

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



Senate  
Office of the Secretary

'13 JUL -8 P5:18

SENATE

S. No. 651

RECEIVED BY: *ji*

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

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### 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 provide<sup>1</sup>.

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.

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" F. TRILLANES IV  
Senator

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

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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

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

9  
10           **SEC. 3. *Gag Orders Generally Unlawful; Exception.*** - Court orders, writs or injunctions  
11 which prohibit media reports and commentaries on, or publication of, proceedings held in public  
12 or on events that transpire in the courtroom shall be invalid.

13           In cases where the report, commentary, or publication is based on information gained  
14 from other sources, a gag order may lawfully issue only upon prior showing by the party who  
15 seeks its issuance that the report, commentary, or publication will likely prevent, directly and

1 irreparably, a fair and impartial resolution of the case. This requires a clear showing that the  
2 report, commentary, or publication will prejudice the outcome of the proceedings of the case and  
3 that no less restrictive alternatives are available

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

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

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

14  
15 **SEC. 6. *Effectivity Clause.*** – This Act shall take effect after fifteen (15) days following  
16 its complete publication in two (2) newspapers of general circulation.

Approved,