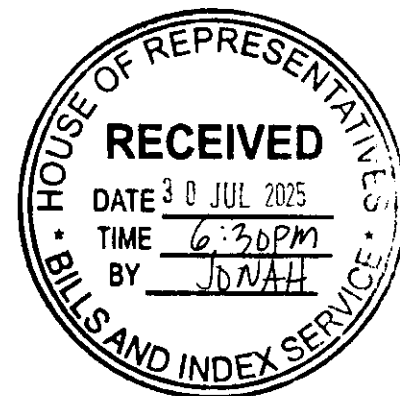


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session
House Bill No. **2748**



Introduced by Representative Julius Cesar "Jay" 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
3 and corruption."² Pursuant to the constitutional mandate for accountability in public
4 servants, a number of laws were enacted in order "to promote a high standard of ethics
5 in public service"³ as well as to give teeth to these constitutional policies.

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

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

21
22 In view of this observation, this House Bill seeks to amend Article 226 of the
23 Revised Penal Code by making accountable public officials liable to infidelity in the
24 custody of public documents even if no damage is caused to third party or to public
25 interest. This proposed amendment is proper considering that the element of
26 "damage" is also not required in the offense of "falsification of public documents."
27 Moreover, as early as 1942, the Supreme Court recognized in the case of *Melchor*
28 *Kataniag vs. People of the Philippines*⁵ that the commission of the offense necessarily

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.

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

1 causes damage to public interest which consist of "alarm to the public or in the
2 alienation of its confidence in any branch of the government service."
3

4 This bill also proposes to increase the penalty for the crime concerned and to
5 remove the scale of penalties based on the extent of damage.
6

7 Finally, this representation is aware of the ongoing efforts of Congress to pass
8 an omnibus bill to update and amend the already obsolete provisions of the Revised
9 Penal Code - and this specific provision, Article 226, is one of them. With this bill, it
10 is submitted that Article 226 must be made a priority if only to institutionalize as a
11 State policy the seriousness of the crime of "Infidelity in the Custody of Public
12 Documents" and the government's resolve to deter its commission.
13

14 This representation is of the belief that when people in government violate
15 laws, the consequences must be more severe to discourage such violation for we carry
16 with our positions, the hopes and dreams of our countrymen and when we break laws,
17 we erode the people's faith and trust in the government.
18

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



JULIUS CESAR "JAY" V. VERGARA
Third District of Nueva Ecija

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
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Introduced by Representative Julius Cesar "Jay" V. Vergara

1 **AN ACT**
2 **PROVIDING STIFFER PENALTIES AND REMOVING THE ELEMENT OF**
3 **DAMAGE FOR THE CRIME OF INFIDELITY IN THE CUSTODY OF PUBLIC**
4 **DOCUMENTS, AMENDING FOR THAT PURPOSE, ARTICLE 226 OF ACT NO.**
5 **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:

6 **Section 1. Short Title.** – This Act shall be known and cited as the "Infidelity in
7 the Custody of Public Documents Act of 2017".
8

9 **Section 2. Declaration of Policy.** – Pursuant to the provision of the 1987
10 Constitution that "Public office is a public trust,"⁶ it is hereby declared the policy of
11 the State that "Public officers and employees must at all times be accountable to the
12 people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act
13 with patriotism and justice, and lead modest lives."⁷
14

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

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

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

⁷ *Id.*

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

5 **Section 5. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
6 publication in the *Official Gazette* or in a newspaper of general circulation.
7

8 *Approved,*