

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
SEVENTEENTH CONGRESS
Second Regular Session
House Bill No. 6714



Introduced by **Hon. ROSANNA “RIA” V. VERGARA**

EXPLANATORY NOTE

1 “Public service is a public trust”¹ hence, “the State shall maintain honesty and
2 integrity in the public service and take positive and effective measures against graft and
3 corruption.”² Pursuant to the constitutional mandate for accountability in public servants, a
4 number of laws were enacted in order "to promote a high standard of ethics in public
5 service"³ as well as to give teeth to these constitutional policies.

6
7 Yet, despite such policies and enabling laws, corruption in Philippine government
8 sector remains so pervasive, systemic, and prevalent. Corruption is generally defined as the
9 abuse of power for private gain,⁴ it is an abuse of position in order to sustain power, status
10 and wealth. Corruption takes various forms. It can take the form of violence or be as petty as
11 the everyday abuse of entrusted power by public officials in their interactions with ordinary
12 citizens.

13
14 One particular form of apparent abuse of power is infidelity in the custody of public
15 documents, prohibition of which has been nonchalantly disregarded by unscrupulous
16 government officials, either for their personal gain or for their principal, as current penal laws
17 proved to be non-deterrent. Article 226 of the Revised Penal Code penalizes the act only
18 when damage to third party is proved. As these acts are often committed clandestinely,
19 damage is oftentimes difficult to establish. Consequently, erring public officers continue the
20 deed with impunity.

¹ 1987 Constitution of the Republic of the Philippines, Article XI, Section 1.

² 1987 Constitution of the Republic of the Philippines, Article II, Section 27.

³ Republic Act No. 6713, Section 2.

⁴ The World Bank defines corruption as the abuse of public office for private gain.

1 In view of this observation, this House Bill seeks to amend Article 226 of the Revised
2 Penal Code by making accountable public officials liable to infidelity in the custody of public
3 documents even if no damage is caused to third party or to public interest. This proposed
4 amendment is proper considering that the element of “damage” is also not required in the
5 offense of “falsification of public documents.” Moreover, as early as 1942, the Supreme
6 Court recognized in the case of *Melchor Kataniag vs. People of the Philippines*⁵ that the
7 commission of the offense necessarily causes damage to public interest which consist of
8 “alarm to the public or in the alienation of its confidence in any branch of the government
9 service.”
10

11 This bill also proposes to increase the penalty for the crime concerned and to remove
12 the scale of penalties based on the extent of damage.
13

14 Finally, this representation is aware of the ongoing efforts of Congress to pass an
15 omnibus bill to update and amend the already obsolete provisions of the Revised Penal Code
16 – and this specific provision, Article 226, is one of them. With this bill, it is submitted that
17 Article 226 must be made a priority if only to institutionalize as a State policy the seriousness
18 of the crime of “Infidelity in the Custody of Public Documents” and the government’s resolve
19 to deter its commission.

20 This representation is of the belief that when people in government violate laws, the
21 consequences must be more severe to discourage such violation for we carry with our
22 positions, the hopes and dreams of our countrymen and when we break laws, we erode the
23 people’s faith and trust in the government.

Given the foregoing, this Bill is respectfully submitted for immediate consideration
and approval.


ROSANNA “RIA” V. VERGARA
Representative, 3rd District of Nueva Ecija

⁵ G. R. No. L-48398, 28 November 1942.

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AN ACT

PROVIDING STIFFER PENALTIES AND REMOVING THE ELEMENT OF DAMAGE FOR THE CRIME OF INFIDELITY IN THE CUSTODY OF PUBLIC DOCUMENTS, AMENDING FOR THAT PURPOSE, ARTICLE 226 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE.

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

SECTION 1. *Short Title.* – This Act shall be known and cited as the “Infidelity in the Custody of Public Documents Act of 2017”.

SECTION 2. *Declaration of Policy.* – Pursuant to the provision of the 1987 Constitution that “Public office is a public trust,”⁶ it is hereby declared the policy of the State that “Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.”⁷

SECTION 3. Article 226 of Act No. 3815, as amended, otherwise known as the Revised Penal Code, is hereby further amended to read as follows:

“ART. 226. Removal, concealment or destruction of documents. - Any public officer **OR EMPLOYEE** who shall remove, destroy or conceal documents or papers officially entrusted to him **OR HER**, shall suffer **THE PENALTIES OF PRISION CORRECCIONAL IN ITS MAXIMUM PERIOD TO PRISION MAYOR** and a fine not exceeding **ONE HUNDRED THOUSAND PESOS (P 100,000.00) AS WELL AS PERPETUAL ABSOLUTE DISQUALIFICATION TO HOLD PUBLIC OFFICE.**

SECTION 4. *Repealing Clause.* – All laws, executive orders, presidential decrees, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 5. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

⁶ 1987 Constitution of the Republic of the Philippines, Article XI, Section 1.

⁷ *Id.*

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2 Approved,