

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5116



INTRODUCED BY REPRESENTATIVES
EMMI A. DE JESUS and LUZVIMINDA C. ILAGAN

EXPLANATORY NOTE

The State recognizes the role of women in nation-building, and ensures the fundamental equality before the law of women and men.¹ Moreover, Republic Act 9710 or The Magna Carta of Women provides for the role of the government in taking appropriate measures to eliminate discrimination against women, especially with regard to marriage and family relations.

Given the above mandates, the government therefore should enact laws and policies that are not gender-biased and non-discriminatory to women as well as push for the repeal of laws that discriminate against women. However, while we have seen the passage of pro-women key legislations in past Congresses, a number of laws that are discriminatory to women still exist; one of which is Article 351 of the Revised Penal Code.

The said article of the Revised Penal Code defines a premature marriage which is classified together with bigamous marriage as an illegal marriage. In particular, Article 351 prohibits a woman from re-marrying within 301 days from the date of death of her husband, or before having delivered if she shall have been pregnant at the time of her husband's death. The same prohibition applies to a woman whose marriage had been dissolved or annulled. And premature marriage being declared a crime, the woman stands to be punished by *arresto mayor* which translates to a range of one month and one day to six months' imprisonment, while the man she marries prematurely is not penalized.

¹ 1987 Philippine Constitution, Article II, Section 14

Moreover, no similar prohibition is imposed on the widower or the man who “prematurely” marries another after the death of his wife.

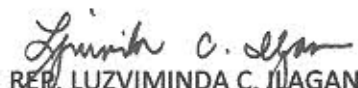
The purpose of the prohibition is said to be the avoidance of confusion as regards paternity and filiation of a child who may have been conceived during the previous marriage but born during the subsequent marriage. But as it is, Article 351 already unduly restricts a woman’s right to marry, and the fact that it also covers women who are beyond childbearing years demonstrates the incongruity of the prohibition vis-à-vis its aforementioned purpose or intent. Besides a full title of the Family Code of the Philippines is already devoted to Paternity and Filiation (Title VI of the Family Code of the Philippines) and a chapter within the said title tackles Proof of Filiation. Thus, sufficient framework exists to address the issue of paternity and filiation, not to mention that in today’s age of advanced technology, paternity and filiation can be easily determined, making the prohibition all the more outdated, irrelevant and unnecessary.

Hence, Article 351 should be repealed. But its repeal is being sought not only because it is outdated but also because it perpetuates discrimination against those women subjected to the prohibition by unduly curtailing their right to marry when no other legal barrier exists other than the declared prohibition.

This bill, thus, seeks the immediate repeal of Article 351 of the Revised Penal Code.



REP. EMMI A. DE JESUS
Gabriela Women’s Party


REP. LUZVIMINDA C. ILAGAN
Gabriela Women’s Party

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5116

INTRODUCED BY REPRESENTATIVES
EMMI A. DE JESUS and LUZVIMINDA C. ILAGAN

**AN ACT REPEALING THE CRIME OF PREMATURE MARRIAGES UNDER ARTICLE
351 OF REPUBLIC ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL
CODE**

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

SECTION 1. Article 351, Title Twelve, Chapter One of Act 3815, as amended, otherwise known as the Revised Penal Code which provides that “Art. 351 *Premature Marriages* – Any widow shall marry within three hundred and one day from the date of the death of her husband, or before having delivered if she shall have been pregnant at the time of his death, shall be punished by arresto mayor and a fine not exceeding 500 pesos. The same penalties shall be imposed upon any woman whose marriage shall have been annulled or dissolved, if she shall marry before her delivery or before the expiration of the period of three hundred and one day after the legal separation” is hereby repealed.

SECTION 2. *Effectivity.* This Act shall take effect after fifteen (15) days following the completion of its publication in at least two (2) newspapers of general circulation.

Approved,