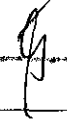


FOURTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

7 JUL 24 1975

SENATE  
S. B. No. 1321

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago



EXPLANATORY NOTE

The law does not define what psychological incapacity is. The determination is left solely to the courts.

From the Committee deliberations during the drafting of the Family Code, it can be deduced that the absence of definition was intentional. Justice Eduardo Caguioa, the main proponent for the incorporation of Article 36, stated during the deliberations that the Code should not define psychological incapacity, because a definition would straightjacket the concept.

Unfortunately, Article 36 has become a divorce provision in disguise, often invoked as a ground to terminate a marriage when other grounds provided in the Code are not present. Due to its generic character, it has become an easy way for many parties to sever their ties as husband and wife.

This bill seeks to amend Article 36 in order to preserve the sanctity of marriage as an inviolable social institution.\*


  
MIRIAM DEFENSOR SANTIAGO  


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

FOURTEENTH CONGRESS OF THE REPUBLIC )  
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7 JUN 24 1977

SENATE  
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Introduced by Senator Miriam Defensor Santiago

1 AN ACT  
2 AMENDING THE FAMILY CODE OF THE PHILIPPINES, ARTICLE 36 ON THE  
3 DEFINITION OF PSYCHOLOGICAL INCAPACITY

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

6 SECTION 1. The Family Code, Article 36, is hereby amended as follows:

7 Article 36. A marriage contracted by any party, who at the time of the  
8 celebration, was psychologically incapacitated to comply with the essential  
9 marital obligations of marriage, shall likewise be void even if such incapacity  
10 becomes manifest only after its solemnization. SUCH INCAPACITY MUST BE  
11 IDENTIFIED AS A PSYCHOLOGICAL ILLNESS TO BE PROVEN  
12 MEDICALLY OR CLINICALLY.

13 Article 36-A. THE COURT SHALL, IN CASE OF DOUBT, RESOLVE  
14 THE CASE IN FAVOR OF THE EXISTENCE AND CONTINUATION OF  
15 THE MARRIAGE AND AGAINST ITS DISSOLUTION OR NULLITY.

16 MERE SHOWING OF 'IRRECONCILABLE DIFFERENCES' AND  
17 'CONFLICTING PERSONALITIES' IN NO WISE CONSTITUTES  
18 PSYCHOLOGICAL INCAPACITY.

19 Article 36-B. THE INDICATIONS OF PSYCHOLOGICAL  
20 INCAPACITY ARE THE FOLLOWING:

- 21 1. EXCESSIVE AND PROMISCUOUS SEXUAL HUNGER
- 22 2. REFUSAL OF THE SPOUSE TO DWELL WITH THE OTHER
- 23 AFTER THE MARRIAGE AND TO EXTEND FINANCIAL,

1 SPIRITUAL, MORAL AND EMOTIONAL SUPPORT WITHOUT  
2 FAULT ON THE PART OF THE LATTER.

3 3. CRIMINALITY, DRUG ADDICTION, HABITUAL ALCOHOLISM,  
4 LESBIANISM AND HOMOSEXUALITY, RENDERING THE  
5 OFFENDER INCAPACITATED TO COMPLY WITH HIS DUTIES  
6 AND RESPONSIBILITIES AS PROVIDED IN THIS CODE.

7 4. MANIFESTATIONS OF SOCIO-PATHIC ANOMALIES IN THE  
8 OFFENDER, LIKE SADISM, OR REPEATED INFLECTION OF  
9 PHYSICAL VIOLENCE.

10 5. LAZINESS OR INDOLENCE

11 6. SIMILAR BEHAVIOR WHICH RENDERS THE OFFENDER  
12 INCAPABLE OF COMPLYING WITH HIS OR HER MARITAL  
13 DUTIES AND RESPONSIBILITIES AS SET FORTH IN THIS  
14 CODE.

15 SUCH INDICATIONS MUST EXHIBIT GRAVITY, ANTECEDENCE,  
16 AND INCURABILITY. THE OFFENDED PARTY SHALL BE WITHOUT  
17 FAULT IN ANY WAY.

18 SECTION 2. *Separability Clause.* – If any provision or part hereof, is held invalid or  
19 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
20 valid and subsisting.

21 SECTION 3. *Repealing Clause.* – Any law, presidential decree or issuance, executive  
22 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent  
23 with the provision of this Act is hereby repealed, modified or amended accordingly.

24 SECTION 4. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
25 publication in at least two (2) newspapers of general circulation.

26 Approved,