

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

13 OCT -2 A11:44

SENATE S. No. **1771**

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 11, Section 14, mandates the State to ensure the fundamental equality before the law of women and men. This requires the State to apply the law regardless of one's gender.

Under the Penal Code, Art. 333, adultery may only be committed by a married woman and by the man who shall have sexual intercourse with her. On the other hand, under the same law, Art. 334, concubinage may be committed by a husband only under certain conditions which are difficult to prove. These provisions have allowed other married persons not falling within the coverage to perpetuate marital infidelity but remaining unscathed from the application of the law. This bill seeks to eliminate this gender bias in adultery and concubinage.

This bill is a consolidation of related bills submitted in the Tenth Congress before the Committee on Constitutional Amendments, Revision of Codes and Laws, which the undersigned chaired.*

MIRIAM DEFANSOR SANTIAGO

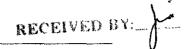
^{*} This bill was re-filed during the Thirteenth Congress, First Regular Session.



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

13 OCT -2 A1 :44

SENATE S. No. **1771**



Introduced by Senator Miriam Defensor Santiago

AN ACT	
AMENDING ARTICLES 333 AND 344, AND REPEALING ARTICLE 334, OF ACT	NO.
3815, AS AMENDED, OTHERWISE KNOWN AS THE PENAL CODE, ELIMINAT	ING
GENDER BIAS IN ADULTERY AND CONCUBINAGE	

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

SECTION 1. Article 333 of Act No. 3815, as amended, otherwise known as the Penal Code, is hereby amended to read as follows:

"Art. 333. MARITAL INFIDELITY. [Who are guilty of adultery?] -MARITAL INFIDELITY [ADULTERY] is committed by any married
PERSON [woman] who shall have sexual RELATIONS [intercourse] with a
PERSON [man] OTHER THAN HIS OR her SPOUSE [husband], and by the
SEXUAL PARTNER [man] of the MARRIED PERSON, knowing the
LATTER [her] to be married, even if the marriage be subsequently declared void.

MARITAL INFIDELITY [adultery] shall be punished by prision correctional in its MINIMUM [medium] and MEDIUM [maximum] periods.

EXEMPT FROM CRIMINAL LIABILITY IF THE OFFENSE WAS COMMITTED AFTER THE ISSUANCE OF A FINAL DECREE OF LEGAL SEPARATION BY A COMPETENT COURT. HOWEVER, IF THE OFFENSE WAS COMMITTED AFTER THE ACCUSED SPOUSE HAD BEEN JUSTIFIABLY ABANDONED [(If the person guilty of adultery committed this offense while): abandoned without justification] OR SUBJECTED TO REPEATED PHYSICAL VIOLENCE OR GROSSLY ABUSIVE CONDUCT by the offended spouse, the penalty next lower in degree

1	than that provided in the [next] preceding paragraph shall be imposed, AND THE
2	SAME PENALTY SHALL BE IMPOSED ON THE CO-ACCUSED IN THE
3	MARITAL INFIDELITY CASE."
4	SECTION 2. Article 344, paragraph 1, of the same law is hereby amended to read as
5	follows:
6	"Art. 344. Prosecution of the crimes of MARITAL INFIDELITY
7	[adultery, concubinage], seduction, rape, and acts of lasciviousness "The
8	crime[s] of MARITAL INFIDELITY [adultery and concubinage] shall not be
9	prosecuted except upon a complaint filed by the offended spouse. xxx"
10	SECTION 3. Separability Clause If any provision or part hereof is held invalid or
11	unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
12	valid and subsisting.
13	SECTION 4. Repealing Clause Article 334 of Act No. 3815, as amended, otherwise
14	known as the Penal Code, is hereby repealed.
15	Any law, presidential decree or issuance, executive order, letter of instruction, rule or
16	regulation contrary to or inconsistent with the provisions of this Act is hereby repealed,
17	modified, or amended accordingly.
18	SECTION 5. Effectivity Clause This Act shall take effect fifteen (15) days after its
19	publication in at least two (2) newspapers of general circulation.

Approved,