


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

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7 11 2011

SENATE  
S. B. No. 1359

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Introduced by Senator Miriam Defensor Santiago

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EXPLANATORY NOTE

The Constitution, Article XI, 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  
*def*

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

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1 AN ACT  
2 AMENDING ARTICLES 333 AND 344, AND REPEALING ARTICLE 334, OF THE PENAL  
3 CODE, ELIMINATING GENDER BIAS IN ADULTERY AND CONCUBINAGE

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

6 SECTION 1. Article 333 of the Penal Code is hereby amended to read as follows:

7 "Art. 333. MARITAL INFIDELITY. (Who are guilty of adultery?)

8 MARITAL INFIDELITY [ADULTERY] is committed by any married PERSON  
9 [woman] who shall have sexual RELATIONS [intercourse] with a PERSON  
10 [man] OTHER THAN HIS OR her SPOUSE [husband], and by the SEXUAL  
11 PARTNER [man] of the MARRIED PERSON knowing the LATTER [her] to be  
12 married, even if the marriage be subsequently declared void.

13 "MARITAL INFIDELITY [adultery] shall be punished by *prison*  
14 *correccional* in its MINIMUM [medium] and MEDIUM [maximum] periods."

15 "ANY PERSON ACCUSED OF MARITAL INFIDELITY SHALL BE  
16 EXEMPT FROM CRIMINAL LIABILITY IF THE OFFENSE WAS  
17 COMMITTED AFTER THE ISSUANCE OF A FINAL DECREE OF LEGAL  
18 SEPARATION BY A COMPETENT COURT HOWEVER, IF THE OFFENSE  
19 WAS COMMITTED AFTER THE ACCUSED SPOUSE HAD BEEN  
20 JUSTIFIABLY ABANDONED [(If the person guilty of adultery committed this  
21 offense while): abandoned without justification] OR SUBJECTED TO  
22 REPEATED PHYSICAL VIOLENCE OR GROSSLY ABUSIVE CONDUCT by  
23 the offended spouse, the penalty next lower in degree than that provided in the  
24 [next] preceding paragraph shall be imposed, AND THE SAME PENALTY

1 [next] preceding paragraph shall be imposed, AND THE SAME PENALTY  
2 SHALL BE IMPOSED ON THE CO-ACCUSED IN THE MARITAL  
3 INFIDELITY CASE.”

4 SECTION 2. Article 344, paragraph 1, of the Penal Code is hereby amended to read as  
5 follows:

6 “Art. 344. Prosecution of the crimes of MARITAL INFIDELITY [adultery,  
7 concubinage], seduction, rape, and acts of lasciviousness. – “The crime[s] of MARITAL  
8 INFIDELITY [adultery and concubinage] shall not be prosecuted except upon a  
9 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.* – Any law, presidential decree or issuance, executive  
14 order, letter of instruction, rule or regulation contrary to or inconsistent with, the provisions of  
15 this Act is hereby repealed, modified or amended accordingly.

16 SECTION 5. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after it  
17 publication in at least two (2) newspapers of general circulation.

18 Approved,