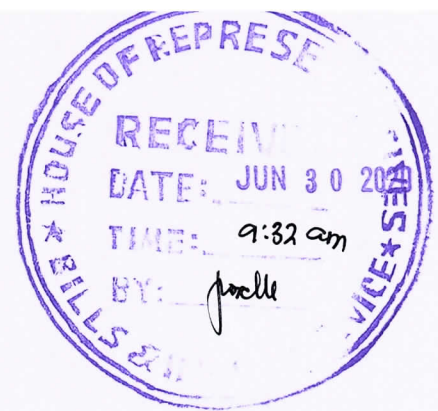


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7042



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

"That is why a man leaves his father and mother and clings to his wife, and the two of them become one body." – Genesis 2:24

Marriage as defined under the Family Code is a special contract of permanent union between a man and a woman. From the government, the Church, and society's perspective, marriage is the foundation of the family. As a predominantly Christian country, marriage is considered as an inviolable social institution.

The validity of marriage depends on the presence of the essential and the formal requisites. The essential requisites under Article 2 of the Family Code consist of the (1) legal capacity of the contracting parties who must be male and female; and (2) consent freely given in the presence of the solemnizing officer. On the other hand, the formal requisites under Article 3 of the same Code, are (1) the authority of the solemnizing officer; (2) a valid marriage license; and (3) a marriage ceremony which takes place with the personal appearance of the contracting parties before the solemnizing officer and their declaration that they take each other as husband and wife in the presence of not less than two witnesses of legal age.

Thus, the presence of the contracting parties is required to comply with the second essential requisite and the third formal requisite as enumerated above. The essence therefore of the marriage ceremony is the personal appearance of the parties before the solemnizing officer and their declaration that they freely and willingly take each other as husband and wife.

The current Covid-19 pandemic has caused the postponement and cancellation of many wedding ceremonies because of the prohibition on mass gatherings, observance of physical distancing and the health risks posed to everyone, particularly to the solemnizing officers who are oftentimes senior citizens. Anecdotally, many couples opted to live together without the benefit of marriage.

The Family Code took effect in 1988 or more than three decades ago when analog means of communication is the prevalent norm and virtual presence is just a pigment of imagination. Thus, its provisions may have already been overtaken by advancements in technology.

Thus, it is now the opportune time to amend the essential and formal requisites of a valid marriage as provided under the Family Code, particularly the requirement that the contracting parties must physically give their consent before a solemnizing officer. Thus, the legal meaning of presence or personal appearance must now be liberally construed to include virtual presence or presence through videoconferencing.

In fact, videoconferencing is now the new norm in most government hearings and meetings. Both Chambers of Congress – the Senate and the House of Representatives – now conduct their sessions and committee hearings virtually.

Further, on June 25, 2019, the Supreme Court issued A.M. No. 19-05-05-SC or the Proposed Guidelines on the Use of Videoconferencing Technology or the Remote Appearance or Testimony of Certain Persons Deprived of Liberty in Jails and National Penitentiaries. The Supreme Court also allowed the oath-taking ceremony of the 2019 bar examination passers via online videoconference.

Overseas, technology allowed couples to tie the knot online. As reported, these were done in the States of New York and Colorado, among others.

It is respectfully proposed therefore that the term presence and personal appearance be broadly construed to include virtual presence.

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


RON P. SALO
KABAYAN Party List

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AN ACT
AMENDING ARTICLES 2, 3, 6 AND 10 OF EXECUTIVE ORDER NO. 209, OR THE
FAMILY CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES

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

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

SEC. 2. Amendments. – Articles 2, 3, 6 and 10 of Executive Order No. 209, or the Family Code of the Philippines, is hereby amended to read as follows:

“Art. 2. No marriage shall be valid, unless these essential requisites are present:

- (1) Legal capacity of the contracting parties who must be a male and a female; and
- (2) Consent freely given in the presence of the solemnizing officer. **PRESENCE MAY EITHER BE PHYSICAL OR VIRTUAL. IF VIRTUAL, THE CONTRACTING PARTIES MUST BE PHYSICALLY PRESENT TOGETHER IN THE SAME LOCATION.**

FOR THE PURPOSE OF THIS CODE, VIRTUAL REFERS TO THE USE OF VIDEO, AUDIO, AND DATA TRANSMISSION DEVICES THAT ALLOW PEOPLE FROM DIFFERENT PHYSICAL LOCATIONS TO SIMULTANEOUSLY COMMUNICATE, SEE AND HEAR EACH OTHER.

Art. 3. The formal requisites of marriage are:

- (1) Authority of the solemnizing officer;
- (2) A valid marriage license except in the cases provided for in Chapter 2 of this Title; and

(3) A marriage ceremony which takes place with the **PHYSICAL OR VIRTUAL** appearance of the contracting parties before the solemnizing officer and their personal declaration that they take each other as husband and wife in the presence of not less than two witnesses of legal age.

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Art. 6. No prescribed form or religious rite for the solemnization of the marriage is required. It shall be necessary, however, for the contracting parties to appear personally **OR VIRTUALLY** before the solemnizing officer and declare in the presence of not less than two witnesses of legal age that they take each other as husband and wife. This declaration shall be contained in the marriage certificate which shall be signed by the contracting parties and their witnesses and attested by the solemnizing officer.

WHEN THE MARRIAGE WAS PERFORMED VIRTUALLY, THE CERTIFICATE OF MARRIAGE MUST BE NOTARIZED PRIOR TO ITS REGISTRATION WITH THE LOCAL CIVIL REGISTRAR TO ENSURE ITS AUTHENTICITY AND DUE EXECUTION, AND TO PROPERLY ASCERTAIN THE IDENTITY OF THE CONTRACTING PARTIES.

In case of a marriage in *articulo mortis*, when the party at the point of death is unable to sign the marriage certificate, it shall be sufficient for one of the witnesses to the marriage to write the name of said party, which fact shall be attested by the solemnizing officer.

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Art. 10. Marriages, **INCLUDING VIRTUAL**, between Filipino citizens abroad may be solemnized by a consul-general, consul or vice-consul of the Republic of the Philippines. The issuance of the marriage license and the duties of the local civil registrar and of the solemnizing officer with regard to the celebration of marriage shall be performed by said consular officer. **VIRTUAL MARRIAGES BETWEEN FILIPINO CITIZENS ABROAD MAY ALSO BE SOLEMNIZED BY THE OFFICERS ENUMERATED IN ART. 7, PARAGRAH 2 OF THIS CODE UNDER THE CONDITIONS SPECIFIED THEREIN. IN THIS REGARD, THE MARRIAGE LICENSE SHALL BE ISSUED BY THE PHILIPPINE CONSULATE, AND THE MARRIAGE CERTIFICATE SHALL BE ACKNOWLEDGED BY THE CONTRACTING PARTIES AND REGISTERED THEREAT.**

SEC. 3. Separability Clause – If any provision or portion of this Act is declared unconstitutional, the remainder of this Act or any provision not thereby affected shall remain in full force and effect.

SEC. 4. Repealing Clause. – All laws, decrees, executive orders, ordinances, rules, regulations, or other issuances, or parts thereof which are inconsistent with any of the provisions of this Act are hereby repealed, amended, and/or modified accordingly.

SEC. 5. *Implementing Rules and Regulations.* – The Department of Justice together with the Department of Information and Communications Technology, the Department of the Interior and Local Government, and the Philippine Statistics Authority, the Department of Foreign Affairs, in consultation with the various faiths, including the Roman Catholic Church, major religious groups, and with the Supreme Court concerning marriage solemnized by judges, shall issue the Implementing Rules and Regulations (IRR) within sixty (60) days from the effectivity of this Act.

SEC. 6. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved.