). Instead, a special benefit of the privacy all citizens enjoy within their own walls, which the State may legislate to protect, is an ability to avoid intrusions.*


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

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1 AN ACT
2 AMENDING ARTICLE 131 OF ACT NO. 3815, ALSO KNOWN AS
3 THE PENAL CODE, AS AMENDED, TO UPHOLD THE RIGHT OF RESIDENTS TO
4 PRIVACY FROM MASS OR CONCERTED ACTIONS NOT DIRECTED TO THE PUBLIC

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

7 SECTION 1. Article 131 of Act No. 3815, also known as the Penal Code, as amended, is
8 hereby amended to read as follows:

9 Article 131. *Prohibition, interruption and dissolution of peaceful*
10 *meetings.* – The penalty of *prision correccional* in its minimum period shall be
11 imposed upon any public officer or employee who, without legal ground, shall
12 prohibit or interrupt the holding of a peaceful meeting, or shall dissolve the same.

13 The same penalty shall be imposed upon a public officer or employee who
14 shall hinder any person from joining any lawful association or from attending any
15 of its meetings.

16 The same penalty shall be imposed upon any public officer or employee
17 who shall prohibit or hinder any person from addressing, either alone or together
18 with others, any petition to the authorities for the correction of abuses or redress
19 of grievances. PUBLIC OFFICERS OR EMPLOYEES MAY, HOWEVER,
20 PROHIBIT OR HINDER ANY PERSON FROM ADDRESSING, EITHER
21 ALONE OR TOGETHER WITH OTHERS, ANY PETITION TO THE
22 AUTHORITIES FOR THE CORRECTION OF ABUSES OR REDRESS OF
23 GRIEVANCES WHICH SHALL BE HELD BEFORE OR ABOUT THE

1 RESIDENCE OR DWELLING OF A PARTICULAR INDIVIDUAL OR IN
2 VIOLATION OF EXISTING LAWS.

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

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

8 Approved,

jps/10-14-05