

HOUSE OF REPRESENTATIVES

House Bill No. 405



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.

Under the Revised Penal Code (RPC), concubinage is "committed by any husband 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".

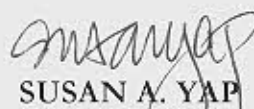
Adultery, on the other hand, refers to the "carnal relation between a married woman and a man who is not her husband, the latter knowing her to be married, even if the marriage be subsequently declared void (RPC, Article 333). Each sexual intercourse constitutes a crime of adultery."

Under the existing law, adultery shall be punished by *prision correccional* in its medium and maximum periods while concubinage shall be punished by a lower penalty of *prision correccional* in its minimum and medium periods.

The bill proposes to define sexual infidelity as the act of having sexual intercourse with someone other than an individual's legal spouse. A penalty of *prision correccional* in its maximum period will be imposed upon a person who is found guilty of keeping a "paramour in the conjugal dwelling." If cohabitation takes place in a location other than the house of the legally married couple, the penalty will be *prision correccional* in its medium period. These are the two acts that shall constitute sexual infidelity. Any married man or woman found to be unfaithful will no longer be charged with concubinage or adultery, respectively, as was done in the past, but with infidelity, as proposed in the bill.

The proposed measure seeks to eradicate the discrepancy in penalties for related crimes such as concubinage and adultery as it imposes equal punishment for married men and women who are found to be unfaithful to their spouses. It takes away the gender bias in laws penalizing adultery and concubinage. The proposed measure makes it easier for women to prove that their husbands have committed the crime. The current law makes it easier for men to get a ruling on cases of adultery filed against wives who were allegedly unfaithful.

Ultimately, the bill seeks to protect the institution of marriage. The aim of the bill is not to make it hard or easy for both parties who complain about adultery or concubinage, but to make partners recognize their responsibility to uphold the sanctity of marriage.


SUSAN A. YAP

Representative, Second District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. 405

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AN ACT
DEFINING THE CRIME OF SEXUAL INFIDELITY AND PROVIDING
PENALTIES THEREFOR, AMENDING FOR THE PURPOSE ARTICLE 333
(ADULTERY), ARTICLE 334 (CONCUBINAGE) AND ARTICLES 344 AND 345 OF
TITLE ELEVEN, BOOK II 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. The provisions of Articles 333 and 334 of Act No. 3815 are hereby repealed
2 and, in lieu thereof, Articles 333 and 334 should now read as follows:
3

4 "Title Eleven
5

6 "CRIMES AGAINST CHASTITY
7

8 "Chapter One
9

10 "[ADULTERY AND CONCUBINAGE]
11

12 "SEXUAL INFIDELITY
13

14 [ART. 333. *Who are guilty of adultery.* – Adultery is committed by any married
15 woman who shall have sexual intercourse with a man not her husband and by the
16 man who has carnal knowledge of her knowing her to be married, even if the
17 marriage be subsequently declared void.

18 Adultery shall be punished by *prision correccional* in its medium and maximum
19 periods.

20 If the person guilty of adultery committed this offense while being
21 abandoned without justification by the offended spouse, the penalty next lower in
22 degree than that provided in the next preceding paragraph shall be imposed.
23

24 ART. 334. *Concubinage.* – Any husband who shall keep a mistress in the
25 conjugal dwelling, or shall have sexual intercourse, under scandalous
26 circumstances, with a woman who is not his wife, or shall cohabit with her in any
27 other place, shall be punished by *prision correccional* in its minimum and medium
28 periods.

29 The concubine shall suffer the penalty of *destierro*.]
30

31 "ART. 333. *SEXUAL INFIDELITY.* – SEXUAL INFIDELITY IS
32 COMMITTED BY ANY LEGALLY MARRIED PERSON WHO SHALL
33 HAVE SEXUAL INTERCOURSE WITH ANOTHER PERSON OTHER
34 THAN THE MARRIED PERSON'S SPOUSE AND BY THE PERSON
35 WHO HAS CARNAL KNOWLEDGE WITH THE MARRIED PERSON,

1 KNOWING THAT PERSON TO BE LEGALLY MARRIED, EVEN IF THE
2 MARRIAGE BE SUBSEQUENTLY DECLARED VOID.
3

4 "ART. 334. *PENALTY.* – SEXUAL INFIDELITY SHALL BE PUNISHED
5 BY *PRISION CORRECCIONAL*.

6 "THE PENALTY OF *PRISION CORRECCIONAL* IN ITS MAXIMUM
7 PERIOD SHALL BE IMPOSED UPON AN OFFENDER WHO SHALL KEEP
8 A PARAMOUR IN THE CONJUGAL DWELLING.

9 "THE PENALTY OF *PRISION CORRECCIONAL* IN ITS MEDIUM
10 PERIOD SHALL BE IMPOSED UPON AN OFFENDER WHO SHALL
11 COHABIT WITH A PARAMOUR IN ANY OTHER PLACE.

12 "THE PENALTY OF *PRISION CORRECCIONAL* IN ITS MINIMUM
13 PERIOD SHALL BE IMPOSED IF THE OFFENSE WAS COMMITTED
14 UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

15 "(A)WHEN THE ACCUSED SPOUSE HAD BEEN ABANDONED
16 WITHOUT JUST CAUSE FOR MORE THAN ONE (1) YEAR; AND

17 "(B)WHEN THE ACCUSED SPOUSE HAD BEEN SUBJECTED TO
18 REPEATED PHYSICAL VIOLENCE OR GROSSLY ABUSIVE CONDUCT BY
19 THE OFFENDED SPOUSE."
20

21 SECTION 2. Articles 344 and 345 of the Revised Penal Code are, likewise amended
22 to read as follows:
23

24 "ART. 344. *Prosecution of the crimes of [adultery, concubinage,] SEXUAL INFIDELITY,*
25 *seduction, abduction, rape and acts of lasciviousness.* – The crime[s] of [adultery and
26 concubinage] **SEXUAL INFIDELITY** shall not be prosecuted except upon a complaint
27 filed by the offended spouse.

28 The offended party cannot institute criminal prosecution without including both the
29 guilty parties[,] if they are both alive, nor, in any case, if [he] **THE OFFENDED**
30 **PARTY IS LIKEWISE GUILTY OF SEXUAL INFIDELITY, OR HAD**
31 **ABANDONED THE GUILTY SPOUSE WITHOUT JUST CAUSE FOR MORE**
32 **THAN ONE (1) YEAR OR [shall have] HAD CONDONED,** consented or pardoned
33 the offenders.

34 "x x x
35

36 "ART. 345. *Civil liability of persons guilty of crimes against chastity.* – Persons guilty of
37 rape, seduction or abduction shall also be sentenced:

38 "(1) To indemnify the offended woman.

39 "(2) To acknowledge the offspring, unless the law should prevent him from
40 so doing.

41 "(3) In every case to support the offspring.
42

43 "[The adulterer and the concubine] **PERSONS GUILTY OF SEXUAL**
44 **INFIDELITY** in the case provided for in Article[s] 333 [and 334] may also be
45 sentenced, in the same proceeding or in a separate civil proceeding, to indemnify for
46 damages caused to the offended spouse."

Approved,