

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. 2381



Introduced by **HON. GWENDOLYN F. GARCIA**

EXPLANATORY NOTE

Marriage is a special contract of permanent union between a male and a female entered into in accordance with law for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences, and incidents are governed by law and not subject to stipulation. Under our present law, any Filipino citizen whose age is eighteen (18) years or upwards and not under any of the impediments mentioned in Articles 37 and 38 of the Family Code, may contract marriage.

One of the frequently encountered problems in family relations is illegitimacy of children born out of wedlock simply because they were conceived or born at the time their parents were not of legal age, even if there were no other legal impediments to marry. From the legal point of view, what seems like a simple issue actually carries with it legal consequences prejudicial to the illegitimate children, who should not be made to suffer because of the mistake of their parents. These legal consequences include entitlement to a share equivalent to only half of that given to legitimate children from the estate of their parents, being barred from inheriting from the legitimate children and relatives of their father or mother, and the condition in the law that a legitimate brother or sister may not be compelled to support an illegitimate brother or sister if the cause for the need of support is imputable to the claimant's fault or negligence.

On the other hand, the number of teenage pregnancies and increased sexual behavior among the youth have grown dramatically not only in the Philippines but also throughout the world. A study conducted by the National Statistics Office reported that of the 1.7 million babies born in 2004, almost 8 percent were born to females aged 15 and 19 years old most of who were unwed mothers, 14 to 15 percent of whom have had induced abortion. Studies conducted by the Population Institute of the University of the Philippines also showed 4 million Filipinos aged 15 to 19 had already experienced sexual intercourse.

Setting a new legal age to contract a marriage in the Philippines, therefore, will not only address the problem of illegitimacy among children born out of wedlock of parents who are barred from marriage due to age but also will address concerns about more young girls getting an abortion to save face from illegitimate relationships.

In the United States, vast majority of states set the minimum marrying age at 16 with a parent's permission. Georgia settled on a minimum marrying age of 16 provided a judge approves while Kansas set the floor at 15 under the same conditions. State laws make various exceptions for when a teen can marry before the legal age of adulthood at 18. The state with the lowest marriage age is New Hampshire, which allows 13-year-old girls and 14-year-old boys to marry although parents can annul their children's marriages until the children reach 18.

Marriage among Filipinos whose ages are below the legal standard set by the Family Code is not new. Presidential Decree No. 1083, or the Code of Muslim Personal Laws of 1977 set minimum marriage age among Filipino Muslims at 15 years for males and puberty for females (female is presumed to have attained puberty at 15 years). The 1949 Civil Code of the Philippines, in fact, has set the legal marrying age of at 14 for females and 16 for males (Art. 54, Chap.1 Title III-Requisites of Marriage)

As it is the duty of the State to protect and strengthen the family as enshrined in the 1987 Philippine Constitution in mind and the welfare of these children in mind, this bill therefore seeks to amend certain provisions of Title I (Marriage) of Executive Order No. 209, as amended by Executive Order No. 227.

Immediate approval of this bill is earnestly sought.



HON. GWENDOLYN F. GARCIA

Republic of the Philippines
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SIXTEENTH CONGRESS
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House Bill No. **2381**

Introduced by **HON. GWENDOLYN F. GARCIA**

AN ACT

AMENDING CERTAIN PROVISIONS OF TITLE I OF EXECUTIVE ORDER NO. 209, AS AMENDED BY EXECUTIVE ORDER NO. 227, OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES

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

SECTION 1. Article 5, Chapter 1, Title I of Executive Order No. (EO) 209, as amended by Executive Order No. 227, otherwise known as "The Family Code of the Philippines", is hereby amended to read as follows:

"Art. 5. Any male [or female] of the age of eighteen years AND ANY FEMALE OF THE AGE SIXTEEN YEARS or upwards not under any of the impediments mentioned in Articles 37 and 38, may contract marriage."

SEC. 2. Paragraph (9), Art. 11, Chap. 1, Title I of EO 209, as amended by EO 227, is hereby amended to read as follows:

"Art. 11. Where a marriage license is required, each of the contracting parties shall file separately a sworn application for such license with the proper local civil registrar which shall specify the following:

X X X

(9) Full name, residence and citizenship of the guardian or person having charge, in case the contracting party has neither father nor mother and is under the age of twenty-one years FOR MALES AND NINETEEN FOR FEMALES."

SEC. 3. Art. 14, Chap. 1, Title I of EO 209, as amended by EO 227, is hereby amended to read as follows:

"Art. 14. In case either or both of the contracting parties, not having been emancipated by a previous marriage, are between the ages of eighteen and twenty-one FOR MALES AND SIXTEEN TO NINETEEN FOR FEMALES, they shall, in addition to the requirements of the preceding articles, exhibit to the local civil registrar, the consent to their marriage of their father, mother, surviving parent or guardian, or persons having legal charge of them, in the order mentioned. Such consent shall be manifested in writing by the interested party, who personally appears before the proper local civil registrar, or in the form of an affidavit made in the presence of two witnesses and attested before any official authorized by law to administer oaths. The personal manifestation shall be recorded in both applications for marriage license, and the affidavit, if one is executed instead, shall be attached to said applications."

SEC. 4. Art. 15, Chap. 1, Title I of EO 209, as amended by EO 227, is hereby amended to read as follows:

"Art. 15. Any contracting party between the age of twenty-one and twenty-five FOR MALES AND NINETEEN TO TWENTY-THREE FOR FEMALES shall be obliged to ask their parents or guardian for advice upon the intended marriage. If they do not obtain such advice, or if it be unfavorable, the marriage license shall not be issued till after three months following the completion of the publication of the application therefor. A sworn statement by the contracting parties to the effect that such advice has been sought, together with the written advice given, if any, shall be attached to the application for marriage license. Should the parents or guardian refuse to give any advice, this fact shall be stated in the sworn statement."

SEC. 5. Par. (1), Art. 35, Chap. 3, Title I of EO 209, as amended by EO 227, is hereby amended to read as follows:

"Art. 35. The following marriages shall be void from the beginning:

- (1) Those contracted by any party below eighteen years of age FOR MALES AND SIXTEEN YEARS OF AGE FOR FEMALES even with the consent of parents or guardians;

X X X"

SEC. 6. Par. (1) Art. 45, Chap. 3, Title I of EO 209, as amended by EO 227, is hereby amended to read as follows:

"Art. 45. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

- "(1) That the party in whose behalf it is sought to have the marriage annulled was eighteen years of age or over but below twenty-one FOR A MALE OR SIXTEEN YEARS OF AGE OR OVER BUT BELOW NINETEEN FOR A FEMALE, and the marriage was solemnized without the consent of the parents, guardian or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one FOR A MALE AND NINETEEN FOR A FEMALE, such party freely cohabited with the other and both lived together as husband and wife;

X X X"

SEC. 7. Par. (1), Art. 47, Chap. 3, Title I of EO 209, as amended by EO 227, is hereby amended to read as follows:

"Art. 47. The action for annulment of marriage must be filed by the following persons and within the periods indicated herein:

- "(1) For causes mentioned in number 1 of Article 45 by the party whose parent or guardian did not give his or her consent, within five years after attaining the age of twenty-one FOR MALES AND NINETEEN FOR FEMALES, or by the parent or guardian or person having legal charge of the minor, at any time before such party has reached the age of twenty-one FOR MALES AND NINETEEN FOR FEMALES;

X X X"

SEC. 8. Any act or provision of law inconsistent with this Act is hereby repealed.

SEC. 9. This Act shall take effect upon its approval.

Approved,