

THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

OFFICE OF THE SECRETARY

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S E N A T E

S. No. 478

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Article II Section 14 of the Constitution declares:

"The State recognizes the role of women in nation-building and shall ensure the fundamental equality before the law of women and men."

E. O. 209, otherwise known as the Family Code replaced "adultery" on the part of the wife and "concubinage" on the part of the husband with "sexual infidelity on the part of either spouses" as a ground for legal separation.

Yet the Revised Penal Code (Act 3815 as amended) retains both "adultery" (Art. 333) and "concubinage" (Art. 334) as felonies. This perpetuates the inequality between the wife and the husband, when adultery as a single act of infidelity is a violation of the laws relating to marriage **only when it is committed by a woman**. A marital indiscretion on the part of the husband is not considered as a felony unless it is attended by circumstances enumerated in Article 334.

This bill corrects the discriminatory treatment by replacing "adultery" with the crime of "sexual infidelity" which makes it criminal for either husband or wife to have sexual intercourse with any person other than his/her legal spouse. The crime of concubinage is proposed to be replaced with "maintenance of a paramour," which may be committed by either husband or wife.

The bill also proposes additional grounds for extinguishing criminal liability with respect to "sexual infidelity" and "maintenance of a paramour" such as recrimination, when the offended party is himself/herself guilty of sexual infidelity or maintenance of a paramour; or when the offended party has abandoned his/her spouse without justifiable cause for a period of more than one year.

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

S. Osmeña III
SERGIO OSMEÑA III
Senator

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AN ACT
ACCORDING EQUAL RIGHTS TO WIVES AND HUSBANDS IN THE
PHILIPPINES BY AMENDING ARTICLES 333, 334 AND 344 OF ACT
NUMBERED THREE THOUSAND EIGHT-HUNDRED AND FIFTEEN, 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:*

1 SECTION 1. Article 333 of the Revised Penal Code is hereby amended
2 to read as follows:

3 "ART. 333. *Who are guilty of SEXUAL INFIDELITY [adultery].* –
4 [Adultery] SEXUAL INFIDELITY is committed by any married [woman]
5 PERSON who shall have sexual intercourse with another PERSON not
6 HIS OR her [husband] SPOUSE and by the [man] PERSON who has
7 carnal knowledge [of] WITH HIM OR her, knowing HIM or her to be
8 married, even if the marriage be subsequently declared void.

9 SEXUAL INFIDELITY [Adultery] shall be punished by *prision*
10 *correccional* in its MINIMUM AND medium [and maximum] periods."

11 [If any person found guilty of adultery committed this offense while
12 being abandoned without justification by the offended spouse, the penalty
13 next lower in degree than that provided in the next preceding paragraph
14 shall be imposed].

15 SEC. 2. Article 334 of the Revised Penal Code is hereby amended to read
16 as follows:

1 “ART. 334 [*Concubinage*] *MAINTAINING A PARAMOUR*. – Any
2 [husband] MARRIED PERSON who shall keep a [mistress] PARAMOUR
3 in the conjugal dwelling or [shall have sexual intercourse, under
4 scandalous circumstances with a woman who is not his wife, or] shall
5 cohabit with [her] A PARAMOUR in any other place, shall be punished by
6 *prision correccional* in its minimum and medium periods.

7 “The [concubine] PARAMOUR shall suffer the penalty of *destierro*.

8 “AS USED IN THIS ARTICLE, “PARAMOUR” SHALL INCLUDE
9 ANY PERSON WHO COHABITS WITH A MARRIED PERSON OF
10 EITHER SEX UNDER CIRCUMSTANCES WHERE THEY ASSUME AND
11 EXERCISE TOWARD EACH OTHER THE RIGHTS AND PRIVILEGES
12 WHICH PROPERLY BELONG TO PERSONS MARRIED TO EACH
13 OTHER.”

14 SEC. 3. The first two paragraphs of Article 344 of the Revised Penal Code
15 are hereby amended to read as follows:

16 “ART. 344. *Prosecution of the crimes of [adultery] SEXUAL*
17 *INFIDELITY, [Concubinage] MAINTAINING A PARAMOUR, abduction ,*
18 *[rape] and acts of lasciviousness*. – The crime of SECUAL INFIDELITY
19 [*Concubinage*] shall not be prosecuted except upon a complaint filed by
20 the offended spouse.

21 “The offended party cannot institute criminal prosecution without
22 including both the guilty parties, if they are both alive, nor, in any case, if
23 he or SHE shall have consented or pardoned the offenders [.] , NOR, IN
24 ANY CASE FI HE OR SHE IS LIKEWISE GUILTY OF SEXUAL
25 INFIDELITY OR MAINTAINING A PARAMOUR, NOR, IN ANY CASE, IF
26 HE OR SHE SHALL HAVE ABANDONED THE GUILTY SPOUSE
27 WITHOUT A JUST CAUSE FOR MORE THAN ONE YEAR.”

28 “The offenses of seduction, abduction, AND acts of lasciviousness,
29 [and rape,] the marriage of the offender with the offended party or her

1 parents, grandparents, or guardian, nor, in any case, if the offender has
2 been expressly pardoned by the above-named persons, as the case may
3 be.

4 "In cases of seduction, abduction, AND acts of lasciviousness, [and
5 rape,] the marriage of the offender with the offended party shall extinguish
6 the criminal action or remit the penalty already imposed upon him. The
7 provisions of this paragraph shall also be applicable to the co-principals,
8 accomplices, and accessories after the fact of the above-mentioned
9 crimes."

10 SEC. 4. **Effectivity.** This Act shall take effect fifteen (15) days after its
11 publication in two (2) leading newspapers of national circulation.

Approved,