

SENATE
S. B. No. 1255

1917

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The right of the unborn is enshrined in Article 2, Section 12 of the Constitution. This State policy strengthens our "commitment to the protection of life, even in its incipient stage." This principle is further translated into a specific state policy in Article 3, para. 1 of Presidential Decree 603, also known as the Child and Youth Welfare Code. This reads, "Every child is endowed with 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."

Lately, State authorities have noted the rampant incidence of abortions in the country. These incidents have been administered by physician, midwives, nurses and other health workers, complemented by the distribution, sale, and dispensation by pharmacists of abortifacient devices. These acts completely undermine the State's policy which seeks to safeguard the well-being of the unborn.

This bill proposes to put more teeth to the Constitutional ban on abortion by providing that the penalties imposed by law be meted in their maximum and by imposing the additional penalty of perpetual loss of license to practice their profession by the guilty individuals. To encourage the reporting of violations of the law, the bill exempts a woman on whom the abortion was performed from criminal prosecution in exchange for her testimony against the physician, midwife, nurse or health worker concerned.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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AN ACT AMENDING THE PENAL CODE, ARTICLE 259

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

SECTION 1. The Penal Code, Article 259 is amended to read as follows:

Article 259. Abortion practiced by a physician, midwife, NURSE OR ANY OTHER HEALTH WORKER and dispensing of abortives OR ABORTIFACIENTS - The penalties provided in Article 256 shall be imposed in their maximum period, respectively: PROVIDED, THE ADDITIONAL PENALTY OF PERPETUAL LOSS OF LICENSE TO PRACTICE PROFESSION, SHALL BE IMPOSED upon any physician, midwife, NURSE OR HEALTH WORKER who, taking advantage of their scientific knowledge or skill, shall cause an abortion or assist in causing the same; PROVIDED FURTHER, THAT, [Any pharmacist who, without the proper prescription from a physician from a physician, shall dispense] ANY PERSON WHO SHALL PRODUCE, SELL, DISPENSE OR OTHERWISE DISTRIBUTE WHETHER FOR OR WITHOUT CONSIDERATION, any abortive DEVICE shall suffer [arresto mayor] PRISION CORRECTIONAL IN ITS MAXIMUM PERIOD and a fine not exceeding [1,000] TWENTY THOUSAND PESOS (P20,000.00), OR IN THE CASE OF A PARTNERSHIP, CORPORATION, OR ASSOCIATION, THE OFFICERS, DIRECTORS OR OTHER PERSONS RESPONSIBLE FOR ITS OPERATION OR ADMINISTRATION, UNLESS PROVEN THAT THEY HAVE TAKEN NO PART IN THE COMMISSION OF THE OFFENSE, SHALL SUFFER THE SAME PENALTY; PROVIDED FINALLY, THAT ANY WOMAN UPON WHOM ABORTION WAS PRACTICED BY ANY PHYSICIAN, MIDWIFE OR, NURSE OR HEALTH WORKER SHALL BE EXEMPT FROM CRIMINAL PROSECUTION FOR INTERNATIONAL

ABORTION IN THE SEVEN THAT SHE AGREES TO TESTIFY AGAINST THE PHYSICIAN, MIDWIFE OR NURSE OR HEALTH WORKER CONCERNED.

SEC. 2. A new paragraph, entitled Art. 259-A, shall be added to read as follows:

Art. 259-A DEFINITION OF TERMS. - As used in this Act, the following shall mean:

(1) AN ABORTIVE OR AN ABORTIFACIENT REFERS TO ANY AGENT THAT CAUSES ABORTION, AND

(2) AN ABORTIVE DEVICE REFERS TO ANY DEVICE USED TO EXPEL OR EXTRACT ALL PARTS OF THE PLACENTA OR THE MEMBRANE WITHOUT AN IDENTIFIABLE FETUS, OR A LIVEBORN INFANT, OR A STILLBORN INFANT WEIGHING THAN 500 GRAMS.

SEC. 3. Separability Clause. - If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 4. Repealing Clause. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

SEC. 5. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.