

20 JAN 22 A11 :39

SENATE
S. No. 1287

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INTRODUCED BY SENATOR RISA HONTVEROS

AN ACT
ENSURING THE FUNDAMENTAL EQUALITY OF MEN AND WOMEN UNDER THE
LAWS ON MARRIAGE AND FAMILY RELATIONS, AMENDING FOR THE
PURPOSE ARTICLES 14, 96, 124, 211, AND 225 OF EXECUTIVE ORDER NO.
209, OTHERWISE KNOWN AS THE "FAMILY CODE OF THE PHILIPPINES"

EXPLANATORY NOTE

In 2019, the World Economic Forum's Global Gender Gap Report placed the Philippines as the most gender-equal country in Asia and the 16th most gender-equal country globally¹. Despite this accolade, one fundamental inequality remains unresolved: the fundamental equality of men and women under the laws on marriage.

The existing family code have some provisions that one could interpret as unfair to one of the two sexes, namely: women. Filipino society's esteem for mothers, which they regard as the 'ilaw ng tahanan' are found to be lacking. Their husband's decisions are deemed automatically superior to their wife's and ultimately negates the equality of a man and a woman inside the institution of marriage.

Filipina women are now in a better standing economically, financially, and professionally. They have borne and raised generations of citizens and the country owes it to them to recognize their rights and raise them to the same standard that their husbands enjoy.

In view of the foregoing, the immediate passage of this bill is earnestly sought.


RISA HONTIVEROS

Senator

¹ <https://www.rappler.com/nation/247372-philippines-rankings-gender-gap-report-2020>

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LAWS ON MARRIAGE AND FAMILY RELATIONS, AMENDING FOR THE PURPOSE
ARTICLES 14, 96, 124, 211, AND 225 OF EXECUTIVE ORDER NO. 209,
OTHERWISE KNOWN AS THE "FAMILY CODE OF THE PHILIPPINES"

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

SECTION 1. Article 14 of Executive Order No. 209 is hereby amended to read as follows:

"Art. 14. In case either or both of the contracting parties[, not having been emancipated by a previous marriage,] are between the ages of eighteen and twenty-one, they shall, in addition to the requirements of the preceding articles, exhibit to the local civil registrar, the consent to their marriage of [their father, mother, surviving parent], EITHER PARENT, or guardian, or [persons] THE PERSON WHO HAS [having] legal charge of them, AS PROVIDED UNDER THIS CODE AND OTHER RELEVANT LAWS, in the order mentioned. Such consent shall be manifested in writing by the interested party, who personally appears before the proper local civil registrar, or in the form of an affidavit made in the presence of two witnesses and attested before any official authorized by law to administer oaths. The personal manifestation shall be recorded in both applications for marriage license, and the affidavit, if one is executed instead, shall be attached to said applications."

1 **SEC. 2.** Article 96 of Executive Order No. 209 is hereby amended to read as follows:

2 "Art. 96. The administration and enjoyment of the community
3 property shall belong to both spouses jointly. ANY ACT OF
4 ADMINISTRATION BY EITHER SPOUSE WITHOUT THE CONSENT OF THE
5 OTHER SHALL BE UNENFORCEABLE UNTIL IT IS SUBSEQUENTLY
6 RATIFIED BY THE NON-CONSENTING SPOUSE. In case of disagreement,
7 the [husband's decision shall prevail, subject to] SPOUSES SHALL MAKE
8 EARNEST EFFORTS TO SETTLE THEIR DIFFERENCES, PROVIDED THAT,
9 SHOULD THE SPOUSES FAIL TO ENTER INTO A COMPROMISE, EITHER
10 SPOUSE SHALL HAVE recourse to the court [by the wife] for proper
11 remedy IN A SUMMARY PROCEEDING, which must be availed of within
12 five years from the date [of] the contract WAS ENTERED BY THE PARTIES
13 THERE TO, OR UPON KNOWLEDGE OF THE NON-CONSENTING SPOUSE,
14 WHICHEVER COMES LATER [implementing such decision]. THE COURT,
15 IN DECIDING THE CASE, SHALL CONSIDER THE BEST INTEREST OF THE
16 FAMILY. DAMAGES AND EXPENSES OF LITIGATION WHICH DID NOT
17 REDOUND TO THE BENEFIT OF THE FAMILY SHALL BE BORNE BY THE
18 CONTRACTING SPOUSE AND SHALL NOT BE CHARGED TO THE
19 COMMUNITY PROPERTY.

20 "In the event that one spouse is incapacitated or otherwise unable to
21 participate in the administration of the common properties, the other
22 spouse may assume sole powers of administration. These powers do not
23 include disposition or encumbrance without authority of the court or the
24 written consent of the other spouse. In the absence of such authority or
25 consent, the disposition or encumbrance shall be void. However, the
26 transaction shall be construed as a continuing offer on the part of the
27 consenting spouse and the third person, and may be perfected as a

1 binding contract upon the [acceptance] RATIFICATION by the other
2 spouse or authorization by the court before the offer is withdrawn by
3 either or both offerors."

4 **SEC. 3.** Article 124 of Executive Order No. 209 is hereby amended to read as follows:

5 "Art. 124. The administration and enjoyment of the conjugal
6 partnership shall belong to both spouses jointly. ANY ACT OF
7 ADMINISTRATION BY EITHER SPOUSE WITHOUT THE CONSENT OF THE
8 OTHER SHALL BE UNENFORCEABLE UNTIL IT IS SUBSEQUENTLY
9 RATIFIED BY THE NON-CONSENTING SPOUSE. In case of disagreement,
10 the [husband's decision shall prevail, subject to] SPOUSES SHALL MAKE
11 EARNEST EFFORTS TO SETTLE THEIR DIFFERENCES: *PROVIDED THAT,*
12 SHOULD THE SPOUSES FAIL TO ENTER INTO A COMPROMISE, EITHER
13 SPOUSE SHALL HAVE recourse to the court [by the wife] for proper
14 remedy IN A SUMMARY PROCEEDING, which must be availed of within
15 five years from the date [of] the contract [implementing such decision]
16 WAS ENTERED BY THE PARTIES THERETO, OR UPON KNOWLEDGE OF
17 THE NON-CONSENTING SPOUSE, WHICHEVER COMES LATER. THE
18 COURT, IN DECIDING THE CASE, SHALL CONSIDER THE BEST INTEREST
19 OF THE FAMILY. DAMAGES AND EXPENSES OF LITIGATION WHICH DID
20 NOT REDOUND TO THE BENEFIT OF THE FAMILY SHALL BE BORNE BY
21 THE CONTRACTING SPOUSE AND SHALL NOT BE CHARGED TO THE
22 COMMUNITY PROPERTY.

23 "In the event that one spouse is incapacitated or otherwise unable to
24 participate in the administration of the conjugal properties, the other
25 spouse may assume sole powers of administration. These powers do not
26 include disposition or encumbrance without authority of the court or the
27 written consent of the other spouse. In the absence of such authority or

1 consent, the disposition or encumbrance shall be void. However, the
2 transaction shall be construed as a continuing offer on the part of the
3 consenting spouse and the third person, and may be perfected as a
4 binding contract upon the [acceptance] RATIFICATION by the other
5 spouse or authorization by the court before the offer is withdrawn by
6 either or both offerors.

7 **SEC. 4.** Article 211 of Executive Order No. 209 is hereby amended to read as follows:

8 "Art. 211. The father and the mother shall jointly exercise parental
9 authority over the persons of their common children. In case of
10 disagreement, the [father's decision shall prevail, unless there is a judicial
11 order to the contrary] PARENTS SHALL MAKE EARNEST EFFORTS TO
12 SETTLE THEIR DIFFERENCES, TAKING INTO CONSIDERATION THE BEST
13 INTEREST OF THE CHILD, PROVIDED THAT SHOULD THEY FAIL TO
14 ENTER INTO A COMPROMISE, EITHER PARENT SHALL HAVE RECOURSE
15 TO THE COURT FOR PROPER REMEDY.

16 Children shall always observe respect and reverence towards their
17 parents and are obliged to obey them as long as the children are under
18 parental authority.

19 **SEC. 5.** Article 225 of Executive Order No. 209 is hereby amended to read as follows:

20 "Art. 225. The father and the mother shall jointly exercise legal
21 guardianship over the property of [the unemancipated common] THEIR
22 MINOR child without the necessity of a court appointment. ANY EXERCISE
23 OF GUARDIANSHIP BY EITHER PARENT WITHOUT THE CONSENT OF THE
24 OTHER SHALL BE UNENFORCEABLE, UNTIL IT IS SUBSEQUENTLY
25 RATIFIED BY THE NON-CONSENTING PARENT. In case of disagreement,
26 [the father's decision shall prevail, unless there is a judicial order to the
27 contrary.] EITHER PARENT SHALL HAVE RECOURSE TO THE COURT

1 WITHIN FIVE (5) YEARS FROM THE DATE THE CONTRACT WAS ENTERED
2 BY THE PARTIES THERETO, OR UPON KNOWLEDGE OF THE NON-
3 CONSENTING PARENT, WHICHEVER COMES LATER. THE COURT, IN
4 DECIDING THE CASE, SHALL TAKE INTO CONSIDERATION THE BEST
5 INTEREST OF THE MINOR CHILD. DAMAGES AND EXPENSES OF
6 LITIGATION, WHICH DID NOT REDOUND TO THE BENEFIT OF THE
7 MINOR CHILD, SHALL BE BORNE BY THE CONTRACTING PARENT AND
8 SHALL NOT BE CHARGED TO THE PROPERTY OF THE MINOR CHILD.

9 "Where the market value of the property or the annual income of
10 the MINOR child exceeds P50,000, the parent concerned shall be required
11 to furnish a bond in such amount as the court may determine, but not less
12 than ten *per centum* (10%) of the value of the property or annual income,
13 to guarantee the performance of the obligations prescribed for general
14 guardians.

15 "A verified petition for approval of the bond shall be filed in the
16 proper court of the place where the MINOR child resides, or, if the MINOR
17 child resides in a foreign country, in the proper court of the place where
18 the property or any part thereof is situated.

19 The petition shall be docketed as a summary special proceeding in
20 which all incidents and issues regarding the performance of the obligations
21 referred to in the second paragraph of this Article shall be heard and
22 resolved.

23 "The ordinary rules on guardianship shall be merely suppletory
24 except when the MINOR child is under substitute parental authority, or the
25 guardian is a stranger, or a parent has remarried, in which case the
26 ordinary rules on guardianship shall apply."

1 **SEC. 6.** Separability Clause – If any provision of this Act is found unconstitutional or
2 invalid, the other provisions not affected by such declaration shall remain in full force and
3 effect.

4 **SEC. 7.** Repealing Clause – All laws, decrees, executive orders, presidential
5 issuances and other administrative rules and regulations or parts thereof which are
6 inconsistent with this Act are hereby repealed, amended or modified accordingly.

7 **SEC. 8.** Effectivity - This Act shall take effect fifteen (15) days after its publication in
8 at least two (2) national newspapers of general circulation.

9 Approved,