

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Sixteenth Congress
First Regular Session

HOUSE BILL NO. **2244**



Introduced by Representatives
GLORIA MACAPAGAL ARROYO and DIOSDADO MACAPAGAL ARROYO

EXPLANATORY NOTE

Certain provisions of *Republic Act No. 10175* or the *Cybercrime Prevention Act of 2012* do not stand well with specific constitutional tenets. Specifically, Section 4, Article III of the Constitution clearly provides that "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."

Section 4(c)(4) of RA 10175 provides:

SEC. 4. *Cybercrime Offenses.* — The following acts constitute the offense of cybercrime punishable under this Act:

x x x

(c) Content-related Offenses:

x x x

(4) Libel. — The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future.

No less than the Constitution itself guarantees the freedom of expression as a fundamental right—a right that gives pride to democratic nations such as ours. Unless we repeal Section 4(c)(4) of RA 10175, the constitutionally-protected right to free speech shall remain as nothing but an illusion.

Section 3(1), Article III of the Constitution likewise guarantees that “The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.”

Section 12 of RA 10175 offends this constitutional protection, as it allows law enforcement agents “to collect or record by technical or electronic means traffic data in real-time associated with specified communications transmitted by means of a computer system” without authority from a court of law.

While it is understood that seeking a court order might delay law enforcement agents in their duties, it should not be seen as sufficient reason to forego a basic constitutional right recognized in all civilized democracies: the inviolability of a person’s communication and correspondence.

We therefore ask our colleagues to join us in this legislative measure so that information technology, which RA 10175 seeks to protect, would be a venue for free speech to flourish.


GLORIA MACAPAGAL ARROYO
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Republic of the Philippines
HOUSE OF REPRESENTATIVES
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Sixteenth Congress
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HOUSE BILL NO. 2244

Introduced by Representatives
GLORIA MACAPAGAL ARROYO and DIOSDADO MACAPAGAL ARROYO

**AN ACT AMENDING THE CYBERCRIME PREVENTION ACT OF 2012
BY REPEALING SECTION 4(C)(4) AND AMENDING SECTION 12 THEREOF**

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

SECTION 1. Section 4(c)(4) of Republic Act No. 10175 is hereby REPEALED.

SEC. 2. Section 12 of Republic Act No. 10175 is hereby AMENDED to read as follows:

SEC. 12. *Real-Time Collection of Traffic Data.* — Law enforcement authorities shall be authorized to collect or record, by technical or electronic means, traffic data in real-time associated with specified communications transmitted by means of a computer system only under authority of a court warrant.

Traffic data refer only to the communication's origin, destination, route, time, date, size, duration, or type of underlying service, but not content, nor identities.

Any data to be collected or seized or disclosed under this Act shall require a court warrant.

Service providers are required to cooperate and assist law enforcement authorities in the collection or recording of the above-stated information.

The court warrant required under this section shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and the showing: (1) that there are reasonable grounds to believe that any of the crimes enumerated hereinabove has been committed, or is being committed, or is about to be committed; (2) that there are reasonable grounds to believe that evidence that will be obtained is essential to the conviction of any person for, or to the solution of, or to the prevention of, any such crimes; and (3) that there are no other means readily available for obtaining such evidence.

SEC. 3. SEPARABILITY CLAUSE - If any section or provision of this Act is held unconstitutional or invalid, any other section or provision not affected thereby shall remain valid and effective.

SEC. 4. REPEALING CLAUSE - All laws, decrees, orders, rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 5. EFFECTIVITY CLAUSE - This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or two (2) newspapers of general circulation.

Approved,