

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

APPROVED BY: Osmeña

S E N A T E

S. No. 319

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Article II, Section 12 of the Constitution enshrines the Filipino people's respect for life, as it mandates the State to "protect the life of the mother and the life of the unborn **from conception.**"

There is no ambiguity in this Constitutional mandate. It is re-enforced by Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, which states that "every child is endowed with the dignity and worth of a human being **from the moment of his conception**, as generally accepted in medical parlance, and has therefore the right to be born well."

The state's obligation to uphold the right of the unborn is underscored by the fact that a person is most defenseless while he rests in his mother's womb, totally dependent on his mother for the nurturing and protection. A society that can countenance the killing of babies in their mothers' wombs, loses its moral ascendancy to protest against the murder and killing of persons who are well able to defend themselves.

Yet, the enforcement of the right of the unborn against abortion continues to be weak. In fact, certain agencies of the government itself, in promoting the government policy on population control have been known to promote the use of abortifacient drugs and Intrauterine Devices (IUD) which work abortively by interfering with the implantation of a fertilized ovum in the mother's womb, or by interrupting pregnancy after implantation.

In furtherance of the Constitutional mandate against abortion, this bill proposes to regulate the use, production, sale, distribution or dispensation of abortive drugs and prohibiting the use, production sale, distribution or dispensation of abortive devices, defining the same, providing penalties therefor .

Likewise, this bill proposes to raise the penalty for the crime of intentional abortion from the present prison correccional in its maximum period (with the range of 4 years, 2 moths and 1 day to 6 years) to prison mayor in its maximum period with the range of 10 years and 1 day to 12 years. Moreover, the accessory penalty is raised from mere suspension of the license to practice

medicine or midwifery during the period of sentence to perpetual loss of license, amending for the purpose the Revised Penal Code of the Philippines.

In view of the foregoing, early passage of this bill is earnestly requested.


SERGIO OSMEÑA III
Senator

REC'D BY:

S E N A T E
S. No. 319

Introduced by Senator S. R. Osmeña III

AN ACT
REGULATING THE USE, PRODUCTION, SALE, DISTRIBUTION OR
DISPENSATION OF ABORTIVE DRUGS AND PROHIBITING THE USE,
PRODUCTION, SALE, DISTRIBUTION OR DISPENSATION OF ABORTIVE
DEVICES, DEFINING THE SAME, PROVIDING PENALTIES THEREFOR AND
AMENDING FOR THE PURPOSE THE REVISED PENAL CODE OF THE
PHILIPPINES AND FOR OTHER PURPOSES

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

1 SECTION 1. **Short Title.** – This Act shall be known as the “**Anti-**
2 **Abortive Drugs and Devices Act of 2004.**”

3 SEC. 2. **Definition of Terms.** – (a) “Abortive Drug” shall be defined as
4 any medicine, drug, chemical, or potion that acts to or has potential either to
5 interfere with the implantation of the fertilized ovum onto the mother’s womb or to
6 interrupt pregnancy after implantation. It shall include but not be limited to such
7 groups of abortive drugs as the Oral Contraceptives, Prostaglandins (not to be
8 confused with Prostaglandins with beneficial use) and Antiprogesteroles.

9 (b) “Abortive Device” shall be defined as any instrument, device, material
10 or agent introduced into the female reproductive system whose primary
11 mechanism of action is either to interfere with the implantation of the fertilized
12 ovum onto the mother’s womb or interrupt pregnancy after implantation. It shall
13 include but shall not be limited to Intra-uterine Devices (IUDs).

14 SEC. 3. No abortive drug shall be sold, distributed or dispensed except
15 through a prescription issued by a licensed physician.

1 SEC. 4. No physician shall prescribe any abortive drug for any person
2 unless her physical or physiological condition justifies its use for therapeutic
3 purposes.

4 SEC. 5. All manufacturers of drugs shall label all abortive drugs or
5 chemicals they produce, indicating therein that such drugs have "abortifacient
6 potential."

7 SEC. 6. Any person who is found to have violated Section 3,4, and 5 shall
8 be punished with imprisonment of not less than six (6) months and a fine of not
9 more than 5,000 pesos: Provided, That if the offender is a physician or
10 practitioner, he shall suffer the additional penalty of the revocation of his license
11 to practice his profession.

12 SEC. 7. Article 256 of the Revised Penal Code is hereby amended to read
13 as follows:

14 "Any person who shall intentionally cause an abortion, EITHER BY
15 ADMINISTERING ANY ABORTIVE DEVICE OR BY OTHER MEANS,
16 shall suffer:

- 17 1. The penalty of *reclusion temporal*, if he shall use any violence upon
18 the person of the pregnant woman.
- 19 2. The penalty of *prision mayor*, if, without using any violence, he shall
20 act without the consent of the woman.
- 21 3. The penalty to *prision correccional* in its medium and maximum
22 periods, if the woman shall have consented."

23 SEC. 8. Paragraph 1 of Article 258 is hereby amended to read as follows:

24 "The penalty of *prision correccional* in its medium and maximum periods
25 shall be imposed upon any woman who shall practice an abortion upon herself,
26 EITHER THROUGH THE USE OF ANY ABORTIVE DEVICE OR BY OTHER
27 MEANS, or shall consent that any other person should do so."

28 SEC. 9. Article 259 of the same Code is hereby amended to read as
29 follows:

1 [ARTICLE 259. Abortion practiced by a physician or
2 midwife and dispensing of abortives. — The penalties provided in article
3 256 shall be imposed in its maximum period, respectively, upon any
4 physician or midwife who, taking advantage of their scientific knowledge or
5 skill, shall cause an abortion or assist in causing the same.

6 Any pharmacist who, without the proper prescription from a
7 physician, shall dispense any abortive shall suffer *arresto mayor* and a
8 fine not exceeding 1,000 pesos.]

9 "ANY PHYSICIAN, MIDWIFE, NURSE OR ANY OTHER HEALTH
10 WORKER, WHO, TAKING ADVANTAGE OF HIS SCIENTIFIC
11 KNOWLEDGE OR SKILL, SHALL CAUSE OR ASSIST IN CAUSING AN
12 ABORTION, EITHER BY ADMINISTERING ANY ABORTIVE DEVICE OR
13 BY OTHER MEANS, SHALL SUFFER THE PENALTY OF *PRISION*
14 *MAYOR* IN ITS MAXIMUM PERIOD AND THE ADDITIONAL PENALTY
15 OF THE REVOCATION OF HIS LICENSE TO PRACTICE HIS
16 PROFESSION.

17 ANY PERSON, PARTNERSHIP OR CORPORATION WHO SHALL
18 PRODUCE, SELL, DISPENSE OR OTHERWISE DISTRIBUTE
19 WHETHER FOR OF WITHOUT CONSIDERATION, ANY ABORTIVE
20 DEVICE SHALL SUFFER *ARRESTO MAYOR* IN ITS MAXIMUM PERIOD
21 AND A FINE NOT EXCEEDING 5,000 PESOS."

22 SEC. 11. If the offender is a foreigner, his Philippine visa shall be
23 cancelled and he shall be deported without further proceedings after serving his
24 sentence.

25 SEC. 12. Any woman upon whom abortion was practiced by any
26 physician, midwife, nurse, or any other health worker, shall be exempt from
27 criminal prosecution for intentional abortion in the event that she agrees to testify
28 against the physician, midwife, nurse or the health worker concerned

1 Sec. 13. Effectivity Clause. - This Act shall take fifteen (15) days after its
2 publication in two (2) national newspapers of general circulation.

Approved,