

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

SENATE  
OFFICE OF THE CLERK

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SENATE  
S. No. 1933

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Introduced by Senator Miriam Defensor Santiago

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#### EXPLANATORY NOTE

The Constitution, Article 11, 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.\*

*acv*  
  
MIRIAM DEFENSOR SANTIAGO

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

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S. No. 1933

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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

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

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

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

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

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

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

1           **SAME PENALTY SHALL BE IMPOSED ON THE CO-ACCUSED IN THE**  
2           **MARITAL INFIDELITY CASE.”**

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

5                   “Art. 344. Prosecution of the crimes of **MARITAL INFIDELITY** [adultery,  
6 concubinage], seduction, rape, and acts of lasciviousness. – “The crime[s] of **MARITAL**  
7 **INFIDELITY** [adultery and concubinage] shall not be prosecuted except upon a  
8 complaint filed by the offended spouse. xxx”

9           SECTION 3. *Separability Clause.* – If any provision or part hereof, is held invalid or  
10 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
11 valid and subsisting.

12           SECTION 4. *Repealing Clause.* – Any law, presidential decree or issuance, executive  
13 order, letter of instruction, rule or regulation contrary to or inconsistent with, the provisions of  
14 this Act is hereby repealed, modified or amended accordingly.

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

Approved,