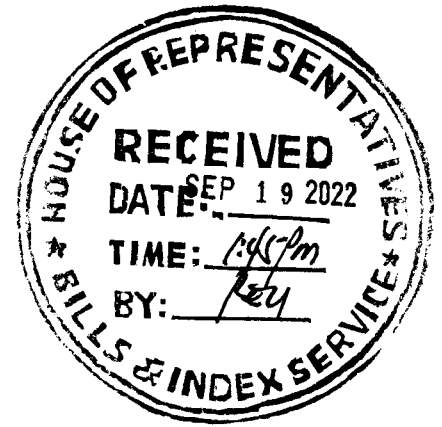




Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

19<sup>th</sup> Congress  
First Regular Session

House Bill No. **4957**



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**INTRODUCED BY: HON. DORIS E. MANQUIZ**

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#### **EXPLANATORY NOTE**

#### **AN ACT INSTITUTING ABSOLUTE DIVORCE AS AN ALTERNATIVE MODE FOR DISSOLUTION OF MARRIAGE**

Our Constitution clearly gives value to the sanctity of marriage. Marriage in our country is not only a civil contract, but it is a new relation, a new institution the maintenance of which the public is so deeply interested. No less than the Constitution provides that the State recognizes the sanctity of family life and affords protection to the family as a basic autonomous social institution. The State is mandated to protect the marriage, being the foundation of the family, which in turn is the foundation of the nation.

The Philippines is the only country in world, bar the Vatican City, to outlaw divorce – a prescriptive adherence to religious doctrine as a Roman Catholic country. Quite literally, spouses are sworn together through thick and thin, even if such relationship has muddled through time.

But, it is a truth universally acknowledged, that not all marriages are meant to last. While some families are able to work through trials and tribulations, some come to an end. Thus, while it is our obligation to protect marriage as a fundamental unit of the country, it is also our duty under the Constitution to protect the dignity of every human person, to guarantee full respect for human rights, and ensure fundamental equality before the law of women and men.

According to the 2017 National Demographic and Health Survey conducted by the Philippine Statistics Authority, one in four Filipino ever-married women age 15-49 has experienced physical, emotional or sexual violence by their husband or partner. Violence against women is deemed to be closely linked with the unequal power relation between women and men otherwise known as “gender based violence.” Societal norms and traditions dictate that men are the leaders, pursuers, and providers, and take on the dominant roles in society while women are the nurturers, men’s companions and supporters, and take on the subordinate roles in society.

Divorce laws is intimately bound with the rights of women, their access to justice, and its evolution mirrors the changing role of women in society. A divorce law in the Philippines will effectively transform all women's role to being an autonomous part of a marital partnership.

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

  
**HON. DORIS E. MANQUIZ**  
2<sup>nd</sup> District of Zambales



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**AN ACT REINTRODUCING DIVORCE IN THE PHILIPPINES**

*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 “Absolute Divorce Act”.

**SECTION 2. *Declaration of Policy.*** – While the State continues to protect and preserve marriage as a social institution and as the foundation of the family, it shall also give the opportunity to spouses in irremediably failed marriages to secure an absolute divorce decree as an alternative mode for the dissolution of an irreparably broken or dysfunctional marriage under limited grounds and well-defined judicial procedures; save the children from the pain, stress, and agony consequent to their parents’ constant marital clashes or irreconcilable separation; and grant the divorced spouses the right to marry again for another chance to achieve marital bliss.

**SECTION 3. *Guiding Principles.*** – The following shall be the guiding principles of this Act:

1. Absolute divorce shall be judicially decreed after the fact of an irremediably broken marriage.
2. The State shall assure that the court proceedings for the grant of absolute divorce shall be affordable, expeditious, and inexpensive.
3. Concerned spouses have the option to file for absolute divorce under this Act or seek legal separation under the pertinent provisions of Executive Order (EO) No. 209, otherwise known as the Family Code of the Philippines (the Family Code).
4. The option of absolute divorce is a pro-woman legislation because in most cases, it is the wife who is entitled to a divorce as a liberation from an abusive relationship to help her regain dignity and self-esteem.

5. A six-month cooling-off period is instituted after the filing of a petition for absolute divorce as a final attempt for reconciliation of concerned spouses.
6. A divorce decree shall include provisions for the care and custody of children, protection of their legitime, termination and liquidation of the conjugal partnership of gains or the absolute community, and alimony for the aggrieved or innocent spouse.
7. Even as absolute divorce is reinstituted, the State has the mandate of strengthening marriage and family life by undertaking, among others, relevant prenuptial and post-matrimonial programs and activities adequately funded by the government.

**SECTION 4. *Definition of Terms.*** – As used in this Act:

- a) *Abandonment* refers to the act of a spouse leaving the conjugal home without justifiable cause and with a deliberate intention of creating a perpetual separation. The desertion amounts to an absolute cessation of marital relations, right and duties. The abandonment may also be physical estrangement, or financial desertion;
- b) *Absolute divorce* refers to the judicial dissolution of a marriage or the termination of the bond of matrimony where the spouses return to their status of being single with the right to contract marriage again;
- c) *Alimony* refers to spousal support made under court order to a divorced person by the former spouse;
- d) *Bigamous marriage* refers to a second or subsequent marriage contracted before the former marriage has been legally dissolved, or before the absent spouse has been declared presumptively dead by means of a judgment rendered in the proper proceedings;
- e) *Child* refers to a descent of the first degree by birth, and shall include an offspring by legal adoption or one whose custody and care is judicially decreed to be given to a guardian;
- f) *Child custody* refers to the parental authority and care of a child as decreed by a competent court when the parents of the child are divorced;
- g) *Child support* refers to a method of compensating a parent needing financial support for raising and sheltering a child or children by the other parent who has the means to pay for the expenses associated with child support. The proper court shall determine the payments, based on the income level of the parent giving support and the needs of the child or children requiring support;
- h) *Competent court* refers to the proper family court established under Republic Act No. 8369 or the “Family Courts Act of 1997”, which shall exercise jurisdiction both over the absolute divorce proceeding and the persons of the petitioner and respondent spouses;

- i) *Court-assisted petitioner* refers to a petitioner-spouse who has personal or real properties not exceeding Two million five hundred thousand pesos (Php2,500,000.00);
- j) *Domestic or marital abuse* refers to violence or aggressive behavior within the home, typically involving the violent abuse of a spouse by the other which may be committed through:
  - a. Physical violence,
  - b. Psychological and emotional violence,
  - c. Sexual violence, or
  - d. Economic abuse;
- k) *Drug addiction* refers to habitual dependence on a prohibited drug or drugs;
- l) *Habitual Alcoholism* refers to excessive consumption of alcoholic beverages at a level that interferes with the physical or mental health, and social, family, or occupational responsibilities;
- m) *Irreconcilable differences* refer to the substantial incompatibility of the spouses due to their intransigence or fault by holding on to divergent and divisive behavior resulting to the total breakdown of their marriage which could not be repaired despite earnest efforts to reconcile;
- n) *Legitime* refers to the portion of a parent's estate from which they cannot disinherit the children, without sufficient legal cause;
- o) *Marital infidelity* refers to the extramarital sexual relations of a spouse;
- p) *Summary judicial proceedings* refer to an expeditious manner of resolving a petition for divorce without regard to technical rules and petitioner is given the option to be assisted or not by a lawyer. The proper court may allow presentation of evidence *ex parte* as warranted by circumstances. The decision shall be immediately final and executory.

**SECTION 5. Grounds for Absolute Divorce.** – The following are the grounds for a judicial decree of absolute divorce:

- a) The grounds for legal separation under Article 55 of the Family Code of the Philippines:
  - (1) Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;
  - (2) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;
  - (3) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement;
  - (4) Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;

- (5) Drug addiction or habitual alcoholism of the respondent;
  - (6) Lesbianism or homosexuality of the respondent;
  - (7) Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;
  - (8) Sexual infidelity or perversion;
  - (9) Attempt by the respondent against the life of the petitioner; or
  - (10) Abandonment of petitioner by respondent without justifiable cause for more than one year.
- b) Domestic or marital abuse, as defined under Section 4 (j).
  - c) When the spouses have been separated in fact for at least five (5) years at the time the petition for absolute divorce is filed, and reconciliation is highly improbable due to irreconcilable differences.

**SECTION 6. *Procedure for Obtaining Absolute Divorce.*** – (a) The established and recognized procedures for securing legal separation under the Family Code of the Philippines, as far as practicable, and not in conflict with this Act, shall govern the process of obtaining a judicial decree of absolute divorce from the proper family court which shall be commenced by the petitioner filing a verified petition for absolute divorce.

(b) The factors and grounds which militate against the grant of legal separation as provided for in the Family Code of the Philippines shall likewise be assessed, based on competent and credible proof, against the grant of absolute divorce.

(c) Upon application as a court-assisted petitioner, the proper court shall waive the payment of filing fees and other costs of litigation, and shall appoint a *counsel de oficio* for court assisted petitioner and assign social workers, psychologists, and psychiatrists, preferably from appropriate government agencies, to assist the said petition and the court free of charge.

(d) All creditors of the absolute community or of the conjugal partnership of gains, as well as the personal creditors of the spouses, shall be listed in the petition for absolute divorce and notified of the filing thereof. The court shall take measures to protect the creditors and other persons with pecuniary interest.

(e) No decree of absolute divorce shall be based upon a stipulation of facts or a confession judgment.

(f) Public Prosecutors in provinces, cities, and capital towns are authorized and obliged to conduct investigations to find out whether or not there is collusion between the spouses in a petition for absolute divorce or a spouse has coerced the other to file the petition and shall report their findings to the proper court within six (6) months from the filing of the petition.

**SECTION 7. *Overseas Filipino.*** – Petitioners who are overseas Filipinos shall be given priority by the proper court with respect to the hearing of their petitions and the court shall set the reception of evidence, upon availability of the petitioners, for not more than two (2) consecutive days.

**SECTION 8. *Summary Judicial Proceedings.*** – The following grounds for absolute divorce may be subject to summary judicial proceedings as defined under Section 4 (p):

- a) When the spouses have been separated *de facto* for at least five (5) years at the time the petition for absolute divorce is filed;
- b) When one of the spouses has contracted a bigamous marriage; and
- c) When the spouses have been legally separated by judicial decree for at least two (2) years.

**SECTION 9. *Mandatory Six-month Cooling-off Period.*** – Except for grounds under summary judicial proceedings, the proper court shall not start the trial of a petition for absolute divorce before the expiration of a six-month cooling off period after the filing of the petition during which the court shall exercise all efforts to reunite and reconcile the parties.

The requirements of a cooling-off period shall not apply in cases which involve acts of violence against women and their children under Republic Act No. 9262, otherwise known as the “Anti-Violence Against Women and Their Children Act of 2004” or attempt against the life of the other spouse or a common child or a child of the petitioner.

**SECTION 10. *Waiver of Expert Testimony.*** – Expert testimony shall be dispensed with unless the court decides that such testimony is indispensable in deciding the petition for divorce.

**SECTION 11. *Effects of Absolute Divorce.*** – The decree of absolute divorce shall have the following effects:

- a) The marriage bond shall be severed and the divorced spouses shall have the right to contract marriage again;
- b) The custody of the minor children shall be decided by the proper court in accordance with the best interests of the children, subject to the provisions of Article 213 of the Family Code of the Philippines taking into primary consideration that no child under seven (7) years of age shall be separated from the mother, unless the proper court finds compelling reasons to order otherwise;
- c) The absolute community or the conjugal partnership shall be dissolved and liquidated but the offending spouse shall have no right to any share of the net profits earned by the absolute community or the conjugal partnership, which shall be forfeited in accordance with the provisions of Article 43(2). The recognition and delivery of the presumptive legitime to the common children shall be ordered by the court, taking into consideration the interests of the children and the protection of their legitime from dissipation. The presumptive legitime shall be computed as of the date of the finality of the decree of absolute divorce. The partition and distribution of the properties of the spouses and the delivery of the children’s presumptive legitime shall be recorded in the

appropriate civil registry and registry of deeds, otherwise the same shall not affect third persons;

- d) The innocent spouse who is not gainfully employed shall be entitled to spousal support or alimony from the other spouse until the former finds adequate employment: *Provided*, That the support shall not exceed two (2) years from the finality of the decree of absolute divorce and shall cease upon the innocent spouse's remarriage; *Provided, Further*, That the Family Code of the Philippines where the amount of support shall be in proportion to the resources or means of the obligor and to the necessities of the obligee;
- e) The proper court shall have the discretion to grant spousal support or alimony, child support and child custody pursuant to the pertinent provisions of the Family Code of the Philippines, and impose contempt of court against the defaulting parties. The necessity of alimony and the amount shall be determined by the court taking into consideration all relevant factors;
- f) The innocent spouse may revoke the donations made by him or by her in favor of the offending spouse, as well as the designation of the latter as beneficiary in any insurance policy, even if such designation be stipulated as irrevocable. The revocation of the donations shall be recorded in the registries of property in the places where the properties are located. Alienations, liens and encumbrances registered in good faith before the recording of the complaint for revocation in the registries of property shall be respected. The revocation of or change in the designation of the insurance beneficiary shall take effect upon written notification thereof to the insured.

The action to revoke the donation under this Article must be brought within five years from the time the decree of absolute divorce become final;

- g) The effects on the divorced spouses with respect to intestate succession, testamentary dispositions, donations and insurance provisions on beneficiaries in accordance with the Family Code of the Philippines and jurisprudence will be observed; and
- h) The legitimate and adopted children of divorced parents shall retain their legal status and legitimacy; a child conceived or born within 300 days after the filing of a petition for absolute divorce shall be considered legitimate, unless the ground for divorce is the marital infidelity of the wife.

**SECTION 12. *Award for Damages.*** – The proper court may, as warranted by evidence, award actual, moral, and exemplary damages as provided for under the New Civil Code to the innocent spouse against the errant spouse.

**SECTION 13. *Conversion of Pending Petitions.*** – Parties who have pending petitions under Article 55 of the Family Code of the Philippines may convert their petitions to an action for absolute divorce under this Act without paying filing fees.

**SECTION 14. *Recognition of Reconciliation.*** – (a) If the petitioners have agreed to reconcile, a corresponding joint manifestation under oath duly signed by them shall be filed with the same court where the petition for absolute divorce was filed with interests of the children duly protected.

(b) The plan to reconcile shall have the following consequences:

- (1) The absolute divorce proceedings, if still pending, shall be terminated at whatever stage; and
- (2) The final decree of absolute divorce shall be set aside, but the separation of property and any forfeiture of the share of the errant spouse already effect shall subsist, unless the spouses agree to revive their former property regime.

The court order containing the foregoing shall be recorded in the proper civil registries.

(c) The agreement to revive the former property regime referred to in this Act shall be executed under oath and shall specify:

- (1) the properties to be contributed anew to the restored regime;
- (2) those to be retained as separate properties of each spouse; and
- (3) those names of all their known creditors, their addresses and the amounts owing to each.

The agreement of revival and the motion for its approval shall be filed with the court in the same proceeding for absolute divorce, with copies of both furnished to the creditors named therein. After due hearing, the court shall issue an order to protect the interest of creditors and such order shall be recorded in the property registry deeds.

The recording of the order in the proper registry of deeds shall not prejudice any creditor not listed or not notified.

**SECTION 15. *Penalties.*** – A spouse who is a party to a petition for absolute divorce who is found by the court to have used threats or coercion to compel the other spouse in filing the petition, and spouses who are guilty of collusion, shall be punished with imprisonment of five (5) years and a fine of Two hundred thousand pesos (Php200,000.00).

Any parent in default of providing the required child support under this Act shall be charged with contempt of court and be imposed a fine of:

- (a) Fifty thousand pesos (P50,000.00) for the first default;
- (b) One hundred thousand pesos (P100,000.00) for the second default;
- (c) Two hundred thousand pesos (P200,000.00) each for the third and succeeding defaults.

**SECTION 16. *Options and Remedies.*** – The concerned spouse shall have the option to file a petition for legal separation under Article 55 of the Family Code of the Philippines.

**SECTION 17. *Application for a Court-Assisted Petition.*** – A petitioner-spouse may apply for a court-assisted petition in obtaining absolute divorce. Upon approval of the application, the proper court shall waive the payment of all forms of filing fees and other costs of litigation and shall appoint a *Counsel de oficio* in favor of court-assisted petitioner or petitioners and shall assign such number of social workers, psychologists, and psychiatrists as may be necessary from a pool of accredited social workers and practitioners recognized by the Department of Social

Welfare and Development (DSWD), and the Department of Justice (DOJ), to assist the petitioner free of charge.

**SECTION 18. *Community-Based Prenuptial and Post-Matrimonial Programs and Activities.*** – The National Government, through the DSWD, shall implement community-based pre-nuptial, reconciliatory phrase or cooling-off counseling, and post-matrimonial programs and activities aimed at strengthening the marital and family life of Filipinos.

These social welfare interventions, which will protect the stability of Filipino families, will be instituted by DSWD, in provinces, cities and clusters of municipalities in the entire country, while observing the local cultures and customs that are prevalent in each locality.

**SECTION 19. *Community-Based Women's Desk.*** – The frontline desk in every barangay established under Republic Act 9710 or the “Magna Carta of Women” shall be readily available and easily accessible to provide support and assistance to victims, especially women, of all forms of abuse and acts of violence identified under this Act and those provided under Republic Act No. 9262 or the “Anti-Violence Against Women and their Children Act of 2004.”

**SECTION 20. *Implementing Rules and Regulations (IRR).*** – The Department of Social Welfare and Development (DSWD) as lead agency, together with the Philippine Commission on Women (PCW), the National Youth Commission (NYC), and at least two (2) representatives from women's organizations, to be appointed by the PCW in consultation with civil society and women's organizations shall promulgate the Implementing Rules and Regulations (IRR) within sixty (60) days after the effectivity of this Act.

**SECTION 21. *Separability Clause.*** – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

**SECTION 22. *Repealing Clause.*** – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent with the provisions of this Act are hereby repealed, modified, or amended accordingly.

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

*Approved,*