

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 847

Introduced by Hon. Aurelio "Oyie" Matias Umali

EXPLANATORY NOTE

Existing laws and jurisprudence recognizes the deep concern of the State towards marriage. This concern is reflected in the rule that every intendment of the law or fact leans toward; (1) the validity of the marriage; (2) the indissolubility of the marriage bond; (3) the legitimacy of the children; (4) the community of property during the marriage; (5) the authority of the parents over their children; and (6) the validity of defense for any members of the family in case of unlawful aggression.

An increasing number of married individuals, however, find themselves subjected by their marriage partners to physical violence, grossly abusive conduct, and other acts or offenses that impair, debase or destroy the legitimate ends of the marriage.

The Family Code provides for legal remedies for married persons who find themselves locked and shackled by an irretrievably broken and loveless marriage. Depending on the grounds they are invoking, they may either file a petition for legal separation or seek the nullity of their marriage.

Legal separation does not dissolve the marriage bond between the spouses. Said parties are considered married individuals for all legal intents and purposes and thus prevented from pursuing marital ties with others. The law sanctions their separation but does not confer them the legal right or remedy to extricate themselves from the ordeal of a broken marriage. Clearly, the purpose of maintaining the bond is to allow the couple sufficient time to heal their wounds and to possibly reconcile in the future.

Thus, people granted a decree of legal separation is in a state of "marital limbo". Although separated from each other, they continue to be legally bound to each other. More often than not, this situation encourages the spouses to enter into illicit and/or illegitimate relations.

In the light of the foregoing, it is hereby proposed that present laws on marriage be amended to allow the innocent spouse who have been granted a decree of legal separation to initiate the necessary petition before the proper courts to finally terminate their marriage and to re-marry, after the lapse of five (5) years from the date of the issuance of the decree. During the hearing, it is necessary that the following elements be properly established:

a. That the petitioner be the innocent spouse;

b. That a period of five (5) years have elapsed from the time the decree of legal separation became final and executory;

c. Reconciliation between the spouses is no longer possible.

AURELIO "OYIE" MATIAS UMALI
Representative
3rd District, Nueva Ecija

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AN ACT AMENDING ARTICLE 63, TITLE II OF EXECUTIVE ORDER NO. 209 OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES

SECTION I, Article 63, Title II of Executive Order No. 209, otherwise known as the Family Code of the Philippines is hereby amended as follows:

Article 63. The decree of legal separation shall have the following effects:

1) The spouses shall be entitled to live separately from each other, but the marriage bond shall not be severed;

2) The absolute community or the conjugal partnership shall be dissolved and liquidated but the offending spouse shall have the right to any share of the net profits earned by the absolute community or the conjugal partnership, which shall be forfeited in accordance with the provisions of Article 43 (2);

3) The custody of the minor children shall be awarded to the innocent spouse, subject to the provisions of Article 213;

4) The offending spouse shall be disqualified from inheriting from the innocent spouse by interstate succession. Moreover, the provisions in favor of the offending spouses in the will of the innocent spouse shall be revoked by operation of law;

5) **AFTER THE LAPSE OF FIVE YEARS FROM THE TIME THE DECREE OF LEGAL SEPARATION BECOMES FINAL, THE INNOCENT SPOUSE MAY FILE A PETITION TO DECLARE THEIR MARRIAGE ANNULLED AND DECLARED WITHOUT LEGAL FORCE AND EFFECT, PROVIDED THAT IT BE**

SATISFACTORILY ESTABLISHED THAT RECONCILIATION BETWEEN SPOUSES IS NO LONGER POSSIBLE.

THE PETITION SHALL BE FILED BEFORE THE PROPER REGIONAL TRIAL COURT AND ALL RULES APPLICABLE TO ORDINARY PETITIONS FOR THE DECLARATION OF NULLITY OF MARRIAGE OR ANNULMENT OF MARRIAGE SHALL LIKEWISE BE DEEMED APPLICABLE, INCLUDING THE RULES ON PROPERTY RELATIONS, CUSTODY OF THE CHILDREN, SUPPORT AND THE LIKE.

Approved.