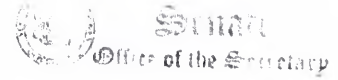


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'22 JUL 12 P 6 :35

SENATE
S.B. No. 449

RECEIVED BY: _____

INTRODUCED BY SENATOR ROBINHOOD PADILLA

AN ACT
INSTITUTIONALIZING CIVIL UNIONS OF SAME SEX COUPLES,
ESTABLISHING THEIR RIGHTS AND OBLIGATIONS,
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Section I, Article III of the 1987 Constitution guarantees that, *"No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws."*

Philippine laws affirm that every person has the right to equal protection before the law and while the 1987 Constitution does not explicitly mention Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC), it does not prohibit or exclude civil partnership or unions of same-sex couples.

As a state member to various international covenants promoting human rights, the Philippines has committed itself to uphold the dignity, equality, and human rights of all citizens. It is therefore incumbent upon us to take positive action that guarantees the fundamental rights of equality and non-discrimination.

Guided by the Yogyakarta Principles, a universal guide to human rights which affirm binding international legal standards, all States are called upon to take all necessary legislative, administrative, and other measures to ensure that any entitlement, privilege, obligation or benefit enjoyed by different-sex or married couples should likewise be available to same-sex couples.

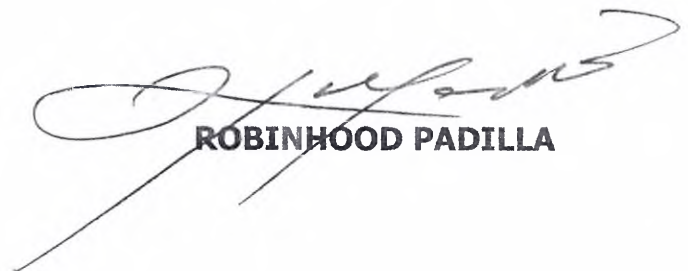
As of December 2021, same-sex marriage or civil unions, if not both, have been legalized in 31 countries and territories through either legislations and court decisions.¹ In Asia, Taiwan became the first country to enact marriage equality in 2019 after its Constitutional Court ruled that marriage could not be restricted to opposite-sex couples and gave parliament two (2) years to enact legislation legalizing same-sex marriage. Meanwhile, six (6) cities in Japan are now issuing partnership certificates to same-sex couples to enjoy some of the rights and benefits of marriage.

The Philippines, however, still lacks legislative measures to afford equal rights and privileges for same-sex couples that is enjoyed by different-sex couples.

This proposed measure therefore seeks to recognize the civil union between two (2) persons of the same or opposite sex to be able to enjoy the rights, protection, and privileges afforded in this bill.

This representation firmly believes it is high time that the Philippines provides equal rights and recognition for couples of the same sex with no prejudice as to sexual relationships are protected and recognized and given access to basic social protection and security. Providing equal rights and privileges for same-sex couples will in no way diminish or trample on the rights granted to married couples.

In view of the foregoing, approval of this bill is highly and earnestly sought.



ROBINHOOD PADILLA

¹ <https://www.hrc.org/resources/marriage-equality-around-the-world>

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AND FOR OTHER PURPOSES

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

1 **SECTION 1. *Short Title.*** This Act shall be known as the "Civil Unions Act."
2

3 **SEC. 2. *Declaration of Policy.*** It is the policy of the State to promote social
4 justice, value the dignity of every person and guarantee respect for human rights
5 regardless of a person's sexual orientation or gender identity. Towards this end, the
6 State shall recognize the need to protect its citizens who are in a relationship with the
7 same sex, accord the same rights and obligations similar to married couples, and
8 ensure that they are not discriminated.
9

10 **SEC. 3. *Definition of Terms.*** As used in this Act:
11

- 12 a. *Civil union* refers to a legal relationship between two persons of the same
13 sex established pursuant to this Act;
14
15 b. *Civil union license* refers to a document issued by the local civil registrar of
16 the city or municipality that allows the contracting parties, of the same sex
17 that are habitually residing together, to legally enter into a civil union;
18
19 c. *Civil union certificate* refers to a document that certifies that the persons
20 named on the certificate have established a civil union in accordance with
21 this Act;
22
23 d. *Infidelity* is committed by any partner who shall have sexual relations with
24 a man or woman who is not his or her civil partner.

1 e. *Pre-civil union agreement* refers to an agreement pertaining to the property
2 regime between prospective partners entering to a civil union; and

3
4 f. *Property* refers to an interest, present or future, legal or equitable, vested
5 or contingent, in real or personal property, including income and earnings.
6

7 **SEC. 4. Recognition of Civil Unions.** Any person who complies with the
8 requirements herein provided, shall be allowed to register and enter into a civil union,
9 and shall be bound by the obligations and responsibilities and enjoy the protections
10 and benefits afforded by this Act.

11
12 **SEC. 5. Requisites of a Civil Union.** No civil union shall be valid unless the
13 following requirements are present:

- 14
15 1. *Legal capacity of the contracting parties.* For purposes of this Act, there is legal
16 capacity if the parties are:
17
18 a. At least eighteen (18) years of age;
19 b. Not prohibited to enter into civil union by reason of public policy, based
20 on the grounds enumerated under Articles 37 and 38 of Executive Order
21 No. 209, as amended, otherwise known as the "*Family Code of the*
22 *Philippines*; and
23 c. Free from any previous bond of marriage or civil union.
24
25 2. Consent freely given in the presence of the administering officer;
26
27 3. Authority of the administering officer;
28
29 4. A valid license to contract or enter into a civil union issued by and obtained
30 from the local civil registrar of the city or municipality where either party
31 habitually resides; and
32
33 5. A civil union ceremony which takes place with the personal appearance of the
34 contracting parties before the administering officer and their personal
35 declaration, that they take each other as legal partners in the presence of not
36 less than two (2) witnesses of legal age. No specific religious rite or form shall
37 be required for purposes of this requirement.
38

39 The absence of any of the requisites mentioned in this section shall render the
40 civil union void *ab initio*. A defect in the requirements provided under paragraphs (1)
41 and (2) shall be a ground for the annulment of the civil union. However, a defect in
42 paragraphs (3), (4) and (5) shall be deemed a mere irregularity, which shall not affect
43 the validity of the civil union but the persons responsible for the commission of the
44 irregularity shall be civilly, criminally and administratively liable.

1 **SEC. 6. Administering Officers.** The following are the persons lawfully
2 authorized to administer civil union ceremonies:

- 3
4 1. Any incumbent member of the judiciary within the court's jurisdiction;
5 2. City or municipal mayors pursuant to their authority under Sec. 444
6 (b)(1)(xviii) of R.A. 7160; and
7 3. Any consul-general, consul or vice consul in the case provided in Article 10
8 of E.O. 209.

9
10 **SEC. 7. Civil Union License and Certificate.** The requirements for and
11 prohibitions relative to, as well as the procedures for the issuance of a valid marriage
12 license and certificate provided for under Articles 9 to 25 and Articles 27 to 32 of the
13 Family Code of the Philippines, as amended, shall likewise be applicable in the issuance
14 of a civil union license and certificate.

15
16 **SEC. 8. Property Regime.** The property relationship between civil union
17 couples shall be governed in the following order:

- 18
19 1. By the pre-civil union agreement executed before the civil union ceremony;
20 and
21 2. By the provisions of this Act

22
23 **SEC. 9. Pre-Civil Union Agreement.** Couples may, within the limits provided
24 for by this Act, fix their property relations by executing a pre-civil union agreement
25 which shall be in writing, signed by both parties, and contained in a public instrument.

26
27 The parties may choose between the system of absolute community of
28 property, conjugal partnership of gains, separation of property, whether total or
29 partial, or any other regime, as provided for in the Family Code of the Philippines, as
30 amended. Such regimes shall govern their right to own, dispose of, possess,
31 administer and enjoy properties, subject to modifications, which are not contrary to
32 law, morals, good custom, public order, or public policy, given the nature of their
33 union.

34
35 Any stipulation or agreement that is inimical to the interest of the civil union
36 relative to sustenance and support for medical treatment, dwelling, food, clothing and
37 other needs of the couple, or adversely affects the right of children to receive support,
38 shall automatically be declared void. Stipulations which are not contrary to law,
39 morals, good custom, public order, or public policy shall not be invalidated and shall
40 remain effective.

41
42 A pre-civil union agreement becomes effective upon the establishment of a civil
43 union.

44
45 **SEC. 10. Form of Pre-civil Union Agreement.** The pre-civil union
46 agreement and any modification thereof shall be in writing, signed by the parties and
47 executed before the celebration of the civil union. *Provided,* That the agreement shall

1 not prejudice third persons unless they are registered in the local civil registry where
2 the civil union contract is recorded as well as in the proper registries of properties.

3
4 **SEC. 11. *Default Property Regime.*** In the absence of a pre-civil union
5 agreement or when the regime agreed upon is void, the default property regime shall
6 be conjugal partnership of gains as provided for and defined under the Family Code.

7
8 **SEC. 12. *Separation of Property of the Civil Union Couples and***
9 ***Administration of Common Property by one of the Parties during the Civil***
10 ***Union.*** In the absence of an express declaration in the pre-civil union agreement, the
11 separation of property between couples during the civil union shall not take place
12 except by judicial order. Such judicial separation of property may either be voluntary
13 or for sufficient cause.

14
15 The provisions of Articles 135 to 142 of E.O. 209 in relation to separation of
16 property shall be made applicable to this Act.

17
18 **SEC. 13. *Benefits and Protections of Civil Union.*** Couples shall be
19 afforded the following benefits, protections and responsibilities:

- 20
21 1. All benefits and protections as are granted to spouses in a marriage under
22 existing laws, administrative orders, court rulings, or those derived as a matter
23 of public policy, or any other source of civil law;
24
25 2. Laws on marital relations, including donations by reason of marriage, legal
26 separation, adoption, child custody and support, property division and
27 maintenance, and spousal support;
28
29 3. Rights of civil union couples with respect to a child of whom both become the
30 parents of during the terms of the civil union, shall be the same as those of a
31 married couples with respect to their child;
32
33 4. All contracts made between persons in contemplation of a civil union shall
34 remain in full force after such civil union takes place;
35
36 5. A certified true copy of the record of the civil union from the local civil registrar
37 having custody of the record shall be presumptive evidence of the civil union
38 for all legal purposes;
39
40 6. Laws relating to intestate succession, survivorship, or other incidents of the
41 acquisition, ownership or transfer, *inter vivos* or at death, of real or personal
42 property, as affecting parties to a marriage, shall likewise be applicable;
43
44 7. Causes of action related to or depended upon spousal status, including torts or
45 actions under contracts reciting, related to, or dependent upon spousal status
46 may be availed of;

- 1 8. Couples shall automatically have insurable interest over their respective
2 partners and may avail of benefits relating to insurance, health and pension
3 benefits provided to married couples;
4
- 5 9. Labor standard benefits, privileges, restriction and prohibition accorded to
6 employees based on marital status shall likewise be accorded;
7
- 8 10. Benefits under tax laws relating to marital status shall be applicable;
9
- 10 11. Coverage of laws relating to immunity from being compelled to testify against
11 the other and bound by the marital communication privilege;
12
- 13 12. Hospital visitation rights and the authority to give consent to any medical
14 treatment in behalf of his/her civil partner whenever required;
15
- 16 13. Visitation rights in detention facilities; and
17
- 18 14. Decision making in burial arrangements.
19

20 **SEC. 14. *Obligations of Civil Union Couples.*** Civil union couples legally
21 owe each other respect, fidelity, support and assistance. They are bound to live
22 together and are jointly responsible in the management of their household; exercise
23 of parental authority, if applicable; the contribution towards expenses; the
24 maintenance of the civil union residence; and other duties which married couples
25 under the Family Code are jointly responsible for.
26

27 They have the same obligations with respect to a child of whom both become
28 the parents of during the terms of the civil *union*, as those of a married couple with
29 respect to their child as provided for in existing laws.
30

31 **SEC. 15. *Right to Inherit.*** For purposes of inheritance rights, a partner in a
32 civil union shall be considered a compulsory heir of the other, who shall have the same
33 rights and benefits accorded to a husband or wife in Republic Act No. 386, otherwise
34 known as the "*Civil Code of the Philippines*," as amended, the Family Code of the
35 Philippines, as amended, and Republic Act No. 8552, also known as the "*Domestic*
36 *Adoption Act of 1998.*"
37

38 **SEC. 16. *Adoption Rights.*** Civil union couples residing in the Philippines who
39 have the qualifications and none of the disqualifications may adopt if the requirements
40 for a valid adoption, as provided under existing laws, are complied with.
41

42 The fact that the adopting couple is of the same sex shall not be considered as
43 proof of bad moral character.
44

45 The best interest and welfare of the child shall always be the paramount
46 consideration in deciding matters concerning the adoption of a child by civil union
47 couples.

1 **SEC. 17. Social Security and Insurance Membership.** Civil union couples
2 shall have the same rights and privileges as those granted to married couples with
3 regard to application for social security and other private insurance membership and
4 claiming entitlement to their benefits. The Social Security System, Government Service
5 Insurance System, Philippine Health Insurance Corporation and other benefits-related
6 state agencies shall restructure their benefits system to accommodate parties to civil
7 unions and their corresponding dependents.

8
9 **SEC 18. Dissolution of Civil Union.** The grounds, procedures and effects,
10 whenever applicable, for legal separation, annulment and declaration of nullity of
11 marriages under the Family Code of the Philippines, as amended, shall be applicable
12 in civil unions.

13
14 **SEC. 19. Protection of Children in Case of Dissolution of Civil Union.**
15 To protect the rights and interests of children in the event of dissolution of the civil
16 union, the court shall consider the following factors in so far as support for children,
17 if applicable, is concerned:

- 18 1. Needs of the child;
- 19 2. Standard of living and economic circumstances of each parent;
- 20 3. All sources of income and assets of each parent;
- 21 4. Earning ability of each parent, including education background, training,
22 employment skills, work experience, custodial responsibility for children
23 including the cost of providing child care and the length of time and cost
24 of each parent to obtain training or experience for appropriate
25 employment;
- 26 5. Need and capacity of the child for education, including higher education;
- 27 6. Age and health of the child and each parent;
- 28 7. Income, assets and earning ability of the child;
- 29 8. Responsibility of the parents for the court-ordered support of others;
- 30 9. Reasonable debts and liabilities of each child and parent; and
31 10. Any other factors the court may deem relevant.

32
33
34 The obligation to give support for a child who is not a minor shall not terminate
35 solely on the basis of the child's age if the child suffers from a severe mental or
36 physical incapacity that causes the child to be financially dependent on a parent. The
37 obligation to give support for that child shall continue until the court finds that the
38 child is relieved of the incapacity or *is* no longer financially dependent on the parent.

39
40 **SEC. 20. Support Pendente Lite.** In all actions brought for dissolution of a
41 civil union, legal separation from a partner or annulment of the civil union, the court
42 may provide for support *pendente lite*. In so doing, the court shall consider the
43 following factors, among others:

- 44
45 1. The actual need and ability of the parties to pay;
- 46 2. The duration of the civil union;
- 47 3. The age, physical and emotional health of the parties;

- 1 4. The standard of living established in the civil union and the likelihood that
- 2 each party can maintain a reasonably comparable standard of living;
- 3 5. The earning capacities, educational levels, vocational skills and
- 4 employability of the parties;
- 5 6. The length of absence from the job market of the party seeking
- 6 maintenance;
- 7 7. The parental responsibilities for the children;
- 8 8. The time and expense necessary to acquire sufficient education or training
- 9 to enable the party seeking maintenance to find appropriate employment,
- 10 the availability of the training and employment, and the opportunity for
- 11 future acquisitions of capital assets and income;
- 12 9. The history of the financial or non-financial contributions to the civil union
- 13 by each party including contributions to the care and education of the
- 14 children and interruption of personal careers or educational opportunities;
- 15 10. The equitable distribution of property ordered and any payouts on
- 16 equitable distribution, directly or indirectly, out of current income, to the
- 17 extent this consideration is reasonable, just and fair;
- 18 11. The income available to either party through investment of any assets
- 19 held by that party; and
- 20 12. Any other factors which the court may deem relevant.
- 21

22 For purposes of liquidation of earned assets and properties during the civil union,

23 household support and assistance are deemed equivalent to actual work and industry.

24

25 Dissolution of the civil union shall not prejudice the right of children to legitimes under

26 the Family Code of the Philippines, as amended.

27

28 **SEC. 21. Unlawful or Discriminatory Employment Practices.** -The

29 following are declared as unlawful or discriminatory employment practices:

30

- 31 1. For an employer, to refuse to hire or employ or to bar or to discharge or require
- 32 to retire, unless justified by lawful considerations other than age, from
- 33 employment such individual because of their civil union, or to discriminate
- 34 against such individual in compensation or in terms, conditions or privileges of
- 35 employment including training and promotions;
- 36
- 37 2. For a labor organization, to exclude or to expel from its membership such
- 38 individual because of their civil union, or to discriminate in any way against any
- 39 of its members, against any applicant for, or individual included in, any
- 40 apprentice or other training program or against any employee or any individual
- 41 employed by an employer;
- 42
- 43 3. For any employee or employment agency to print or circulate or cause to be
- 44 printed or circulated any statement, advertisement or publication, or to use any
- 45 form of application for employment, or to make an inquiry in connection with
- 46 prospective employment, which expresses, directly or indirectly, any limitation,
- 47 specification or discrimination as to civil union status for employment;

- 1 4. For any owner, lessee, proprietor, manager, superintendent, agent, or
2 employee of any place of public accommodation, directly or indirectly, to refuse,
3 withhold from or deny to any person any of the accommodations, advantages,
4 facilities or privileges thereof, or to discriminate against any person in the
5 furnishing thereof, or directly or indirectly to publish, circulate, issue, display,
6 post or mail any written or printed communication, notice, or advertisement to
7 the effect that any of the accommodations, advantages, facilities, or privileges
8 of any such place will be refused, withheld from, or denied to any person on
9 account of civil union status; and
10
11 5. For any person, including any owner, lessee, sublessee, assignee or managing
12 agent of, or other person having the right of ownership or possession of or the
13 right to sell, rent, lease, assign, or sublease any real property or part or portion
14 thereat or any agent or employee of any of these to refuse to sell, rent lease,
15 assign, or sublease or otherwise to deny to or withhold from any person or
16 group of persons any real property or part or portion thereof because of civil
17 union status.

18
19 **SEC. 22. Penal Provisions.** (1) Any person who knowingly or willfully refuses
20 to issue civil union licenses or certificates despite being authorized to do so; denies
21 rights and benefits entitled to civil union couples; or commits unlawful, discriminatory
22 employment practices; or commits discriminatory practices to children of civil union
23 couples as provided for in this Act, shall be penalized by a fine of not less than Five
24 hundred thousand pesos (P500,000.00) but not more than One Million pesos
25 (P1,000,000.00) or imprisonment of ten (10) years.

26
27 If the offender is a corporation or association, the officer responsible for the
28 acts enumerated in this Section shall be criminally and civilly liable.

29
30 If the offender is a public officer, prosecution under this Act shall be without
31 prejudice to the filing of any administrative case against the public officer under other
32 existing laws.

33
34 (2) Any person other than those enumerated administering officers in Section
35 6 of this who administers civil union ceremony shall be penalized by a fine of not less
36 than Five hundred thousand pesos (P500,000.00) but not more than One Million pesos
37 (P1,000,000.00) or imprisonment of ten (10) years.

38
39 **SEC. 23. Separability Clause.** If, for any reason, any section or provision of
40 this Act is declared unconstitutional or invalid, the other sections or provisions which
41 are not affected shall continue to be in full force and effect.

42
43 **SEC. 24. Repealing Clause.** Pertinent provisions of the Family Code of the
44 Philippines, as amended, the Civil Code of the Philippines, as amended, and the
45 Domestic Adoption Act of 1998, which are inconsistent with the provisions of this Act
46 are hereby amended accordingly. All other laws, decrees, executive orders,
47 proclamations, rules and regulations, or parts thereof, inconsistent with the provisions
48 of this Act are also hereby amended or repealed accordingly.

1 **SEC. 25. Effectivity.** This Act shall take effect fifteen (15) days after its
2 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,