

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 2901

Introduced by Honorable Giorgidi B. Aggabao

EXPLANATORY NOTE

Criminal libel status, embodied in the pertinent articles of the Revised Penal Code, were enacted for the vindication of private reputations. For this reason, libel is classified in the Penal Code as a crime against honor.

Unfortunately, criminal libel laws have been used by many, notably high ranking public officials, to silence or threaten critics. Thus, there is a growing clamor to decriminalize libel, either by deleting it altogether from the criminal statute books, or limiting punishment thereof exclusively to fine.

This bill aims to review libel as a criminal statute, by developing a different standard for ordinary private libel and political libel. Under the proposed law, discussions of matters of public concerns and criticisms of officials are considered privileged. This means that accusations, even if defamatory, would not be presumed malicious. The complaint must show the defendant acted with malice i.e. knowledge of the falsity of the imputation or reckless disregard of truth.

In short, what this bill aims to accomplish is to remove the presumption that every imputation that is defamatory is malicious. This will make truth a complete defense and thus enrich freedom of speech and of the press without impairing the right to a good name.

This bill also seeks to increase the penalty of fine from the current minuscule amount (Php 200.00 to Php 2,000.00) to Php 100,000.00 to Php 300,000.00, to adjust the penalty to a more contemporary level.

This bill further seeks to limit those responsible for libel. As proposed, publishers, editors and business managers may be made responsible only if said persons actually passed upon and approved the publication of the libelous material.

Finally, this bill seeks to curb the practice of filing libel cases anywhere. Against a community journalist, venue for libel will now be limited to the place where the principal office of the offending publication is located.


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AN ACT

MAKING ANY DISCUSSION OF ANY MATTER OF PUBLIC CONCERN, OR CRITICISM OF OFFICIAL CONDUCT OF PUBLIC FIGURES, QUALIFIEDLY PRIVILEGED, INCREASING FINES FOR THE CRIME OF LIBEL, AND PROVIDING FOR THE VENUE OF LIBEL CASES FILED AGAINST COMMUNITY JOURNALISTS, THEIR EDITORS, BUSINESS MANAGERS OR PUBLISHERS, AMENDING FOR THE PURPOSE ARTICLES 354, 355, 356, 357, 360 AND 361 OF ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE OF THE PHILIPPINES

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

SECTION 1. Article 354 of Act No. 3815, otherwise known as the Revised Penal Code, is hereby amended to read as follows.

ART. " 354. *Requirement of Publicity AND MALICE.* – Every defamatory imputation **PUBLICLY MADE** is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; [and]
2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not confidential in nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions; **AND**
3. ANY DISCUSSION OF ANY MATTER OF PUBLIC CONCERN, OR CRITICISM OF OFFICIAL CONDUCT OR THE CONDUCT OF PUBLIC FIGURES, UNLESS SUCH MATTER IS SHOWN BY THE PROSECUTION TO BE FALSE AND TO HAVE BEEN MADE BY THE DEFENDANT KNOWING ITS FALSITY OR WITH RECKLESS DISREGARD OF WHETHER IT IS FALSE OR NOT"

SECTION 2. Article 355 of the same Code is hereby amended to read as follows:

"ART. 355 *Libel by means of writings or similar means.* – A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prison correccional* in its minimum and medium periods or fine ranging from [200 to 6,000] **ONE HUNDRED THOUSAND TO THREE HUNDRED THOUSAND** pesos, or both, in addition to the civil action which may be brought by the offended party." **THE PROVISIONS OF ARTICLES 90 AND 91 TO THE CONTRARY NOTWITHSTANDING, THE CRIME OF LIBEL AND THE CORRESPONDING PENALTY IMPOSED ABOVE SHALL PRESCRIBE IN SIX (6) MONTHS COUNTED FROM THE DATE OF THE FIRST PUBLICATION, AIRING OR EXHIBITION OF THE LIBELOUS MATERIAL.**

SECTION 3. Article 356 of the same Code is hereby amended to read as follows:

"ART. 356. *Threatening to publish and offer to present such publication for a compensation.* – The penalty of *arresto mayor* or a fine from [200 to 2,000] **FIFTY THOUSAND TO ONE HUNDRED THOUSAND** pesos, or both, shall be imposed upon any person who threatens another to publish a libel concerning him or the parents, spouse, child , or other members of the family of the latter or upon anyone who shall offer to prevent the publication of such libel for a compensation or money consideration."

SECTION 4. Article 357 of the same Code is hereby amended to read as follows:

"ART. 357. *Prohibited publication of acts referred to in the course of official proceedings.* – the penalty of *arresto mayor* or a fine [of] **RANGING** from [200 to 2,000] **ONE HUNDRED THOUSAND TO THREE HUNDRED THOUSAND** pesos, or both, shall be imposed upon any reporter, editor or manager of a newspaper, daily or magazine, who shall publish facts connected with the private life of another and offensive to the honor, virtue and reputation of said person, even though said publication be made in connection with or under the pretext that it is necessary in the narration of any judicial or administrative proceedings wherein such facts have been mentioned."

SECTION 5. Article 360 of the same Code is hereby amended to read as follows:

"ART. 357. *Persons responsible.* – [Any person who shall publish, exhibit, or cause the publication or exhibition of any defamation in writing or by similar means] **THE AUTHOR OF THE PRINTED ARTICLE OR ANY PERSON WHO SHALL CAUSE THE EXHIBITION OF THE THEATRICAL OR CINEMATOGRAPHIC EXHIBIT CONTAINING DEFAMATORY WORDS,** shall be responsible for the same.

The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication shall be responsible for the defamations contained therein to the same extent as if he were the author thereof; **PROVIDED, THAT SAID DEFAMATORY ARTICLE PASSED THROUGH SAID PUBLISHER, EDITOR OR BUSINESS MANAGER FOR EDITING AND REQUIRED THE LATTER'S APPROVAL FOR PUBLICATION.**

The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the [Court of First Instance] **REGIONAL TRIAL COURT** of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense: *Provided, however,* That where one of the offended parties is a public officer whose office is in the City of Manila at the time of the commission of the offense, the action shall be filed in the [Court of First Instance] **REGIONAL TRIAL COURT** of the City of Manila, or the city or province where the libelous article is printed and first published, and in case such public officer does not hold office in the City of Manila, the action shall be filed in the [Court of First Instance] **REGIONAL TRIAL COURT** of the Province or city where he held office at the time of the commission of the offense where the libelous article is printed and first published and in case one of the offended parties is a private individual, the action shall be filed in the [Court of First Instance] **REGIONAL TRIAL COURT** of the province or city where he actually resides at the time of the commission of the offense or where the libelous matter is printed and first published; *Provided, further,* That the civil action shall be filed in the same court where the criminal action is filed and vice versa; *Provided, furthermore,* That the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts; *And provided, finally,* That this amendment shall not apply to cases of written defamations, the civil and/or criminal actions to which have been filed in court at the time of the effectivity of this law.

THE IMMEDIATELY PRECEDING PARAGRAPH NOWITHSTANDING, IN CASE OF LIBEL FILED AGAINST A COMMUNITY JOURNALIST, HIS OR HER EDITOR, BUSINESS MANAGER OR PUBLISHER, THE VENUE SHALL BE THE REGIONAL TRIAL COURT OF THE PROVINCE OR CITY WHERE THE PRINCIPAL OFFICE OF THE PUBLICATION IS LOCATED. THE COURT WHERE THE CRIMINAL OR CIVIL ACTION IS FIRST FILED SHALL ACQUIRE JURISDICTION TO THE EXCLUSION OF OTHER COURTS.

Preliminary investigation of criminal action for written defamations as provided for in the chapter shall be conducted by the provincial or city fiscal of the province or city, or by the municipal court of the city or capital of the province where such action may be insulted in accordance with the provisions of this article.

No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted *de officio* shall be brought except at the instance of and upon complaint expressly filed by the offended party.

SECTION 6. Article 361 of the same Code is hereby amended to read as follows:

"ART. 361. Proof of the truth. – In every criminal prosecution for libel, the truth **OF THE IMPUTATION OF THE ACTS OR OMISSIONS CONSTITUTING THE CRIME** may be given in evidence to the court and if it appears that the matter charged as libelous is true, and, moreover, that it was published with good motives and for justifiable ends, the defendants shall be acquitted.

Proof of the truth of an imputation of act or omission **WHETHER OR** not constituting a crime, [shall not be admitted, unless the imputation shall have been] **IF** made against Government employees with respect to facts related to the discharge of their official duties, **MAY BE GIVEN BY THE DEFENDANT TO REBUT EVIDENCE THAT THE DEFAMATORY IMPUTATION WAS MADE BY HIM WITH ACTUAL MALICE.**

[In such cases if the defendant proves the truth of the imputation made by him, he shall be acquitted.] "

SECTION 7. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations inconsistent with this Act are hereby repealed, amended or modified accordingly.

SECTION 8. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two national newspapers of general circulation.

Approved.