

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
Second Regular Session

House Bill 4643



Introduced by: **HON. RENE M. VELARDE**

EXPLANATORY NOTE

Article II, Section 12 of the Constitution enshrines the Filipino people's respect for life, as it mandates the State to "*protect the life of the mother and the life of the unborn from conception.*"

There is no ambiguity in this Constitutional mandate. It is reinforced by **Presidential Decree No. 603**, otherwise known as the **Child and Youth Welfare Code**, which states that "*every child is endowed with the 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 State's obligation to uphold the right of the unborn is underscored by the fact that a person is most defenseless while he rests in his mother's womb, totally dependent on his mother for the nurturing and protection. A society that can countenance the killing of babies in their mother's wombs loses its moral ascendancy to protest against the murder and killing of persons who are well able to defend themselves.

Yet, the enforcement of the right of the unborn against abortion continues to be weak. In fact, certain agencies of the government itself, in promoting the government's policy on population control, have been known to promote the use of abortifacient drugs and Intrauterine Devices (IUD) which work abortively by interfering with the implantation of a fertilized ovum in the mother's womb, or by interrupting pregnancy after implantation.

In the furtherance of the Constitutional mandate against abortion, this bill proposes to regulate the use, production, sale, distribution or dispensation of abortive drugs and prohibiting the use, production sale, distribution or dispensation of abortive devices, defining the same, providing penalties thereof.

Likewise, this bill proposes to impose penalty for the crime of production, selling, distribution or dispensation of abortive devices, defining the same, providing penalties thereof.

Likewise, this bill proposes to impose penalty for the crime of production, selling, distribution or dispensation of abortifacients and/ or drugs and/ or devices with potential abortive effect. Moreover, the accessory penalty is raised from mere suspension of the license to practice medicine or midwifery during the period of sentence to perpetual loss of license, amending for the purpose the Revised Penal Code of the Philippines.

In view of the foregoing, early passage of his bill is earnestly requested.



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“AN ACT BANNING THE USE , PRODUCTION, SALE, DISTRIBUTION OR DISPENSATION OF ABORTIVE DRUGS AND DEVICES, DEFINING THE SAME, PROVIDING PENALTIES THEREFOR AND AMENDING FOR THE PURPOSE OF ARTICLES 256 AND 259 OF THE REVISED PENAL CODE OF THE PHILIPPINES AND FOR OTHER PURPOSES”

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

SECTION 1. This Act shall be known as the “ **Anti-Abortive Drugs and Devices Act of 2005.** ”

SECTION 2. It is the purpose of this Act to regulate the use, production, sale, distribution or dispensation of abortive drugs and prohibit the use, production, sale, distribution, sale distribution or dispensation of abortive devices.

SECTION 3. For the purpose of this Act, “ Abortive Drug ” and “ Abortive Device ” shall mean as follows:

- (a) “Abortive Drug” shall be defined as any medicine, drug, chemical, or potion that acts to or has potential either to interfere with the implantation of the fertilized ovum (embryo) onto the mother’s womb or to interrupt pregnancy after implantation. It shall include but not be limited to such groups of abortive drugs as the Oral Contraceptives, Prostaglandin’s (not to be confused with Prostaglandin’s with the beneficial use) and Antiprogesterones. Also included are the Morning-after pills, *Misoprostol*, *Levonorgestrel*, *Lerronogestrel* 2, patch *Evra*, and Injectables like *Depo Provera*.
- (b) “ Abortive Device” shall be defined as any instrument, device, material or agent introduced into the female reproductive system whose primary mechanism of action is either to interfere with the implantation of the fertilized ovum onto the mother’s womb or

interrupt pregnancy after implantation. It shall include but shall not be limited to Intra-uterine a Devices (IUDs) and manual vacuum aspirator (MVA).

SECTION 4. All drug manufacturers shall label all abortive drugs or chemicals they produce, indicating therein that such drugs are “abortafacient” or have “ abortafacient potential.”

SECTION 5. No abortive drug or device shall be sold, distributed or dispensed.

SECTION 6. No Physician shall prescribe any drug with potential abortive action to any pregnant woman unless the physical or physiological condition of the latter justifies its use for the therapeutic purposes.

SECTION 7. Any person who is found to have violated Sections 4,5 and 6 of this Act shall be punished with imprisonment of not less than six (6) moths but not more than two (2) years and a fine of not less than 1,000 but not more than 5,000 pesos: Provided, that if the offender is a physician or any medical practitioners, he shall suffer the additional penalty of the revocation of his license to practice his profession.

SECTION 8. Article 256 of the Revised Penal Code is hereby amended to read as follows:

“ Any person who shall intentionally cause abortion, INCLUDING ADMINISTERING ANY ABORTIVE DRUG OR DEVICE OR BY OTHER MEANS, shall suffer:

- (a) The penalty of *reclusion temporal*, if he shall use any violence upon the person of the pregnant woman.
- (b) The penalty of *prison mayor*, if, without using any violence, he shall act without the consent of the woman.
- (c) The penalty to *prison correctional* in its medium and maximum periods, if the woman shall have consented.”

SECTION 9. Article 259 of the same Code is hereby amended to read as follows:

[ARTICLE 259. Abortion practiced by a physician or midwife and dispensing of any abortive. – The penalties provided in Article 256 shall be maximum period, respectively, upon any physician or midwife who, taking advantage of their scientific knowledge or skill shall cause an abortion or assist in causing the same. Any pharmacist who, shall dispense any abortive or without the proper prescription from a physician any potential abortive drug/device shall suffer *arresto mayor* and a fine not exceeding 1,000 pesos.]

“ANY PHYSICIAN, MIDWIFE, NURSE OR ANY OTHER HEALTH WORKER, WHO, TAKING ADVANTAGE OF HIS SCIENTIFIC KNOWLEDGE OR SKILL, SHALL CAUSE OR ASSIST IN CAUSING AN ABORTION, BY ANY MEANS INCLUDING ADMINISTERING ANY ABORTIVE DRUG OR DEVICE, SHALL SUFFER THE PENALTY OR *PRISON MAYOR* IN ITS MAXIMUM PERIOD AND THE ADDITIONAL PENALTY OF REVOCATION OF HIS LICENSE TO PRACTICE HIS PROFESSION.

ANY PERSON, PARTNERSHIP OR CORPORATION WHO SHALL PRODUCE, SELL, DISPENSE OR OTHERWISE DISTRIBUTE ANY ABORTIVE DRUG AND/OR SHALL SUFFER *ARRESTO MAYOR* IN ITS MAXIMUM PERIOD AND A FINE NOT LESS THAN 1,000 PESOS BUT NOT EXCEEDING 5,000 PESOS.”

SECTION 10. If the offender is a foreigner, her/his Philippine Visa shall be cancelled and she/he shall be deported without further proceedings after serving her/his sentence.

SECTION 11. Any woman upon whom abortion was practiced by any physician, midwife, nurse, or any other health worker, shall be exempt from criminal prosecution for intentional abortion in the event she agrees to testify against the physician, midwife, nurse or health worker concerned, provided that she willingly undergoes rehabilitation.

SECTION 12. All laws, acts, decrees, executive orders, rules and regulations inconsistent with the provisions of this Act are hereby repealed and/ or modified accordingly.

SECTION 13. This Act shall take fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Approved.