

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

Sixteenth Congress
First Regular Session

HOUSE BILL NO. 4628



Introduced by Honorable Joaquin M. Chipeco, Jr.

EXPLANATORY NOTE

A young worker once said that if he would have his way he would not work with the private sector. He explained that he cringes all the time he sees those notices of termination of employment in the classified ads section of newspapers. The ads usually go by informing the public that so-and-so is no longer connected with the particular company and that any transaction entered with him will not be honored by the corporation. With the employee's face splashed across the newspaper and with the notice itself in fine print, the notice uncannily resembles a wanted poster of fugitives from justice. To top it all, wanted posters or something akin to them, are also sometimes published in the same newspaper space. They run by stating that criminal case number so-and-so have been filed against a particular person and that any information leading to his arrest may be conveyed to the authorities.

Without a doubt, companies and other juridical persons have the right to warn the public against present and future dealings with former employees. It may be that previous employees either have the potential or the inclination to harm the interests of the corporation, and it is in the legitimate interest of the company to protect itself from possible lawsuits from the public by forewarning the latter against continued dealings with unscrupulous ex-employees.

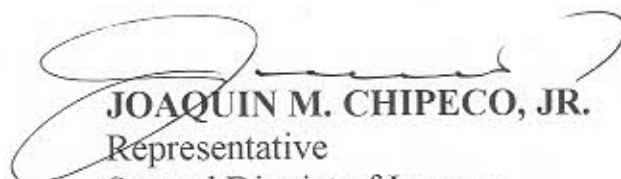
However, while it cannot be denied that juridical entities have that right to protect itself from dishonest former employees, it is clear that the exercise of that right is open to abuse. An employee who resigns from her work due to strained relations, misunderstanding, sexual harassment, exposure of irregularities in high company echelons or under similar unpleasant circumstances, but without fault on her part, may find herself on the receiving end of a vindictive act on the part of his former boss by

having a notice of severance of employment relations published in the newspapers. If that worker happens to be applying for another job at the moment and her future employer becomes aware of these newspaper ads concerning the worker, this could prejudice the employment opportunities of the subject employee. While the prospective employee may be asked to explain the circumstances surrounding the publication, a doubt nevertheless has already been created by the publication and the employer, given that there many other applicants for the position, would most probably prefer workers unsullied by such publications.

There is therefore a need to define the legal parameters of permissible and non-permissible notices of termination of employment. Perhaps, the practice of publishing the same should be limited to situations where the former employees were accountable officers, such as cashiers, treasurers, collection officers, sales representatives, and others who handle cash, property, stocks, etc. of the company. In addition, the company must have reasonable grounds to believe, either due to bad performance record, previous acts of dishonesty, etc., that the ex-employees have the propensity to compromise the interests of the company.

Applying the "balancing-of-interests" rule in constitutional law, there is a need to balance the right of companies to be protected against any corporate harm that might be inflicted to it by disgruntled employees and the right of workers to preserve their integrity and reputation against any undue aspersion that might be cast against them. When corporate interests are prejudiced, the company still has a lot of resources to compensate against the loss. However, the lowly workers have, in most cases, only their character, industry and reputation to cope with adversities. That is why, in the uneven contest between capital and labor (with everything else being equal), our laws and jurisprudence have always sided with labor to level the field, so to speak.

In view of all the foregoing considerations, the early approval of this bill is earnestly requested.



JOAQUIN M. CHIPECO, JR.
Representative
Second District of Laguna

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HOUSE BILL NO. _____

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AN ACT
RATIONALIZING THE POST-EMPLOYMENT PRACTICE OF
EMPLOYERS IN POSTING OF NOTICES OF TERMINATION
OF EMPLOYMENT IN NEWSPAPERS AND OTHER SIMILAR
PUBLICATION

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

SECTION 1. *Declaration of Policy.* – Every employer must, in the exercise of his right to publish notices of termination of employment, act with fairness, respect the dignity, privacy and peace of mind of the former employer and observe good faith.

SEC. 2. *Limitations on the Prerogative of Employers to Publish Notices of Termination of Employment in Newspapers and Other Similar Publication.* – No employer in the private sector shall publish notices of termination of employment in newspapers and other similar publication unless upon the concurrence of the following factors:

(a) The subject employee was an accountable officer or staff, such as but not limited to:

[1] cashiers

[2] treasurers

[3] collection officers

[4] sales agents or representatives

[5] other officers or employees who handle cash, property, stocks and other assets of the employer; and

(b) The employer has reasonable grounds to believe that said former employee shall cause loss or damage or otherwise compromise the interests of the employer. The commission of the following acts, based on employee records, shall constitute sufficient grounds for the employer to issue disclaimer notices, in addition to the foregoing paragraph:

[1] serious dishonesty;

[2] grave misconduct;

[3] falsification of documents;

[4] conviction of a crime involving moral turpitude; and

[5] analogous acts.

SEC. 3. *Damages.* – Violation of the provision of Section 2 of this Act shall entitle the aggrieved former employee with the payment of damages in the amount of not less than Ten Thousand Pesos (P10,000.00) but not more than Fifty Thousand Pesos (P50,000.00), upon the discretion of the court.

SEC. 4. *Liability When Committed By Entities Other Than Natural Person.* – If the violation is committed by a corporation, trust, firm, partnership, association or other similar entity, the damages shall be imposed against the guilty officer or officers of such entity.

SEC. 5. *Repealing clause.* - All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

SEC. 6. *Effectivity clause.* - This Act shall take effect fifteen (15) days after its publication either in the Official Gazette or in two (2) newspapers of general circulation.

Approved,