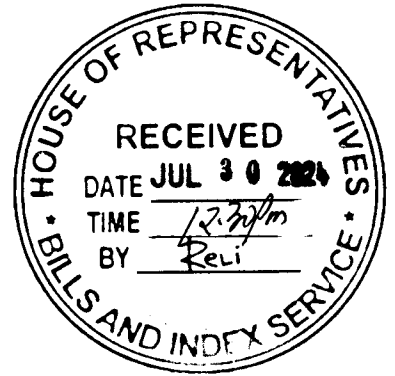




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



Nineteenth Congress
Third Regular Session

HOUSE BILL NO. 10681

Introduced by Representative MA. VICTORIA CO-PILAR

EXPLANATORY NOTE

"Husband without a wife, or wife without a husband, is unknown to the law."

-Supreme Court of the United States in Atherton v. Atherton

Divorce is a divisive matter in a conservative setting like the Philippines. Several attempts were made in the past to legalize divorce in the country but all left unheeded. If there is a legal provision that discusses divorce, the same can be found only in Article 26 of Executive Order 209 (EO 209) or the Family Code, which reads:

Art. 26. All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35 (1), (4), (5) and (6), 3637 and 38.

Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under Philippine law.

This article, particularly the second paragraph, has been the subject of evolving interpretation by the Supreme Court of the Philippines over the past years. Questions such as "Who should file for divorce?", "When should the divorce be filed?", "What is the effect of the divorce to the Filipino spouse?" have been answered in various decisions of the High Court since the *Van Dorn v. Romillo, Jr.* case in 1985 until the *Republic v. Manalo* case in 2018.

According to Judge Alicia Sempio-Diy, a member of the Civil Code Revision Committee, the idea of the amendment is to avoid the absurd situation of a Filipino as still being married to his or her alien spouse, although the latter is no longer married to the former because he or she had obtained a divorce abroad that is recognized by his or her national law.

This measure seeks to harmonize the language with the intent of lawmakers in including the second paragraph of Article 26.

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



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AN ACT
AMENDING ARTICLE 26 OF EXECUTIVE ORDER 209, AS AMENDED,
OTHERWISE KNOWN AS THE "FAMILY CODE OF THE PHILIPPINES"

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

SECTION 1. Article 26 of Executive Order 209, as amended, is hereby amended to read as follows:

Art. 26. All marriage solemnized outside the Philippines in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35(1), (4), (5) and (6), 36, 37 and 38.

Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by ~~the alien~~ **EITHER OF THE** spouse **DURING THEIR MIXED MARRIAGE AND** capacitating ~~him or her~~ **THE ALIEN SPOUSE** to remarry, the Filipino spouse shall have capacity to remarry under Philippine law.

SEC 2. 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.

SEC 3. Repealing Clause - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provision of this Act is hereby repealed, modified, or amended accordingly.

SEC 4. Effectivity Clause - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,