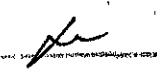


REPUBLIC OF THE PHILIPPINES
13th CONGRESS OF THE
Second Regular Session

6 JUN -7 1984

RECEIVED BY: 

SENATE

Senate Bill No. 2264

INTRODUCED BY SENATOR MANNY VILLAR

EXPLANATORY NOTE

In this country, an unborn child is already entitled to the protection of the State from the time of his conception. Thus, **Sec. 12, Article II of the 1987 Constitution** provides that the State shall "protect the life of the mother and the life of the unborn from conception".

Under **Article 3, par. 1 of P.D. 603, Child and Youth Welfare Code**, it is especially stated that "Every child is endowed with dignity and worth of a human being from the moment of his conception, as generally accepted in medical parlance, and has, therefore, the right to be born well".

The incidents of abortion practiced by physicians and midwives with sometimes the assistance of nurses have reportedly increased tremendously, although almost all of which are unrecorded. The sudden rise of abortion cases was due to the proliferation of prostitution. This of course does not include yet the growing number of students resorting to abortion.

It is not easy to stop abortion. The reason is because abortion is usually done in a private clinic, during which only the physician and the pregnant woman are present. Hence, there can be no available witness against the physician or midwife except the woman subject of abortion.

It is only in the event of complications or infections of the subject due to abortion when it is known that the woman has undergone an abortion. Such cases are not reported to authorities but are kept in the confidential files of the hospital. No amount of prodding will persuade the subject woman to criminally charge for abortion the physician or midwife who performed the abortion because under Article 258 of the Revised Penal Code, she herself will be liable as principal in the crime of intentional abortion.

In reality, in this jurisdiction, it is very seldom that a physician or midwife is charged with abortion. Statistics will show this. The reason is due to lack of witnesses to prove the crime. However, there should be a way to stop these insensible killings of the unborn by the abortionists.

This bill, therefore, seeks to propose a solution to the problem. Principally, we think the penalty of *prision correccional* in its maximum period (with the range

of four (4) years, two (2) months and one (1) day to six (6) years) under Article 259 of the Revised Penal Code is too light. In such case, even in case of conviction, a physician can still avail of the probation law since the penalty is less than 6 years and 1 day, which is the maximum penalty in order for one to be entitled to probation.

We proposed to raise the penalty to *prision mayor* in the maximum period with the range of ten (10) years and one (1) day to twelve (12) years. In addition, to dissuade physicians, midwives and nurses from committing the crime of abortion, the accessory penalty should be raised from the mere suspension of the license to practice medicine or midwifery during the period of the sentence to perpetual loss of license.

Another feature of this bill is the grant of immunity from prosecution to the woman who underwent abortion if she shall testify against the physician or midwife. This will solve present problem of lack of any prosecution witness to prove the crime of abortion.

There are instances when a registered nurse may have performed or practiced abortion or have assisted in causing the same. Since in the crime of abortion committed by a nurse is not defined in Article 259 of the Revised Penal Code, then her penalty in case of conviction will fall under Article 256, par. 3, of the Revised Penal Code, which is *prision correccional* in its medium and maximum periods, which is much lighter than what is provided in Article 259. Hence, since a nurse is equally in the medical profession like a physician or midwife, her criminal liability should be included in Article 259. Thus, the need for an amendment.


In view of the foregoing, the approval of this bill is earnestly requested.



MANNY VILLAR

13th CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

6 JUN -7 11:53

RECEIVED BY: 

SENATE

Senate Bill No. 2264

INTRODUCED BY SEN. MANNY VILLAR

**AN ACT
INCREASING THE PENALTY OF IMPRISONMENT FOR ABORTION
PRACTICED BY PHYSICIANS, MIDWIVES, INCLUDING NURSES AND THE
ACCESSORY PENALTY THEREFOR TO PERPETUAL LOSS OF LICENSE
TO PRACTICE PROFESSION AND FOR OTHER PURPOSES**

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

SECTION 1. Article 259 of Commonwealth Act No. 3815, as amended,
otherwise known as the Revised Penal Code is hereby amended to read as
follows:

*"ART. 259. Abortion practiced by a physician, [or] midwife
OR NURSE and dispensing of abortives. – The [penalties provided
in Article 256] PENALTY OF PRISION MAYOR shall be imposed in
[their] ITS maximum period, [respectively,] upon any physician [or],
midwife, OR NURSE who, taking advantage of their scientific
knowledge or skill, shall cause an abortion or assist in causing the
same.*

Any pharmacist who, without the proper prescription from a
physician, shall dispense any abortive shall suffer *arresto mayor*
and a fine not exceeding One Thousand Pesos (P1,000.00)."

SECTION 2. Article 42 of Commonwealth Act. No. 3815, as amended, otherwise known as the Revised Penal Code is hereby amended to read as follows:

“ART. 42. *Prision Mayor. Its accessory penalties.* – The penalty of *prision mayor* shall carry with it that of temporary absolute disqualification EXCEPT FOR VIOLATION OF ARTICLE 259 WHICH SHALL CARRY WITH IT THAT OF PERPETUAL ABSOLUTE DISQUALIFICATION, and that of perpetual special disqualification from the right of suffrage which the offender shall suffer although pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon.”

SECTION 3. Any woman upon whom abortion was practiced by any physician, midwife or nurse, shall be exempt from criminal prosecution for intentional abortion in the event that she agrees to testify against the physician, midwife or nurse concerned.

SECTION 4. Any provision of law, executive order, decree or rules of court, which may be inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 5. This Act shall take effect upon its approval.

Approved.