

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



Senate
Office of the Secretary

'13 AUG -8 P2 58

SENATE
S.B. No. 1260

RECORDED BY: *f*

Introduced by Senator Maria Lourdes Nancy S. Binay

EXPLANATORY NOTE

The 1987 Philippine Constitution affirmed the role of women in nation-building and endeavors to ensure the fundamental equality before the law of men and women. Thus, reforms to the patently discriminatory provisions of the Civil Code of the Philippines were removed with the introduction of the Family Code of the Philippines. Under the Civil Code of the Philippines the authority of the husband over family relations was persistent. For instance, the husband was designated as the administrator of the conjugal properties and had the right to object to the exercise by the wife of her profession if his income is sufficient to support the family. The Family Code of the Philippines eliminated these inequalities, among many other provisions which are bias against women.

Despite major reforms to our law on marriage and family relations, there are still a number of provisions in our Family Code of the Philippines which prejudice against women. The Family Code of the Philippines still recognizes the supremacy of the husband's decisions in case of disagreement with the wife involving property administration and exercise of parental authority over the common children.

These provisions have no place in our law and serve no purpose other than to perpetuate discrimination. Consistent with the declaration in Republic Act No. 9710, or the Magna Carta of Women, provisions of law which engender inequality should be abolished.

There have been, in the past, series of proposals to amend these anti-women provisions in the Family Code of the Philippines. Regrettably to date, none have been enacted into law. It is therefore strongly urged that the passing of this bill be granted utmost importance.

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

MARIA LOURDES NANCY S. BINAY
Senator



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Introduced by Senator Maria Lourdes Nancy S. Binay

1 AN ACT ENSURING THE FUNDAMENTAL EQUALITY OF MEN AND WOMEN
2 UNDER THE LAWS ON MARRIAGE AND FAMILY RELATIONS, AMENDING FOR
3 THIS PURPOSE EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE
4 FAMILY CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES
5

6 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
7 *assembled:*
8

9 **SECTION 1.** Article 96 of Executive Order No. 209, otherwise known as the Family Code of
10 the Philippines; as amended, is hereby further amended to read as follows:
11

12 “Art. 96. The administration and enjoyment of the community property shall
13 belong to both spouses jointly. In case of disagreement, the **SPOUSES SHALL**
14 **EXERT EARNEST EFFORTS TO ENTER INTO A COMPROMISE,**
15 **FAILING SUCH, THE COURT SHALL DECIDE, UPON A PROPER**
16 **PETITION IN A SUMMARY PROCEEDING** [husband's decision shall
17 prevail, subject to recourse to the court by the wife for proper remedy, which
18 must be availed of within five years from the date of the contract implementing
19 such decision].
20

21 In the event that one spouse is incapacitated or otherwise unable to participate in
22 the administration of the common properties, the other spouse may assume sole
23 powers of administration. These powers do not include disposition or
24 encumbrance without authority of the court or the written consent of the other
25 spouse. In the absence of such authority or consent, the disposition or
26 encumbrance shall be void. However, the transaction shall be construed as a
27 continuing offer on the part of the consenting spouse and the third person, and
28 may be perfected as a *binding contract* upon the acceptance by the other spouse
29 or authorization by the court before the offer is withdrawn by either or both
30 offerors.”
31

32 **SECTION 2.** Article 124 of Executive Order No. 209, otherwise known as the Family Code
33 of the Philippines, as amended, is hereby further amended to read as follows:
34

35 “Art. 124. The administration and enjoyment of the conjugal partnership shall
36 belong to both spouses jointly. In case of disagreement, the **SPOUSES SHALL**
37 **EXERT EARNEST EFFORTS TO ENTER INTO A COMPROMISE,**
38 **FAILING SUCH, THE COURT SHALL DECIDE, UPON A PROPER**
39 **PETITION IN A SUMMARY PROCEEDING** [husband's decision shall

1 prevail, subject to recourse to the court by the wife for proper remedy, which
2 must be availed of within five years from the date of the contract implementing
3 such decision].
4

5 In the event that one spouse is incapacitated or otherwise unable to participate in
6 the administration of the conjugal properties, the other spouse may assume sole
7 powers of administration. These powers do not include disposition or
8 encumbrance without authority of the court or the written consent of the other
9 spouse. In the absence of such authority or consent, the disposition or
10 encumbrance shall be void. However, the transaction shall be construed as a
11 continuing offer on the part of the consenting spouse and the third person, and
12 may be perfected as a binding contract upon the acceptance by the other spouse
13 or authorization by the court before the offer is withdrawn by either or both
14 offerors.”
15

16 **SECTION 3.** Article 211 of Executive Order No. 209, otherwise known as the Family Code
17 of the Philippines, as amended, is hereby further amended to read as follows:
18

19 “Art. 211. The father and the mother shall jointly exercise parental authority over
20 the persons of their common children. In case of disagreement, the **FATHER**
21 **AND THE MOTHER SHALL EXERT EFFORTS TO ENTER INTO A**
22 **COMPROMISE, FAILING SUCH, THE COURT SHALL DECIDE,**
23 **TAKING INTO CONSIDERATION THE BEST INTEREST OF SUCH**
24 **COMMON CHILD** [father's decision shall prevail, unless there is a judicial
25 order to the contrary].
26

27 Children shall always observe respect and reverence towards their parents and are
28 obliged to obey them as long as the children are under parental authority.”
29

30 **SECTION 4.** Article 225 of Executive Order No. 209, otherwise known as the Family Code
31 of the Philippines, as amended, is hereby further amended to read as follows:
32

33 “Art. 225. The father and the mother shall jointly exercise legal guardianship over
34 the property of the *unemancipated common* child without the necessity of a court
35 appointment. In case of disagreement, the **FATHER AND THE MOTHER**
36 **SHALL EXERT EFFORTS TO ENTER INTO A COMPROMISE,**
37 **FAILING SUCH, THE COURT SHALL DECIDE, TAKING INTO**
38 **CONSIDERATION THE BEST INTEREST OF SUCH COMMON CHILD**
39 [father's decision shall prevail, unless there is a judicial order to the contrary].
40

41 Where the market value of the property or the annual income of the child exceeds
42 P50,000, the parent concerned shall be required to furnish a bond in such amount
43 as the court may determine, but not less than ten *per centum* (10%) of the value
44 of the property or annual income, to guarantee the performance of the obligations
45 prescribed for general guardians.
46

47 A verified petition for approval of the bond shall be filed in the proper court of
48 the place where the child resides, or, if the child resides in a foreign country, in
49 the proper court of the place where the property or any part thereof is situated.
50

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

4
5 The ordinary rules on guardianship shall be merely suppletory except when the
6 child is under substitute parental authority, or the guardian is a stranger, or a
7 parent has remarried, in which case the ordinary rules on guardianship shall
8 apply.”

9
10 **SECTION 5. *Separability Clause.*** If any portion or provision of this Act is declared void and
11 unconstitutional, the remaining portions or provisions hereof shall not be affected by such
12 declaration.

13
14 **SECTION 6. *Repealing Clause.*** All laws, decrees, orders, rules and regulations, other
15 issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or
16 modified accordingly.

17
18 **SECTION 7. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its
19 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

20
21 Approved,