



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

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6780



Introduced by
REPRESENTATIVE PANTALEON D. ALVAREZ

AN ACT
ELIMINATING THE IMMEDIATE REQUIREMENTS OF DELIVERY
OF PRESUMPTIVE LEGITIME OF CHILDREN UPON THE
ANNULMENT OR DECLARATION OF NULLITY OF THE
MARRIAGE OF THEIR PARENTS

EXPLANATORY NOTE:

This Bill seeks to amend the requirements of delivery of presumptive legitime of children, as provided under Articles 50, 51, 52, 102, and 129 of Executive Order No. 209, s. 1987, as amended, otherwise known as the Family Code of the Philippines.

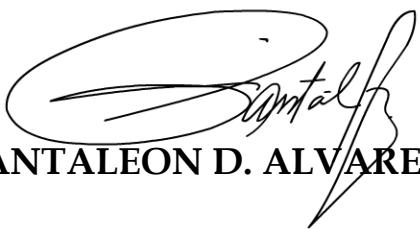
While it is ideal that all marriages endure and stand the test of time, in sickness and in health, till death do the spouses part, such is not always the case. And when the spouses find themselves in a situation with irreconcilable differences, and with legal grounds to nullify or declare their marriage void ab initio, and the Court grants their respective petitions, the Court then orders the delivery of presumptive legitimes to the children as provided for in Articles 50, 51, 52, 102, and 129 of the Family Code.

It is respectfully submitted that there is no need to deliver presumptive legitimes. The provisions of the Family Code are more than sufficient insofar as obligating the parents, under penalty of law, to provide for the support of the children, which includes *“everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family.”*

What is more, Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004," further protects the children and their right to economic support by criminally penalizing delinquent parents who fail to provide for their children's needs.

Finally, the delivery of presumptive legitimes, while well-intentioned, has the unintended consequence of causing conflict among the children of the spouses whose marriage unfortunately reached its end. Said requirement is not only unnecessary, it is – worse – a detriment to the peace and harmony of the children. Let the law not unwittingly add more discord to family relationships.

Hence, the approval of this Bill is earnestly sought.



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

SECTION 1. Article 50 of the Family Code of the Philippines is hereby amended to read as follows -

“Art. 50. The effects provided for by paragraphs (2), (3), (4) and (5) of Article 43 and by Article 44 shall also apply in the proper cases to marriages which are declared ab initio or annulled by final judgment under Articles 40 and 45.

The final judgment in such cases shall provide for the liquidation, partition and distribution of the properties of the spouses, **AND** the custody and support of the common children, ~~{and the delivery of third presumptive legitimes}~~ unless such matters had been adjudicated in previous judicial proceedings.

All creditors of the spouses as well as of the absolute community or the conjugal partnership shall be notified of the proceedings for liquidation.

In the partition, the conjugal dwelling and the lot on which it is situated, shall be adjudicated in accordance with the provisions of Articles 102 and 129.”

SECTION 2. Articles 51 and 52 of the Family Code of the Philippines are hereby deleted.

SECTION 3. Article 102 of the Family Code of the Philippines is hereby amended to read as follows -

Art. 102. Upon dissolution of the absolute community regime, the following procedure shall apply:

(1) An inventory shall be prepared, listing separately all the properties of the absolute community and the exclusive properties of each spouse.

(2) The debts and obligations of the absolute community shall be paid out of its assets. In case of insufficiency of said assets, the spouses shall be solidarily liable for the unpaid balance with their separate properties in accordance with the provisions of the second paragraph of Article 94.

(3) Whatever remains of the exclusive properties of the spouses shall thereafter be delivered to each of them.

(4) The net remainder of the properties of the absolute community shall constitute its net assets, which shall be divided equally between husband and wife, unless a different proportion or division was agreed upon in the marriage settlements, or unless there has been a voluntary waiver of such share provided in this Code. For purpose of computing the net profits subject to forfeiture in accordance with Articles 43, No. (2) and 63, No. (2), the said profits shall be the increase in value between the market value of the community property at the time of the celebration of the marriage and the market value at the time of its dissolution.

~~[(5) The presumptive legitimes of the common children shall be delivered upon partition, in accordance with Article 51.]~~

~~[(6)]~~ (5) Unless otherwise agreed upon by the parties, in the partition of the properties, the conjugal dwelling and the lot on which it is situated shall be adjudicated to the spouse with whom

the majority of the common children choose to remain. Children below the age of seven years are deemed to have chosen the mother, unless the court has decided otherwise. In case there is no such majority, the court shall decide, taking into consideration the best interests of said children. (n)

SECTION 4. Article 129 of the Family Code is hereby amended to read as follows -

“Art. 129. Upon the dissolution of the conjugal partnership regime, the following procedure shall apply:

(1) An inventory shall be prepared, listing separately all the properties of the conjugal partnership and the exclusive properties of each spouse.

(2) Amounts advanced by the conjugal partnership in payment of personal debts and obligations of either spouse shall be credited to the conjugal partnership as an asset thereof.

(3) Each spouse shall be reimbursed for the use of his or her exclusive funds in the acquisition of property or for the value of his or her exclusive property, the ownership of which has been vested by law in the conjugal partnership.

(4) The debts and obligations of the conjugal partnership shall be paid out of the conjugal assets. In case of insufficiency of said assets, the spouses shall be solidarily liable for the unpaid balance with their separate properties, in accordance with the provisions of paragraph (2) of Article 121.

(5) Whatever remains of the exclusive properties of the spouses shall thereafter be delivered to each of them.

(6) Unless the owner had been indemnified from whatever source, the loss or deterioration of movables used for the benefit of the family, belonging to either spouse, even due to fortuitous event, shall be paid to said spouse from the conjugal funds, if any.

(7) The net remainder of the conjugal partnership properties shall constitute the profits, which shall be divided equally between husband and wife, unless a different proportion or division was agreed upon in the marriage settlements or unless there has been

a voluntary waiver or forfeiture of such share as provided in this Code.

~~[(8) The presumptive legitimes of the common children shall be delivered upon the partition in accordance with Article 51.]~~

~~[(9)]~~ (8) In the partition of the properties, the conjugal dwelling and the lot on which it is situated shall, unless otherwise agreed upon by the parties, be adjudicated to the spouse with whom the majority of the common children choose to remain. Children below the age of seven years are deemed to have chosen the mother, unless the court has decided otherwise. In case there is no such majority, the court shall decide, taking into consideration the best interests of said children. (181a, 182a, 183a, 184a, 185a)''

SECTION 5. *Separability Clause.* If any part of provision of this Act be considered as unconstitutional, the remaining parts not affected shall remain valid and in full effect.

SECTION 6. *Repealing Clause.* All laws, decrees, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 7. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,