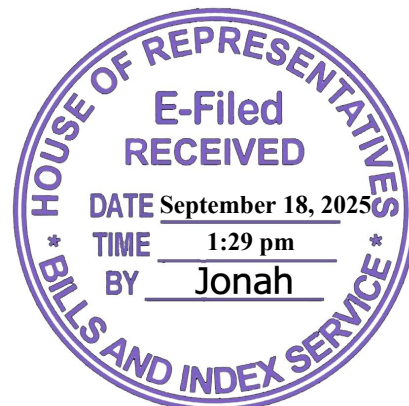




Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

Twentieth Congress
First Regular Session

HOUSE BILL NO. 4667



Introduced by Representatives Yedda Marie K. Romualdez, Andrew Julian K. Romualdez and Jude A. Acidre

AN ACT
EXPANDING THE GROUNDS FOR DECLARATION OF NULLITY OF MARRIAGE AND LEGAL SEPARATION AND RECOGNIZING THE CIVIL EFFECTS OF CHURCH DECLARATIONS OF NULLITY OF MARRIAGE, AMENDING FOR THE PURPOSE EXECUTIVE ORDER NO. 209, SERIES OF 1987, AS AMENDED, OTHERWISE KNOWN AS THE "FAMILY CODE OF THE PHILIPPINES"

EXPLANATORY NOTE

Marriage is more than a mere contract. It is the giving of consent to a new relation, along with rights, duties, and obligations that arise not from the agreement of the parties but from the general law which defines and prescribes such. It is an institution, the maintenance of which in its purity the public is deeply interested¹. Consent, freely given, is a fundamental requirement of marriage, without which the marriage is void from the outset.

In the recent case of *Tan-Andal vs. Andal*², the Supreme Court discussed the concept of matrimonial consent, stating that the absence of true consent reflects one's inability or incapacity to mutually give and accept the other for the purpose of being in a "partnership of the whole life". The same case further explained that the act of

¹ Eloisa Goitia De La Camara vs. Jose Campos Rueda. G.R. No. 11263. November 2, 1916

² G.R. No. 196359. May 11, 2021

consenting in light of the consequent obligations and responsibilities, then the consent may well be invalid.

However, while the law provides for grounds on which a marriage can be validly severed, they remain limited. Under the current legal framework, seeking an annulment or a declaration of nullity of marriage is a prolonged and expensive process. Petitioners must navigate a time-consuming court procedure that often requires significant financial resources. Legal fees, psychological evaluations, court hearings, and other associated costs impose a heavy burden on those seeking to dissolve invalid marriages.

Thus, this bill seeks to address these challenges by expediting the process of handling annulment and declaration of absolute nullity cases for marriages within the Philippine legal system, by placing the same under the Rules on Summary Procedure. The bill further provides for an expanded set of grounds upon which parties may base their petitions.

Through this bill, the State aims to fulfill its constitutional mandate to promote the sanctity of family life, as well as to protect and strengthen the family as a basic autonomous social institution.

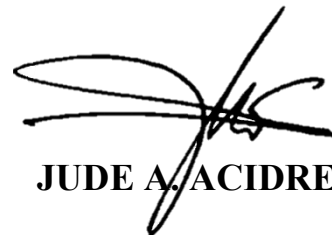
In view of the foregoing, the passage of this bill is earnestly sought.



YEDDA MARIE K. ROMUALDEZ



ANDREW JULIAN K. ROMUALDEZ



JUDE A. ACIDRE



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

Section 1. Article 13 of Executive Order No. 209, Series of 1987, as amended, otherwise known as the “*Family Code of the Philippines*”, is hereby further amended to read as follows:

“Art. 13. In case either of the contracting parties has been previously married, the applicant shall be required to furnish, instead of the birth or baptismal certificate required in the last preceding article, the death certificate of the deceased spouse, the judicial decree of the absolute divorce, the judicial decree of the annulment or declaration of nullity of his or her previous marriage, **OR THE DECREE OF DECLARATION OF NULLITY OF MARRIAGE *AB INITIO* FROM THE CHURCH OR RELIGIOUS SECT TO WHOM EITHER OF THE PARTIES SEEKING TO REMARRY BELONGS, PROVIDED, EITHER OF THE PARTIES IS A MEMBER OF THE AFOREMENTIONED CHURCH OR RELIGIOUS SECT AT THE TIME OF MARRIAGE. PROVIDED, FURTHER, THAT THE DECREE OF NULLITY OF MARRIAGE *AB INITIO* WAS ISSUED BY THE SAME CHURCH OR RELIGIOUS SECT THAT CELEBRATED THE MARRIAGE.**

In case the death certificate cannot be secured, the party shall execute an affidavit setting forth this circumstance, his or her actual civil status, the name and date of death of the deceased spouse.”

Section 2. Article 26 of the same Family Code, as amended, is hereby further amended to read as follows:

“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 Article 35 (1),(4),(5) and (6), 3637 and 38. (17a)

“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 likewise have capacity to remarry under Philippine law.”

Section 3. Article 35 of the same Family Code, as amended, is hereby further amended to read as follows:

“Art. 35. The following marriages shall be void from the beginning by reason of legal incapacity of the contracting party or parties or solemnizing officer, or lack of legal form:

- (1) Those contracted by any party below eighteen years of age even with the consent of parents or guardians;
- (2) Those solemnized by any person not legally authorized to solemnize marriages unless such marriages were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;
- (3) Those solemnized without license, except those covered by the preceding chapter;
- (4) Those bigamous or polygamous marriages not failing under Article 41;

(5) Those contracted through mistake of one contracting party as to the identity of the other; and

(6) Those subsequent marriages that are void under Article 53.

Section 4. Article 36 of the same Family Code, as amended, is hereby further amended to read as follows:

“Art. 36. The following marriages shall likewise be void from the beginning **BY REASON OF DEFECT OF CONSENT OF A CONTRACTING PARTY OR PARTIES:**

(1) A MARRIAGE CONTRACTED BY ANY PARTY WHO, AT THE TIME OF THE CELEBRATION OF THE MARRIAGE, HAD THE DELIBERATE INTENTION OF EXCLUDING THE MARRIAGE ITSELF OR ANY OF ITS ESSENTIAL PROPERTIES STATED IN ARTICLE 1 OF THIS CODE IS ALSO VOID.

(2) THOSE CONTRACTED WHERE EITHER PARTY OR BOTH FEIGNED THEIR BELIEF OR MEMBERSHIP IN THE CHURCH OR RELIGIOUS SECT WHERE THE MARRIAGE WAS CELEBRATED, IN ORDER TO MARRY IN ACCORDANCE WITH THE PROCEEDINGS OF SUCH FAITH;

(3) THOSE CONTRACTED WHERE EITHER PARTY OR BOTH SUFFER FROM PERMANENT OR TEMPORARY LACK OF USE OF REASON DUE TO A SEVERE DISABILITY, MENTAL ILLNESS, OR OTHER PSYCHOLOGICAL REASON; AND

(4) THOSE MARRIAGES WHEREIN THE MARITAL CONSENT WAS OBTAINED THROUGH FORCE, INTIMIDATION OR UNDUE INFLUENCE. FORCE ALSO INCLUDES GRAVE FEAR, EVEN IF INFLICTED UNINTENTIONALLY, WHEN THE FEAR IS SO COMPELLING THAT THE PARTY OR PARTIES CHOOSE TO BE MARRIED IN ORDER TO BE FREED FROM IT;

(5) A marriage contracted by any party who, at the time of the celebration, was incapacitated to comply with the essential marital obligations of marriage FOR REASONS OF A PSYCHOLOGICAL NATURE shall likewise be void even if such incapacity becomes manifest only after its solemnization;

(6) A MARRIAGE ENTERED INTO WITH SEVERE LACK OF DUE DISCRETION OF JUDGMENT IN EITHER OR BOTH PARTIES AS REGARDS THE ESSENTIAL MARITAL RIGHTS AND OBLIGATIONS MUTUALLY TO

BE GIVEN AND ACCEPTED. THE FOLLOWING INSTANCES, BUT NOT LIMITED TO THEM, SHALL BE CONSIDERED MANIFESTATIONS OF LACK OF DISCRETION OF JUDGMENT AT THE MOMENT OF CONTRACTING MARRIAGE, DESPITE DISCOVERY OR OCCURRENCE AFTER MARRIAGE:

(a) BREVITY OF MARRIED LIFE, ABANDONMENT OF A SPOUSE, OR SEPARATION IMMEDIATELY AFTER THE CELEBRATION OF MARRIAGE;

(b) OBTAINING AN ABORTION, REFUSAL TO BEAR CHILDREN OR PROCREATE BY A SPOUSE DURING THE MARRIAGE, IF NO PRIOR AGREEMENT OR UNDERSTANDING BETWEEN THE PARTIES WAS SETTLED BEFORE CELEBRATION OF MARRIAGE, IN WRITING;

(c) PERSISTENTLY ENGAGING IN EXTRAMARITAL AFFAIRS AT THE TIME OF CELEBRATION OR THEREAFTER, WHETHER OR NOT THE INNOCENT SPOUSE WAS MADE AWARE OR CONSENTED THERETO;

(d) MALICIOUS CONCEALMENT OF INFERTILITY, SERIOUS CONTAGIOUS DISEASE, CHILD OR

**CHILDREN BORNE FROM A PREVIOUS UNION, OR
INCARCERATION PRIOR TO OR DURING THE
MARRIAGE;**

**(e) PHYSICAL OR PSYCHOLOGICAL VIOLENCE
INFLECTED ON THE SPOUSE OR THEIR COMMON
CHILDREN, OR THE INNOCENT SPOUSE’S CHILD
OR CHILDREN;**

**(7) A MARRIAGE CONTRACTED BY ANY PARTY WHO,
AT THE TIME OF THE CELEBRATION OF THE
MARRIAGE, WAS IGNORANT OF THE NATURE OF
MARRIAGE AS A PERMANENT UNION BETWEEN A
MAN AND A WOMAN ORDERED TO THE
PROCREATION OF OFFSPRING BY MEANS OF SOME
SEXUAL COOPERATION;**

(8) OTHER ANALOGOUS INSTANCES.”

Section 5. Article 38 of the same Family Code, as amended, is hereby further amended to read as follows:

“Art. 38. The following marriages shall be void from the beginning for reasons of public policy:

(1) xxx ... xxx ...

XXX ... XXX ...

(8) Between adopted children of the same adopter; [~~and~~]

(9) Between parties where one, with the intention to marry the other, killed that other person's spouse, or his or her own spouse[.];

AND

(10) BETWEEN PARTIES ENTERING INTO MARRIAGE WITH THE INTENTION TO GAIN IMMIGRANT STATUS OR FOREIGN CITIZENSHIP, OR TO CONCEAL AN UNPLANNED PREGNANCY, OR TO SECURE INHERITANCE FROM A SPOUSE."

Section 6. Article 40 of the same Family Code, as amended, is hereby further amended to read as follows:

"Art. 40. The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis [~~solely~~] of a final judgement declaring such previous marriage void, **OR A DECREE OF NULLITY OF MARRIAGE SECURED IN ACCORDANCE WITH THE PROCEDURE OF THE CHURCH OR RELIGIOUS SECT TO WHICH EITHER PARTY BELONGS TO, OR A JUDICIAL RECOGNITION OF DECREE OF NULLITY OF MARRIAGE BY THE CHURCH OR RELIGIOUS SECT."**

Section 7. Article 46 of the same Family Code, as amended is hereby further amended to read as follows:

“Art. 46. Any of the following circumstances shall constitute fraud referred to in Number 3 of the preceding Article:

(1)xxx ... xxx ...

xxx ... xxx ...

(3)Concealment of sexually transmissible disease, **OR SERIOUS CONTAGIOUS DISEASE** regardless of its nature, existing at the time of marriage; [øf]

(4)Concealment of drug addiction, habitual alcoholism or homosexuality or lesbianism existing at the time of the marriage[.]; **OR**

(5)**CONCEALMENT OF LACK OF INTENT TO BEAR CHILDREN OR PROCREATE AT THE TIME OF THE MARRIAGE.”**

“No other misrepresentation or deceit as to character, health, rank, fortune or chastity **OR OTHER SIMILAR QUALITIES** shall

constitute such fraud as will give grounds for action for the
[annulment] **DECLARATION OF NULLITY** of marriage
UNLESS SUCH QUALITY WAS DIRECTLY AND
PRINCIPALLY INTENDED BY THE PARTIES IN
ENTERING INTO THE MARRIAGE CONTRACT, OR
UNLESS SUCH QUALITY OF ITS VERY NATURE CAN
SERIOUSLY DISRUPT THE PARTNERSHIP OF CONJUGAL
LIFE.

Section 8. **Article 48** of the same Family Code, as amended, is hereby further amended to read as follows:

“Art. 48. In all cases of annulment or declaration of absolute nullity of marriage, the Court shall [~~order the prosecuting attorney or fiscal assigned to it to appear on behalf of the State to~~] **ASCERTAIN THAT THE MARRIAGE HAS IRREPARABLY FAILED, SUCH THAT CONJUGAL LIVING CANNOT BE RESTORED**, take steps to take care that evidence is not fabricated or suppressed, **DETERMINE THAT THE GROUNDS FOR NULLITY OF MARRIAGE MUST BE MANIFEST AND ENSURE THAT ALL THE EVIDENCE TO ESTABLISH THAT THE MARRIAGE IS MANIFESTLY NULL ARE READILY AVAILABLE.**”

Section 9. **Article 52** of the same family Code, as amended, is hereby further amended to read as follows:

“Art. 52. The judgement of the annulment or of the absolute nullity of the marriage, **SHALL BE IMMEDIATELY RECORDED IN THE APPROPRIATE CIVIL REGISTRY AND REGISTRIES OF PROPERTY.** [‡]The partition and distribution of the properties of the spouses and the delivery of the children’s presumptive legitime, **WHICH MAY BE THE SUBJECT OF A SEPARATE JUDICIAL PROCEEDING,** shall **ALSO** be recorded in the appropriate civil registry and registries of property; otherwise, the same shall not affect third persons.”

Section 10. Article 53 of the same Family Code, as amended is hereby further amended to read as follows:

“Art 53. Either of the former spouses may marry again after compliance with the requirements of the immediately preceding Article; otherwise, the subsequent marriage [~~shall be null and void~~] **SHALL BE GOVERNED BY A MANDATORY REGIME OF COMPLETE SEPARATION OF PROPERTY REGARDLESS OF A PRENUPTIAL AGREEMENT ON PROPERTY RELATIONS PENDING THE SETTLEMENT OF PROPERTIES BELONGING TO THE PREVIOUS MARRIAGE.**”

Section 11. Article 55 of the same Family Code, as amended is hereby further amended to read as follows:

“Art. 55. A petition for legal separation may be filed on any of the following grounds:

(1)xxx ... xxx ...

xxx ... xxx ...

**(6)ANY OF THE MANIFESTATIONS OF PSYCHOLOGICAL
INCAPACITY AS PROVIDED UNDER ARTICLE 36
HEREOF.”**

Section 12. Article 56 of the same Family Code, as amended, is hereby further amended to read as follows:

“Art. 56. The petition for legal separation shall be denied on any of the following grounds:

(1)xxx ... xxx ...

xxx ... xxx ...

(3) Where there is connivance between the parties in the commission of the offense or act constituting the ground for legal separation;.

~~(3)[Where both parties have given ground for legal separation;];~~

(4)~~[Where there is collusion between the parties to obtain decree of legal separation; or]~~

(5)~~[Where the action is barred by prescription.]~~”

Section 13. Article 60 of the same Family Code, as amended, is hereby further amended to read as follows:

“Art. 60. No decree of legal separation shall be based upon a stipulation of facts or a confession of judgement.

“In any case, the Court shall ~~[order the prosecuting attorney or fiscal assigned to it to]~~ take steps to take care that the evidence is not fabricated or suppressed, **DETERMINE THAT THE GROUNDS FOR LEGAL SEPARATION MUST BE MANIFEST AND ENSURE THAT ALL THE EVIDENCE TO ESTABLISH THAT THE MARRIAGE IS MANIFESTLY NULL ARE READILY AVAILABLE.**”

Section 14. Article 238 of the same Family Code, as amended, is hereby further amended to read as follows:

“Art. 238. ~~[Until modified by the Supreme Court]~~ ~~[t]~~The procedural rules provided for in this Title shall apply in all cases provided for in this Code requiring summary court proceedings. Such cases shall be decided in an expeditious manner, without regard to technical rules.”

Section 15. Article 253 of the same Family Code, as amended, is hereby further amended to read as follows:

“Art 253. The foregoing rules in Chapter 2 and 3 hereof shall likewise govern summary proceedings filed under 41, 51, 69, 73, 96, 124 and 127, insofar as they are applicable. (n)”

“THE PETITION FOR ANNULMENT OR DECLARATION OF ABSOLUTE NULLITY OF MARRIAGE BASED ON GROUNDS AS PROVIDED UNDER ARTICLES 35, 36, 37 AND 38 SHALL BE GOVERNED BY THE RULES ON SUMMARY PROCEEDINGS AND AN EXPEDITED PROCEDURE AS PROVIDED IN ARTICLES 254 AND 255 HEREOF.”

Section 16. New Articles 254 and 256 are hereby inserted after Article 253 of the Family Code, as amended, to read as follows:

“ART. 254. WHEN GROUNDS FOR THE DECLARATION OF ABSOLUTE NULLITY OF MARRIAGE AS PROVIDED UNDER ARTICLES 35, 36, 37 AND 38 ARE HEREIN ALLEGED, A HUSBAND OR WIFE MAY JOINTLY, OR SEPERATELY WITH THE CONSENT OF THE OTHER, FILE A VERIFIED PETITION FOR DECLARATION OF ABSOLUTE NULLITY OF MARRIAGE CONTAINING THE FOLLOWING:

(1) THE SPOUSE FILING THE PETITION SHALL BE NAMED THE PETITIONER IN THE ACTION, WHILE THE OTHER SPOUSE SHALL BE REFERRED TO AS CO-PETITIONER;

(2) THE NAMES OF THE PARTIES, THEIR ADDRESS, AND THE COMPLETE FACTS CONSTITUTING THE CAUSE ACTION OF THE PETITION FOR ANNULMENT OR DECLARATION OF ABSOLUTE NULLITY OF MARRIAGE;

(3) THE NAMES AND AGES OF THE COMMON CHILDREN OF THE PARTIES AND THE REGIME GOVERNING THEIR PROPERTY RELATIONS, AS WELL AS THE PROPERTIES INVOLVED;

(4) IF THERE IS NO ADEQUATE PROVISION IN A WRITTEN AGREEMENT BETWEEN THE PARTIES, THE PETITIONER MAY APPLY FOR A PROVISIONAL ORDER FOR SPOUSAL SUPPORT, THE CUSTODY AND SUPPORT OF COMMON CHILDREN, VISITATION RIGHTS, ADMINISTRATION OF COMMUNITY OR CONJUGAL PROPERTY, AND OTHER MATTERS SIMILARLY REQUIRING URGENT ACTION;

“FOR PURPOSES OF THE FILING OF THE PETITION, THE ADDRESS WHERE THE PETITIONER LIVES OR WHERE

EITHER PARTY RESIDES, SHALL BE USED IN DETERMINING THE PROPER VENUE OF THE PETITION.

“ART. 255. WHEN THE PETITION, MANIFESTLY SHOWS THAT THE GROUND OR GROUNDS UPON WHICH SUCH PETITION IS BASED ARE RECURRENT AND MAY BE SUBSTANTIATED WITH TESTIMONIES AND RECORDS, SUCH THAT IT DOES NOT DEMAND A MORE THOROUGH INQUIRY OR INVESTIGATION, AND WHICH RENDER THE NULLITY MANIFEST, THE COURT, UPON MOTION, MAY ADOPT AN EXPEDITED PROCEDURE FOR DETERMINING THE MERITS OF THE PETITION:

(1) IN ADDITION TO THE ASSERTIONS ENUMERATED UNDER ARTICLE 239, THERE MUST BE AN INITIAL DETERMINATION OF THE TESTIMONIAL OR DOCUMENTARY EVIDENCE, WHICH MUST BE READILY AVAILABLE AND MAY BE IMMEDIATELY SUBMITTED TO THE APPROPRIATE COURT OR MAY IMMEDIATELY BE COLLECTED BY THE JUDGE;

(2) THE FAMILY COURT JUDGE MAY HOLD A SESSION WHEREBY THE PARTIES AND THEIR WITNESSES ARE IN ATTENDANCE TO SETTLE ALL CONTROVERSIES ARISING FROM THE PETITION. UPON DETERMINATION THAT THE GROUNDS FOR ANNULMENT OR

DECLARATION OF ABSOLUTE NULLITY OF MARRIAGE ARE MANIFEST, THE SPOUSES SHALL BE GIVEN FIFTEEN (15) DAYS TO SUBMIT THEIR FORMAL OFFER OF EVIDENCE AND ACCOMPANYING MEMORANDUM ON WHY THE PETITION SHOULD OR SHOULD NOT BE GRANTED;

(3) BASED ON THE EVIDENCE PRESENTED, IF THE JUDGE FINDS CLEAR AND CONVINCING EVIDENCE THAT SHOWS THE NULLITY OF THE MARRIAGE HE OR SHE SHALL GRANT THE PETITION; OTHERWISE, IF THE GROUNDS FOR THE PETITION DO NOT APPEAR TO BE MANIFEST, THE PETITION MAY BE HEARD IN ACCORDANCE WITH ADMINISTRATIVE MATTER NO. 02-11-10- SC ISSUED BY THE SUPREME COURT ENTITLED, “*RULE ON DECLARATION OF ABSOLUTE NULLITY OF VOID MARRIAGES AND ANNULMENT OF VOIDABLE MARRIAGES*”;

(4) UPON ISSUANCE OF THE DECISION GRANTING THE PETITION FOR ANNULMENT OR DECLARATION OF ABSOLUTE NULLITY OF MARRIAGE, APPEAL CAN ONLY BE FILED BY THE PARTIES AFFECTED BY THE ACTION. IN THE INSTANCE THAT NO APPEAL WAS PERFECTED BY EITHER PARTY WITHIN THE

REGLEMENTARY PERIOD, THE DECISION IS DEEMED FINAL AND EXECUTORY;

(5) UPON FINALITY OF THE DECISION, THE CLERK OF COURT SHALL IMMEDIATELY FORWARD THE ORDER OF DISSOLUTION OF THE MARRIAGE WITHIN FIFTEEN (15) DAYS, TO THE OFFICE OF THE CIVIL REGISTRAR TO BE RECORDED, WITHIN THE SAME PERIOD.

INSOFAR AS THE PROPERTIES ARE CONCERNED, COPY OF THE DECISION SHALL ALSO BE FORWARDED TO THE REGISTER OF DEEDS WHERE THE PROPERTY OR PROPERTIES OF THE PARTIES ARE LOCATED, AS INDICATED IN THE PETITION.

THE LIQUIDATION, PARTITION AND DISTRIBUTION OF THE PROPERTIES OF THE SPOUSES, THE CUSTODY AND SUPPORT OF THE COMMON CHILDREN, AND THE DELIVERY OF THEIR PRESUMPTIVE LEGITIMES MAY BE ADJUDICATED IN A SEPARATE JUDICIAL PROCEEDING.”

***Section 17.* Articles 254, 255, 256 and 257 of the Family Code, as amended, are hereby renumbered as Articles 256, 257, 258, and 259, respectively.**

Section 18. This Act shall take effect within fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,