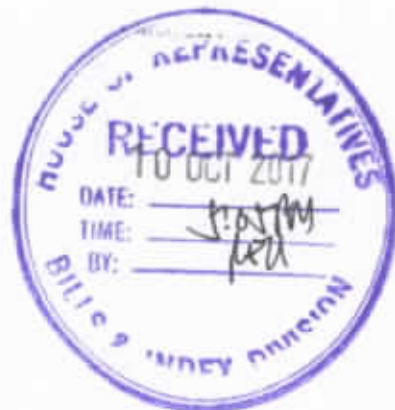




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City



SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 6595

Introduced by

REPRESENTATIVES PANTALEON D. ALVAREZ, GERALDINE B.
ROMAN, RANEO E. ABU, FREDERICK F. ABUEG, LEN B. ALONTE-
NAGUIAT, SANDRA Y. ERIGUEL, GWENDOLYN F. GARCIA, SHARON
S. GARIN, VICTORIA ISABEL G. NOEL, and ERIC D. SINGSON

AN ACT
RECOGNIZING THE CIVIL PARTNERSHIP OF COUPLES,
PROVIDING FOR THEIR RIGHTS AND OBLIGATIONS

EXPLANATORY NOTE

Section 1, Article III of the 1987 Constitution provides:

"Section 1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws."

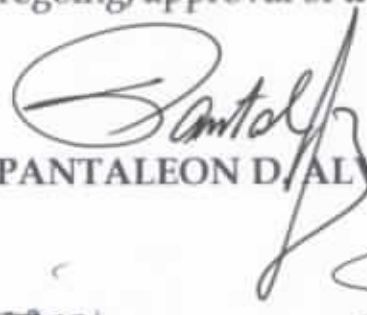
While there has been greater acceptance of minority groups in recent years, it is notable, however, that the Philippines has not made sufficient strides in providing some of the most basic civil rights to couples who are not eligible for marriage under the law. A large part of this affected population is the Lesbian, Gay, Bisexual and Transgender (LGBT) community. By reason of their sexual orientation and who they love, they are excluded from entering into legally recognized and protected unions.

This exclusion exacerbates the reality that most, if not all, of these couples confront. For example, they cannot declare their partners as beneficiaries under social security and insurance plans. Further, they are unable to inherit through intestate rights in the event of the death of their partner. These restrict basic liberties that are available to most citizens, despite these couples taking part in loving, committed and long-term relationships.

This bill, recognizing the Constitutional right of all Filipinos to equal protection of the laws and to freely associate with others, hereby proposes to allow couples to enter into a civil partnership, whether they are of the opposite or of the same sex. It aims to be a landmark effort to provide civil rights, benefits, and responsibilities to couples, previously unable to marry, by giving them due recognition and protection from the State. Lastly, it protects civil partnership couples by penalizing unlawful and discriminatory practices committed by persons or institutions against them on the basis of their civil partnership status.

Ultimately, at the core of a civil partnership are two fully consenting adults who, like many Filipinos, merely wish to love, care and support each other as they build a life together during their fleeting time here on earth. It is about time that the Philippine government grant couples, whether they are of the opposite or of the same sex, adequate legal instruments to recognize their partnerships, respecting their dignity and recognizing their equality before the law.

In view of the foregoing, approval of this bill is highly and earnestly sought.



PANTALEON D. ALVAREZ



GERALDINE B. ROMAN



RANEO E. ABU



FREDERICK F. ABUEG



LEN B. ALONTE-NAGUIAT

Sandra Y. Eriguel
SANDRA Y. ERIGUEL

Sharon S. Garin
SHARON S. GARIN

Eric D. Singson
ERIC D. SINGSON

Gwendolyn F. Garcia
GWENDOLYN F. GARCIA

Victoria Isabel G. Noel
VICTORIA ISABEL G. NOEL



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **6595**

Introduced by

REPRESENTATIVES PANTALEON D. ALVAREZ, GERALDINE B. ROMAN, RANEO E. ABU, FREDERICK F. ABUEG, LEN B. ALONTE-NAGUIAT, SANDRA Y. ERIGUEL, GWENDOLYN F. GARCIA, SHARON S. GARIN, VICTORIA ISABEL G. NOEL, and ERIC D. SINGSON

AN ACT
RECOGNIZING THE CIVIL PARTNERSHIP OF COUPLES,
PROVIDING FOR THEIR RIGHTS AND OBLIGATIONS

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

SECTION 1. *Short Title.* – This Act shall be known as the “*Civil Partnership Act.*”

SEC. 2. *Declaration of Policy.* – It is the policy of the State to value the dignity of every human person and guarantee full respect for human rights. Towards this end, the State shall give full support to the welfare and well-being of couples, of either the opposite or same sex, who are in a relationship and are denied their rights and obligations on account of absence of legal provisions that recognize their relationship and amply provide for their protection.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Civil partnership* refers to a legal relationship between two persons, of either the same or opposite sex, established pursuant to this Act;

(b) *Civil partnership couple* refers to individuals who formally enter into a civil partnership in accordance with the provisions of this Act;

(c) *Civil partnership license* refers to a document issued by the local civil registrar of the city or municipality that allows the contracting parties, of either the same or opposite sex, and are habitually residing together, to legally enter into a civil partnership;

(d) *Civil partnership certificate* refers to a document that certifies that the persons named on the certificate have established a civil partnership in compliance with this Act;

(e) *Pre-civil partnership agreement* refers to an agreement pertaining to the property regime between prospective partners in a civil partnership made in contemplation of establishing a civil partnership; and

(f) *Property* refers to an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

SEC. 4. *Recognition of Civil Partnership.* – Any person who complies with the requirements herein provided, shall be allowed to register and enter into a civil partnership, and shall be bound by the obligations and responsibilities and enjoy the protections and benefits afforded by this Act. The rights of civil partnership couples shall be recognized and respected.

SEC. 5. *Requisites of a Civil Partnership.* – No civil partnership shall be valid unless the following requirements are present:

(a) *Legal capacity of the contracting parties.* For purposes of this Act, there is legal capacity if the parties:

1) Are at least eighteen (18) years of age;

2) Are not prohibited to enter into civil partnership by reason of public policy, based on the grounds enumerated under Articles 37 and 38 of Executive Order No. 209, as amended, otherwise known as the “*Family Code of the Philippines*,” and

3) Are free from any previous bond of marriage or civil partnership;

(b) Sharing a common domicile for a minimum of two (2) uninterrupted years at the time when the civil partnership license is applied for as supported by competent evidence;

(c) The relationship is publicly known;

(d) Consent freely given in the presence of the administering officer;

(e) Authority of the administering officer;

(f) A valid partnership license to contract a civil partnership issued by and obtained from the local civil registrar of the city or municipality where either party habitually resides; and

(g) A civil partnership ceremony which takes place with the personal appearance of the contracting parties before the administering officer and their personal declaration, as proof of consent freely given, that they take each other as legal partners in the presence of not less than two (2) witnesses. No specific religious rite or form shall be required for purposes of this requirement.

The absence of any of the requisites mentioned in this section shall render the civil partnership void *ab initio*. A defect in the requirements provided under paragraphs (a), (b), (c) and (d) shall be a ground for the annulment of the civil partnership. However, a defect in paragraphs (e), (f) and (g) shall be deemed a mere irregularity, which shall not affect the validity of the civil partnership but the persons responsible for the commission of the irregularity shall be civilly, criminally and administratively liable.

SEC. 6. *Administering Officers; Religious Freedom.* – The persons lawfully authorized to solemnize marriage under Article 7 of the Family Code of the Philippines, as amended, shall likewise be authorized to administer the civil partnership ceremony.

Nothing in this Act shall interfere with or regulate the religious practice of any religious body. Any priest, rabbi, imam or minister of any church, sect, or religious body is free to choose whether or not to administer or officiate a civil partnership ceremony.

SEC. 7. *Civil Partnership License and Certificate.* - The requirements for and prohibitions relative to, as well as the procedures in the issuance of a valid marriage license and certificate provided for under Articles 9 to 23 and Articles 27 to 34 of the Family Code of the Philippines, as amended, shall likewise be applicable in the issuance of a civil partnership license and certificate.

SEC. 8. *Default Property Regime.* - In the absence of a pre-civil partnership agreement or when the regime agreed upon is void, the regime of total separation of property shall govern. The properties acquired by civil partnership couples while they live together shall be presumed, unless proven otherwise, to have been obtained through their joint efforts, work and industry, and shall be governed by the rules on co-ownership, unless otherwise provided for in the pre-civil partnership agreement.

SEC. 9. *Pre-Civil Partnership Agreement.* - Civil partnership couples may, within the limits provided for by this Act, fix their property relations by executing a pre-civil partnership agreement which shall be in writing, with a statement of assets annexed thereto, signed by both parties, and contained in a public instrument.

Civil partnership couples may choose between the system of absolute community of property, conjugal partnership of gains, separation of property, whether total or partial, or any other regime, as provided for in the Family Code of the Philippines, as amended. Such regime shall govern their right to own, dispose of, possess, administer and enjoy properties, subject to modifications, which are not contrary to law, morals, good custom, public order, or public policy, given the nature of their partnership.

Any stipulation or agreement that is inimical to the interest of the civil partnership relative to sustenance and support for medical treatment, dwelling, food, clothing and other needs of the couple, or adversely affects the right of children to receive support, shall automatically be declared void. Stipulations which are not contrary to law, morals, good custom, public order, or public policy shall not be invalidated and shall remain effective.

A pre-civil partnership agreement becomes effective upon the establishment of a civil partnership.

SEC. 10. *Amendment or Revocation of Pre-Civil Partnership Agreement.* – Upon the establishment of a civil partnership, a pre-civil partnership agreement may be amended or revoked only by a duly notarized written agreement, freely and consensually entered into, signed by the parties and approved by the court. The court's role is to ensure that the amendment or revocation of the property regime is consensual.

The burden of proof to set aside a pre-civil partnership agreement shall be upon the party alleging the agreement to be unenforceable. A pre-civil partnership agreement shall be unenforceable if the party seeking to set the same aside proves, by clear and convincing evidence, that:

- (a) The party executed the agreement involuntarily; or
- (b) The agreement was unconscionable at the time enforcement was sought; or
- (c) The party, before execution of the agreement, failed to:
 - (1) Provide full and fair disclosure of the earnings, property and financial obligations of the other party;
 - (2) Voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided;
 - (3) Have, or reasonably have had, an adequate knowledge of the property or financial obligations of the other party; or
 - (4) Consult with independent legal counsel and voluntarily and expressly waive, in writing, the opportunity to consult with independent legal counsel.
- (d) In case of disagreement and the parties cannot settle the issue of unconscionability of a pre-civil partnership agreement, the issue shall be determined by the court.

If a civil partnership is declared void, an agreement that is otherwise a pre-civil partnership agreement shall be enforced only to the extent necessary to avoid an inequitable result.

SEC. 11. *Benefits and Protections of Civil Partnership.* – Civil partnership couples shall be afforded the following benefits, protections and responsibilities:

(a) All benefits and protections as are granted to spouses in a marriage under existing laws, administrative orders, court rulings, or those derived as a matter of public policy, or any other source of civil law;

(b) Laws of marital relations, including donations by reason of marriage, legal separation, adoption, child custody and support, property division and maintenance, and spousal support, shall apply to civil partnership couples;

(c) Rights of civil partnership couples with respect to a child of whom both become the parents of during the terms of the civil partnership, shall be the same as those of a married couple with respect to their child;

(d) All contracts made between persons in contemplation of a civil partnership shall remain in full force after such civil partnership takes place;

(e) A certified true copy of the record of the civil partnership from the local civil registrar having custody of the record shall be presumptive evidence of the civil partnership for all legal purposes;

(f) Laws relating to interstate succession, survivorship, or other incidents of the acquisition, ownership or transfer, *inter vivos* or at death, of real or personal property, as affecting parties to a marriage, shall likewise be applicable to civil partnership couples;

(g) Causes of action related to or depended upon spousal status, including torts or actions under contracts reciting, related to, or dependent upon spousal status may be availed of by civil partnership couples;

(h) Civil partnership couples shall automatically have insurable interest over their respective partners and may avail of benefits relating to insurance, health and pension benefits provided to married couples;

(i) Labor standard benefits and privileges accorded to employees based on marital status shall likewise be accorded to employees who entered into a civil partnership;

(j) Benefits under tax laws relating to marital status shall be applicable to civil partnership couples; and

(k) Civil partnership couples are covered by laws relating to immunity from being compelled to testify against the other and bound by the marital communication privilege.

SEC. 12. *Obligations of Civil Partnership Couples.* - Civil partnership couples legally owe each other respect, fidelity, support and assistance. They are bound to live together and are jointly responsible in the management of their household; exercise of parental authority, if applicable; the contribution towards expenses; the maintenance of the civil partnership residence; and other duties which married couples are jointly responsible for.

Civil partnership couples shall have the same obligations with respect to a child of whom both become the parents of during the terms of the civil partnership, as those of a married couple with respect to their child as provided for in existing laws.

Infidelity by either of the partners in a civil partnership shall be punished under this Act. For purposes of this Act, *infidelity* is committed by any partner who shall have sexual relations with a man or woman who is not his or her civil partner. Further, infidelity shall also be committed by a man or woman who has sexual relations with a person whom the offender knows to be in a civil partnership, even if the civil partnership be subsequently declared void.

SEC. 13. *Inheritance Rights.* - For purposes of inheritance rights, a partner in a civil partnership shall be considered a compulsory heir of the other, who shall have the same rights and benefits accorded to a husband or wife in Republic Act No. 386, otherwise known as the "*Civil Code of the Philippines*," as amended, the Family Code of the Philippines, as amended, and Republic Act No. 8552, also known as the "*Domestic Adoption Act of 1998*." There is a presumption that co-ownership exists, unless otherwise proven, for properties acquired by the civil partnership couple during the civil partnership. The surviving partner, upon the death of another, is

entitled to one-half of the co-owned properties. The other half constitutes the estate of the decedent for disposition and liquidation.

SEC. 14. *Adoption Rights.* – Civil partnership couples residing in the Philippines who have the qualifications and none of the disqualifications may adopt if the requirements for a valid adoption, as provided under existing laws, are complied with.

If the adopting civil partnership couple be of the same sex, this fact alone shall not be considered as proof of bad moral character.

Civil partnership couples shall be allowed to legally adopt only when there are no married couples willing to adopt the child or if the child is that of one of the contracting parties in a civil partnership.

The best interest and welfare of the child shall always be the paramount consideration in deciding matters concerning the adoption of a child by civil partnership couples.

SEC. 15. *Social Security and Insurance Membership.* – Civil partnership couples shall have the same rights and privileges as that granted to married couples with regard application for social security and other insurance membership and claiming entitlement to their benefits. The Social Security System, Government Service Insurance System, Philippine Health Insurance Corporation and other benefits-related state agencies shall restructure their benefits system to accommodate parties to civil partnerships and their corresponding dependents.

SEC. 16. *Dissolution of Civil Partnership.* – The procedures and grounds for legal separation, annulment and declaration of nullity of marriages under the Family Code of the Philippines, as amended, shall be applicable in civil partnerships. Further, the attempt against the life of the partner shall also be a ground for dissolution of the civil partnership.

Parties may, through a verified joint petition filed before the appropriate regional trial court, move for the consensual termination of their civil partnership. The petition must include a joint plan for parenthood over common children, if any. The joint plan must provide for the support and living arrangements of the common children. The court shall ensure its enforcement and shall review the plan on an annual

basis or as often as possible, in case the need arises. An action for joint petition for the termination of a civil partnership shall not be tried before six (6) months have elapsed since the filing of the petition. If the court determines that the consent of both parties was freely given and that the joint plan for parenthood is sufficient to protect the rights and interests of the common children, the court shall grant the joint petition.

SEC. 17. *Protection of Children in Case of Dissolution of Civil Partnership.* – To protect the rights and interests of children in the event of dissolution of the civil partnership, the court shall consider the following factors in so far as support for children, if applicable, is concerned:

- (a) Needs of the child;
- (b) Standard of living and economic circumstances of each parent;
- (c) All sources of income and assets of each parent;
- (d) Earning ability of each parent, including education background, training, employment skills, work experience, custodial responsibility for children including the cost of providing child care and the length of time and cost of each parent to obtain training or experience for appropriate employment;
- (e) Need and capacity of the child for education, including higher education;
- (f) Age and health of the child and each parent;
- (g) Income, assets and earning ability of the child;
- (h) Responsibility of the parents for the court-ordered support of others;
- (i) Reasonable debts and liabilities of each child and parent; and
- (j) Any other factors the court may deem relevant.

The obligation to give support for a child who has not been emancipated by the court shall not terminate solely on the basis of the child's age if the child suffers from a severe mental or physical incapacity that causes the child to be financially dependent on a parent. The

obligation to give support for that child shall continue until the court finds that the child is relieved of the incapacity or is no longer financially dependent on the parent.

SEC. 18. *Support Pendente Lite.* - In all actions brought for dissolution of a civil partnership, legal separation from a partner in a civil partnership couple or annulment of the civil partnership, the court may provide for support *pendente lite*. In so doing, the court shall consider the following factors, among others:

- (a) The actual need and ability of the parties to pay;
- (b) The duration of the civil partnership;
- (c) The age, physical and emotional health of the parties;
- (d) The standard of living established in the civil partnership and the likelihood that each party can maintain a reasonably comparable standard of living;
- (e) The earning capacities, educational levels, vocational skills and employability of the parties;
- (f) The length of absence from the job market of the party seeking maintenance;
- (g) The parental responsibilities for the children;
- (h) The time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, the availability of the training and employment, and the opportunity for future acquisitions of capital assets and income;
- (i) The history of the financial or non-financial contributions to the civil partnership by each party including contributions to the care and education of the children and interruption of personal careers or educational opportunities;
- (j) The equitable distribution of property ordered and any payouts on equitable distribution, directly or indirectly, out of current income, to the extent this consideration is reasonable, just and fair;

(k) The income available to either party through investment of any assets held by that party; and

(l) Any other factors which the court may deem relevant.

For purposes of liquidation of earned assets and properties during the civil partnership, household support and assistance are deemed equivalent to actual work and industry.

Dissolution of the civil partnership shall not prejudice the right of children to legitimes under the Family Code of the Philippines, as amended.

SEC. 19. *Unlawful or Discriminatory Employment Practices.* – The following are declared as unlawful or discriminatory employment practices:

(a) For an employer, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual because of civil partnership status, or to discriminate against such individual in compensation or in terms, conditions or privileges of employment;

(b) For a labor organization, to exclude or to expel from its membership such individual because of civil partnership status, or to discriminate in any way against any of its members, against any applicant for, or individual included in, any apprentice or other training program or against any employee or any individual employed by an employer;

(c) For any employee or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to civil partnership status for employment;

(d) For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, directly or indirectly, to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or

printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of civil partnership status; and

(e) For any person, including any owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these to refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of civil partnership status.

SEC. 20. *Penalty Provisions.* - (a) Any person who knowingly or willfully refuses to issue civil partnership licenses or certificates despite being authorized to do so; denies rights and benefits entitled to civil partnership couples; or commits unlawful, discriminatory employment practices, as provided for in this Act, shall be penalized by a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Five hundred thousand pesos (P500,000.00) or imprisonment of not less than one (1) year but more than six (6) years, or both, at the discretion of the court.

If the offender is a corporation or association, the officer responsible for the acts enumerated in this Section shall be criminally and civilly liable.

If the offender is a public officer, prosecution under this Act shall be without prejudice to the filing of any administrative case against the public officer under other existing laws.

(b) Any person who commits an act of infidelity while bound in a civil partnership, as defined in Section 11 of this Act, shall be punished by *prision correccional* in its medium and maximum periods.

SEC. 21. *Separability Clause.* - If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, the other sections or provisions which are not affected shall continue to be full force and effect.

SEC. 22. *Repealing Clause.* - Pertinent provisions of the Family Code of the Philippines, as amended, the Civil Code of the Philippines, as amended, and the Domestic Adoption Act of 1998, which are inconsistent with the provisions of this Act are hereby amended accordingly. All other laws, decrees, executive orders, proclamations, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are also hereby amended or repealed accordingly.

SEC. 23. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,