

Republic of the Philippines
House of Representatives

19th CONGRESS
Third Regular Session

HOUSE BILL NO. 10796

Introduced by Hon. Charisse Anne Hernandez
Lone District of Calamba, Laguna

EXPLANATORY NOTE

The Philippines has made significant strides in advancing women's rights and protecting women and children from various forms of violence. Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004," stands as a testament to this commitment. However, despite the protections afforded by this law, there remains a glaring omission: the recognition of marital rape as a distinct and punishable form of sexual violence.

Marital rape, the act of a spouse forcibly engaging in sexual intercourse with the other spouse without consent, remains a pervasive issue. This crime is rooted in the outdated and harmful notion that marriage implies perpetual consent to sexual relations, effectively stripping individuals of their autonomy and right to bodily integrity within the marital relationship. This misconception perpetuates the idea that a spouse, usually the wife, cannot refuse sexual advances from her partner, thereby enabling and excusing acts of sexual violence within marriage.

The current legal framework fails to adequately address this issue, leaving many victims without recourse. By excluding marital rape from the definition of sexual

violence, the law inadvertently condones such acts, denying victims the protection they desperately need. This gap in the law not only undermines the very purpose of RA 9262 but also perpetuates gender inequality and violates the fundamental human rights of women.

This bill seeks to amend Republic Act No. 9262 by explicitly including marital rape as an act of sexual violence against women. The proposed amendment will provide a clear legal basis for prosecuting marital rape, ensuring that all forms of sexual violence are recognized and penalized, regardless of the marital relationship between the offender and the victim. By doing so, this bill reinforces the principle that consent is central to all sexual relations and that marriage does not nullify an individual's right to say "no."

Furthermore, this amendment is in line with the Philippines' obligations under international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which calls for the elimination of all forms of violence against women, including marital rape.

In conclusion, the enactment of this bill is a necessary step toward ensuring that all forms of sexual violence, including those within marriage, are recognized and punished. It is a vital measure to protect the rights and dignity of women, uphold the principles of equality and justice, and ensure that no woman is left unprotected from violence, regardless of her marital status.

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



CHARISSE ANNE C. HERNANDEZ

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AN ACT AMENDING REPUBLIC ACT NO. 9262, OTHERWISE KNOWN AS THE "ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT OF 2004," BY INCLUDING MARITAL RAPE AS AN ACT OF SEXUAL VIOLENCE AGAINST WOMEN

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

Section 1. ***Amendment to Section 3, Paragraph (a) of Republic Act No. 9262.*** – Section 3, Paragraph (a) of Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004," is hereby amended to include subsection (D) under paragraph B of Paragraph (a) of Section 3 as follows:

"SECTION 3. *Definition of Terms.*- As used in this Act,

> (a) "*Violence against women and their children*" refers to any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or

dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:

A. "*Physical Violence*" refers to acts that include bodily or physical harm;

B. "*Sexual violence*" refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:

a) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;

b) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm, or threat of physical or other harm or coercion;

c) Prostituting the woman or child.

D) MARITAL RAPE OR AN ACT OF A SPOUSE FORCIBLY HAVING SEXUAL INTERCOURSE WITH THE OTHER SPOUSE.

Section 2. ***Amendment to Section 5, Paragraph (b) of Republic Act No. 9262.*** – Section 5, Paragraph (b) of Republic Act No. 9262 is hereby amended to read as follows:

“SECTION 5. *Acts of Violence Against Women and Their Children.*- The crime of violence against women and their children is committed through any of the following acts:

(a) Causing physical harm to the woman or her child;

(b) Threatening to cause the woman or her child physical harm [;] **OR MAKING THE WOMAN OR HER CHILD AFRAID THAT THEY WILL BE PHYSICALLY HARMED, SEXUALLY ASSAULTED, OR RAPED, INCLUDING THREATS OF MARITAL RAPE**;"

SECTION 3. ***Repealing Clause.*** – All laws, presidential decrees, executive orders, rules, and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 4. ***Separability Clause.*** — If any provision or part hereof is declared unconstitutional, the remainder of this Act or any provision not affected shall remain in full force and effect.

SECTION 5. ***Effectivity Clause.*** — This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,