

**DRAFT BILL No. 1,589 OF 2015
(From Mrs. SORAYA SANTOS)**

Increases the punishment in connection with criminal offenses against one’s honor committed by means of the publishing of content on the Internet or that lead to events that cause the victim’s death.

The National Congress declares:

Article 1. This piece of legislation increases the punishment in connection with criminal offenses against one’s honor committed by means of the publishing of content on the Internet or that lead to events that cause the victim’s death.

Article 2. The article 141 of the Decree-law no. 2,848, of December 7th 1940, from now on is enforced with the added paragraphs 2 and 3, renumbering the current sole paragraph to paragraph 1:

“Article 141.
Paragraph 2. If the crime is committed by means of the publishing of content on the Internet, the penalty will be of reclusion and doubled.
Paragraph 3. If the libel, defamation or offense lead to events that cause the victim’s death, the penalty will be of reclusion and increased by five times. “

Article 3. Article 145 of the Decree-law no. 2,848, of December 7th 1940, from now on is enforced with the following wording:

“Article 145. Proceedings in connection with the criminal offenses mentioned in this chapter are only taken upon complaint, except in the case set forth in article 141, paragraphs 2 and 3, or when, pursuant to article 140, paragraph 2, bodily injury arises from it.
.....” (NW)

Article 4. Article 323 of the Decree-law no. 3,689, of October 3rd 1941, from now on is enforced with the added item IV:

“Article 323.
VI - In the crimes of libel, defamation or offense committed by means of the publishing of content on the Internet or that lead to events that cause the victim’s death.”

Article 5. Item IV of article 387 of the Decree-law no. 3,689, of October 3rd 1941, from now on is enforced with the following wording:

“Article 387.

IV - The minimum amount due for the compensation of moral and material damages caused by the infraction will be established by taking into account the losses suffered by the offended;

..... (NW)

Article 6. Article 1 of Law no. 8,072, of July 25th 1990, from now on is enforced with the added item IX:

“Article 1.

IX - Libel (article 138), defamation (article 139) or offense (article 140), when leading to events that cause the death of the victim (article 141, paragraph 3).”

Article 7. Paragraphs 1 and 2 of article 10, of Law 12,965, of April 23rd of 2014, from now on are enforced with the following wording:

“Article 10.

Paragraph 1. The provider in charge of keeping the records will only be compelled to provide the records mentioned in the main section of this article, in an autonomous manner or associated to personal data or other information that may contribute to the identification of the device’s user, upon judicial order or requisition of the competent authority, pursuant to section IV of this chapter, subject to article 7’s stipulations.

Paragraph 2. The content of private communications can only be provided upon judicial order or requisition of the competent authority, in the hypothesis and in the manner that the law establishes, subject to items II and III of article 7’s stipulations.

..... (NW)”

Article 8. Paragraph 5 of article 13, of Law 12,965, of April 23rd of 2014, from now on is enforced with the following wording:

“Article 13.

Paragraph 5. With the exception of article 23-A’s stipulations, the providing of the records mentioned in this article to the applicant should be preceded by judicial authorization.

..... (NW)”

Article 9. Paragraph 3 of article 15, of Law 12,965, of April 23rd of 2014, from now is enforced with the following wording:

“Article 15.

Paragraph 3. With the exception of article 23-A’s stipulations, the providing of the records mentioned in this article to the applicant should be preceded by judicial authorization.

..... (NW)”

Article 10. Article 19, of Law 12,965, of April 23rd of 2014, from now on is enforced with the added paragraphs 3-A and 4, with the following wording:

“Article 19.
Paragraph 3-A. The interested party or her\his legal representative may judicially request, at any moment, the removal of content that links her\his name or image to crimes from which she\he was definitely acquitted, or to libelous, defamatory or offensive facts.

Paragraph 4. The judge, including during the proceedings mentioned in paragraphs 3 and 3-A, may anticipate, totally or partially, the effects of the requested injunction on the initial request, in case there is unequivocal evidence regarding the fact and considering the public interest in accessing the content on the Internet, provided that the likelihood of the claim of the plaintiff is well-grounded and there is a well-founded fear of irreparable or hard-to-repair damage” (NW)

Article 11. Law no. 12,965, of April 23rd 2014, from now on is enforced with the added article:

“Article 21-A. The Internet connection providers that do not take the measures to remove the content referred to in article 19 will be subjected to a fine of R\$ 50.000,00 (fifty-thousand reais), doubled in case of recidivism, without prejudice of the other civil or eventually appropriate criminal sanctions.”

Article 12. Section IV of Law no. 12,965, of April 23rd 2014, is now named “Records Requiring”.

Article 13. Law no. 12,965, of April 23rd 2014, from now on is enforced with the following added articles:

“Article 23-A. The police authority or the Public Attorney’s Office, pursuant to this article, may request, to the one responsible for keeping it, connection and access to Internet applications’ registration data, in order to conduct an enquiry or investigative procedure initiated to ascertain the practice of crimes against the honor committed by means of the publishing of content on the Internet.

Paragraph 1. The request will be presented only if grounded on evidence of the occurrence of the crime and when the proof cannot be collected through other available means, under penalty of invalidity of such proof.

Paragraph 3. The police enquiry mentioned in the main section of this article will be concluded within thirty days, if the accused is under arrest, and ninety days, when she\he is free.

Paragraph 4. It is incumbent to the requesting authority to take the necessary measures to guarantee the seal of received information and to preserve the intimacy, private life, honor and image of the user.

Article 23-B. To request or provide connection records or records regarding the access to Internet applications outside of the hypothesis authorized by law constitutes crime.

Penalty: reclusion, of two to four years, and fine.”

Article 14. This law is valid from the time of its publication.

Commission Room, 2015.

Congresswoman SORAYA SANTOS