

HOUSE OF REPRESENTATIVES

House Bill No. 912

Introduced by Representative Susan A. Yap

EXPLANATORY NOTE

Equality between men and women before the law is guaranteed no less than the Constitution. This ensures that gender should not be a basis in the application of law. However, laws that run counter to this still prevail.

For instance, Article 333 of the Revised Penal Code, defines adultery a crime committed by a married woman and the man whom she has intercourse with. On the other hand, Article 334 states that concubinage may be committed by a man who shall keep a mistress in the conjugal dwelling, or shall have sexual intercourse, under scandalous circumstances, with a woman who is not his wife, or shall cohabit with her in any other place. These are elements that are more difficult to prove as compared to adultery of women. The inconsistency shows the manifest discrimination in the observance and enforcement of the law. Such is a manifestation of archaic tenets of a society.

Thus, this bill aims to eliminate the biases against gender in these articles of the Revised Penal Code. At this juncture, it is time to update our laws in order to conform to the dynamism of society and to uphold the constitutionally guaranteed principle of equality among men and women.

In view of the foregoing, immediate passage of this measure is earnestly sought.


SUSAN A. YAP
Representative, Second District of Tarlac

HOUSE OF REPRESENTATIVES

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AN ACT

DEFINING AND PENALIZING THE CRIME OF MARITAL INFIDELITY,
AMENDING FOR THE PURPOSE ARTICLES 333, 334 AND 344 OF ACT NO. 3815, AS
AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE

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

1 SECTION 1. Chapter One, Title Eleven, Book II of Act No. 3815, as amended, otherwise
2 known as the Revised Penal Code, is hereby further amended to read as follows:

3 "Title Eleven

4 "CRIMES AGAINST CHASTITY

5 "Chapter One

6 "[ADULTERY AND CONCUBINAGE]MARITAL INFIDELITY

7 "[Art. 333. *Who are guilty of adultery.* – Adultery is committed by any married
8 woman who shall have sexual intercourse with a man not her husband and by the
9 man who has carnal knowledge of her knowing her to be married, even if the
10 marriage be subsequently declared void.

11 "Adultery shall be punished by *prision correccional* in its medium and maximum
12 periods.

13 "If the person guilty of adultery committed this offense while being
14 abandoned without justification by the offended spouse, the penalty next lower in
15 degree than that provided in the next preceding paragraph shall be imposed.

16 "Art. 334. *Concubinage.* – Any husband who shall keep a mistress in the
17 conjugal dwelling, or shall have sexual intercourse, under scandalous
18 circumstances, with a woman who is not his wife, or shall cohabit with her in any
19 other place, shall be punished by *prision correccional* in its minimum and medium
20 periods.

21 "The concubine shall suffer the penalty of *destierro*.]"

22 "ART. 333. WHO ARE GUILTY OF MARITAL INFIDELITY. –
23 MARITAL INFIDELITY IS COMMITTED BY ANY MARRIED PERSON
24 WHO HAS SEXUAL INTERCOURSE WITH A PERSON NOT HIS OR

1 HER SPOUSE, AND BY THE PERSON WHO HAS CARNAL
2 KNOWLEDGE OF THE MARRIED PERSON, KNOWING HIM OR HER
3 TO BE MARRIED, EVEN IF THE MARRIAGE BE SUBSEQUENTLY
4 DECLARED VOID.

5 "MARITAL INFIDELITY SHALL BE PUNISHED BY *PRISION*
6 *CORRECCIONAL* IN ITS MINIMUM AND MEDIUM PERIODS.

7 "THE PENALTY IN ITS MAXIMUM PERIOD SHALL BE
8 IMPOSED UPON THE SPOUSE WHO SHALL KEEP A PARAMOUR IN
9 THE CONJUGAL DWELLING.

10 "THE PENALTY IN ITS MEDIUM PERIOD SHALL BE IMPOSED
11 UPON THE SPOUSE WHO SHALL COHABIT WITH A PARAMOUR IN
12 ANY OTHER PLACE.

13 "IF THE PERSON GUILTY OF MARITAL INFIDELITY
14 COMMITTED THIS OFFENSE WHILE BEING ABANDONED
15 WITHOUT JUSTIFICATION BY THE OFFENDED SPOUSE, THE
16 PENALTY NEXT LOWER IN DEGREE THAN THAT PROVIDED
17 SHALL BE IMPOSED.

18 "MOSLEMS AND MEMBERS OF INDIGENOUS PEOPLES,
19 COMMUNITIES WHO ACTIVELY AND CONTINUOUSLY PRACTICE
20 TIME IMMEMORIAL CUSTOMS AND TRADITIONS ALLOWING
21 MULTIPLE SPOUSES SHALL BE HELD LIABLE FOR MARITAL
22 INFIDELITY IF THEY ENGAGE IN SEXUAL INTERCOURSE WITH
23 ANY PERSON OTHER THAN THE OFFICIAL SPOUSES
24 RECOGNIZED BY THEIR RESPECTIVE FAITHS AND TRADITIONS.

25 "ART. 334. *MARITAL INFIDELITY COMMITTED BY PUBLIC*
26 *OFFICERS AND EMPLOYEES.* - WHEN MARITAL INFIDELITY, AS
27 DEFINED IN THE PRECEDING ARTICLE, IS COMMITTED BY ANY
28 OFFICER OR EMPLOYEE OF THE GOVERNMENT INCLUDING,
29 BUT NOT LIMITED TO, MILITARY PERSONNEL, THOSE
30 EMPLOYED IN GOVERNMENT-OWNED AND -CONTROLLED
31 CORPORATIONS (GOCCs) WITH ORIGINAL CHARTERS, THOSE
32 NOMINATED BY THE GOVERNMENT AS MEMBERS OF THE
33 BOARD OF DIRECTORS OF GOCCs ORGANIZED UNDER BATAS
34 PAMBANSA BILANG 68, AS AMENDED, (THE CORPORATION
35 CODE), AND PHILIPPINE REPRESENTATIVES TO
36 INTERNATIONAL ORGANIZATIONS, THE PENALTY OF *PRISION*
37 *MAYOR* IN ITS MINIMUM PERIOD SHALL BE IMPOSED."

38 SEC. 2. Article 344 of the same Code is likewise further amended to read as follows:

39 "Art. 344. *Prosecution of the crimes of [adultery, concubinage] MARITAL*
40 *INFIDELITY, seduction, abduction, [rape] and acts of lasciviousness.* - The crime[s] of
41 [adultery and concubinage] *MARITAL INFIDELITY* shall not be prosecuted
42 except upon a complaint filed by the offended spouse.

43 "The offended party cannot institute criminal prosecution without including
44 both the guilty parties, if they are both alive, nor, in any case, if he OR SHE shall
45 have consented or pardoned the offenders, OR IS LIKEWISE GUILTY OF
46 MARITAL INFIDELITY, OR ABANDONED THE GUILTY SPOUSE
47 WITHOUT JUST CAUSE FOR MORE THAN ONE (1) YEAR.

48 "The offenses of seduction, abduction, [rape] or acts of lasciviousness shall
49 not be prosecuted except upon a complaint filed by the offended party or her

1 parents, grandparents, or guardian, nor, in any case, if the offender has been
2 expressly pardoned by the above named persons, as the case may be.

3 "In cases of seduction, abduction, **AND** acts of lasciviousness [and rape], the marriage of the
4 offender with the offended party shall extinguish the criminal action or remit the penalty
5 already imposed upon him. The provisions of this paragraph shall also be applicable to
6 the co-principals, accomplices and accessories after the fact of the above-
7 mentioned crimes."

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9 SEC. 3. *Separability Clause.* — If any provision of this Act is declared unconstitutional, the other
10 provisions not affected shall continue to be in full force and effect.

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12 SEC. 4. *Repealing Clause.* — All laws, decrees, rules and regulations or parts thereof inconsistent with
13 this Act are hereby repealed or amended accordingly.

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15 SEC. 5. *Effectivity.* — This Act shall take effect fifteen (15) days following the completion of its
16 publication in the *Official Gazette* or in at least two (2) newspapers of general circulation in the
17 Philippines.

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19 Approved,