



Senate
Office of the Secretary

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

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SENATE
S. No. 1771

RECEIVED BY: *js*

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 Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
js

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



13 OCT -2 AM 11:44

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AN ACT

AMENDING ARTICLES 333 AND 344, AND REPEALING ARTICLE 334, OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE PENAL CODE, ELIMINATING 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 *prison correccional* in its **MINIMUM [medium]** and **MEDIUM [maximum]** periods.

ANY PERSON ACCUSED OF MARITAL INFIDELITY SHALL BE 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,