



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila



Nineteenth Congress
Third Regular Session

HOUSE BILL NO. **11261**

Introduced by Representative Rosanna "Ria" V. Vergara

EXPLANATORY NOTE

This bill seeks to redefine the effects of legal separation, amending for the purpose the Executive Order No. 209, Series of 1987, otherwise known as "*The Family Code of the Philippines*."

Legal separation is a legal remedy provided under the Family Code for married couples who want to live apart without dissolving the marriage. This remedy grants spouses the right to live separately from each other and be released from their marital duties and obligations. It does not dissolve the marriage tie, but it separates the property regime. There are ten grounds for legal separation, provided in Article 55 of the Family Code. These are separate from the grounds for annulment and grounds for the declaration of nullity of marriage.

Unlike in the annulment of marriage where the marriage bond is severed, in legal separation, the spouses may live separately from each other but not free to contract subsequent marriages because the marriage bond is not severed.

There is a need to redefine the effects of legal separation. While the Constitution recognizes marriage as the foundation of the family and the primary institution of society, the reality, however, is that not all marriages are successful. Many married individuals suffer domestic abuses committed by their spouses.

Under the existing legal framework, individuals who obtained a decree of legal separation are not allowed to remarry. When a decree of separation has

been issued and the marriage has been irretrievably broken, spouses live a separate and independent life. All of them desire happiness and some of them wish to remarry. Each one should have a chance at finding happiness and a peaceful life. It is unjust to deny legally separated persons or victims of the grounds of legal separation a chance to be legally married to another person and remain married to someone they are no longer living with.

What is envisioned here is to give a second chance to married couples whose marriage ties have been beset with insurmountable problems rendering their marital life irreparably broken. Under this bill, spouses who obtain a decree of legal separation may be allowed to remarry another person after a lapse of time, subject to some conditions that will protect the rights of the common children and creditors who might be affected by the remarriage.

This amendment will not only provide justice and fairness to affected individuals but will also align our laws more closely with modern societal values and the principles of human rights.

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


ROSANNA "RIA" W. VERGARA

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AN ACT

**REDEFINING THE EFFECTS OF LEGAL SEPARATION, AMENDING
FOR THE PURPOSE THE EXECUTIVE ORDER NO. 209, SERIES OF
1987, 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 63 of Executive Order No. 209, amending for the
purpose the Executive Order No. 209, Series of 1987, as amended, otherwise
known as “*The Family Code of the Philippines*” is amended to read as follows:

“Art. 63. The decree of legal separation shall have the
following effects:

“(1) The spouses shall be entitled to live separately from
each other, [~~but the marriage bonds shall not be severed;~~] **AND**
AFTER TWO (2) YEARS FROM THE DATE OF THE
DECREE OF LEGAL SEPARATION, MAY ENTER INTO
A CONTRACT OF MARRIAGE WITH ANOTHER
PERSON AFTER COMPLYING WITH THE

**CONDITIONS PROVIDED UNDER THIS CODE AND
SECURING THE LICENSE TO REMARRY.**

**“THE DECREE OF LEGAL SEPARATION IN
SUCH CASE SHALL PROVIDE FOR THE
LIQUIDATION, PARTITION, AND DISTRIBUTION OF
THE PROPERTIES OF THE SPOUSES, THE CUSTODY,
SUPPORT AND PRESUMPTIVE LEGITIMES OF THE
COMMON CHILDREN UNLESS SUCH MATTERS HAD
BEEN ADJUDICATED IN PREVIOUS JUDICIAL
PROCEEDINGS;**

**“(2) 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);**

**“(3) IN THE LIQUIDATION OF ABSOLUTE
COMMUNITY OR CONJUGAL PARTNERSHIP, THE
PRESUMPTIVE LEGITIME OF THE COMMON
CHILDREN SHALL BE COMPUTED AT THE DATE OF
THE FINALITY OF THE DECREE OF LEGAL
SEPARATION ISSUED BY THE COURT AND ALL
CREDITORS OF THE SPOUSES AND THE ABSOLUTE**

COMMUNITY OR THE CONJUGAL PARTNERSHIP SHALL BE NOTIFIED OF THE PROCEEDINGS FOR LIQUIDATION;

“(4) IN ADDITION TO THE SHARE OF THE SPOUSES IN THE ASSETS OF THE ABSOLUTE COMMUNITY OR THEIR RESPECTIVE SHARE IN THE CONJUGAL PARTNERSHIP, THE SPOUSE WHO IS NOT GAINFULLY EMPLOYED SHALL BE ENTITLED TO SUPPORT FROM THE OTHER SPOUSE UNTIL THE FORMER FINDS ADEQUATE EMPLOYMENT: *PROVIDED*, THAT THE SUPPORT SHALL ONLY BE FOR ONE (1) YEAR FROM THE FINALITY OF THE DECREE OF LEGAL SEPARATION: *PROVIDED, FURTHER*, THAT THE RIGHT TO SUPPORT SHALL BE SUBJECT TO THE PROVISIONS OF ARTICLE 201 OF THIS CODE;

“([3]5) The custody of the minor child[ren] shall be [awarded to the innocent spouse] DECIDED BY THE COURT IN ACCORDANCE WITH THE BEST INTERESTS OF THE CHILD, subject to the provisions of Article 213 of this Code; [and]

“(6) THE CHILDREN SHALL BE ENTITLED TO SUPPORT IN ACCORDANCE WITH THE PROVISIONS OF TITLE VIII OF THIS CODE ON SUPPORT;

“(7) ADOPTED CHILDREN AND CHILDREN CONCEIVED OR BORN BEFORE THE ISSUANCE OF THE ELIGIBILITY TO REMARRY SHALL BE CONSIDERED LEGITIMATE CHILDREN OF THE SEPARATED SPOUSES; AND

“([4]8) The offending spouse shall be disqualified from inheriting from the innocent spouse by intestate succession. Moreover, provisions in favor of the offending spouse made in the will of the innocent spouse shall be revoked by operation of law.”

SEC. 2. A new Article denominated as Article 67-A is inserted after Article 67 of the same code, to read as follows:

“ART. 67-A. *ELIGIBILITY TO REMARRY.* – FOR PURPOSES OF CONTRACTING A SUBSEQUENT MARRIAGE, THE SPOUSE MUST FILE A PETITION FOR THE ISSUANCE OF THE CERTIFICATE OF ELIGIBILITY TO REMARRY WITH THE COURT THAT ISSUED THE DECREE OF LEGAL SEPARATION STATING THAT PETITIONER HAS BEEN SEPARATED

FOR AT LEAST TWO YEARS AND RECONCILIATION IS HIGHLY IMPROBABLE.

“UPON THE FILING OF THE PROPER PETITION BY THE SPOUSE WITH THE COURT, THE COURT MAY ISSUE A CERTIFICATE OF ELIGIBILITY TO REMARRY TO A LEGALLY SEPARATED PERSON: *PROVIDED*, THAT THE PRESUMPTIVE LEGITIMES OF THE COMMON CHILDREN WITH THE SEPARATED SPOUSE HAVE BEEN DELIVERED, MEASURES TO PROTECT THE CREDITORS OF THE SPOUSES HAVE BEEN UNDERTAKEN, AND TWO YEARS HAVE ELAPSED FROM THE ISSUANCE OF THE FINAL DECREE OF LEGAL SEPARATION.

“THE PRESUMPTIVE LEGITIME OF THE COMMON CHILDREN, COMPUTED AS OF THE DATE OF THE FINALITY OF THE LEGAL SEPARATION SHALL BE DELIVERED TO THEM BEFORE THE ISSUANCE OF THE CERTIFICATE OF ELIGIBILITY TO REMARRY AND IN ACCORDANCE WITH ARTICLE 51 OF THIS CODE. 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 REGISTRIES OF PROPERTY, OTHERWISE THE SAME SHALL NOT AFFECT THIRD PERSONS.

“UPON PROPER DETERMINATION BY THE COURT THAT THE PRESUMPTIVE LEGITIMES OF THE COMMON CHILDREN HAVE BEEN DELIVERED AND MEASURES TO PROTECT THE CREDITORS OF THE SPOUSES HAVE BEEN UNDERTAKEN, AND TWO YEARS HAVE LAPSED FROM THE ISSUANCE OF THE DECREE OF LEGAL SEPARATION, THE COURT SHALL SEVER THE BOND OF MARRIAGE OF THE LEGALLY SEPARATED SPOUSES AND ISSUE TO THE SPOUSES THE CERTIFICATE OF ELIGIBILITY TO REMARRY.

“UPON THE ISSUANCE OF THE CERTIFICATE OF ELIGIBILITY TO REMARRY THE SPOUSES MAY REMARRY OR CONTRACT SUBSEQUENT MARRIAGE WITH ANOTHER PERSON.

“THE FINAL DECREE OF LEGAL SEPARATION AND THE CERTIFICATE OF ELIGIBILITY TO

**REMARRY MUST BE REGISTERED WITH THE
LOCAL CIVIL REGISTRY.”**

SEC. 3. Spouses who obtained a decree of legal separation before the passage of this Act may enter into a contract of marriage with another person after complying with the conditions provided under this Act.

SEC. 4. If any part or provision of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in force and effect.

SEC. 5. All laws, executive orders, issuances, presidential decrees, rules and regulations or parts thereof inconsistent with or contrary to the provisions of this Act are amended, modified or repealed accordingly.

SEC. 6. This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,