

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

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL No. 7018



Introduced by Honorable Representative
SARAH JANE I. ELAGO (Gabriela Women's Party)
RENEE LOUISE M. CO (Kabataan Partylist)
ANTONIO L. TINIO (ACT Teachers Partylist)

**AN ACT ENSURING THE FUNDAMENTAL EQUALITY OF MEN AND WOMEN
UNDER THE LAWS ON MARRIAGE AND FAMILY RELATIONS,
AMENDING FOR THE PURPOSE ARTICLES 14, 96, 124, 211, AND 225 OF
EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE "FAMILY CODE OF
THE PHILIPPINES"**

EXPLANATORY NOTE

The 1987 Philippine Constitution affirmed the role of women in nation-building and endeavors to ensure fundamental equality before the law of men and women.

In 1981, the Philippines was the first ASEAN country to ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Through the ratification of the CEDAW, the Philippines affirmed its commitment to realizing equality between women and men and to avoid the issuance of laws and policies that reverberate patriarchal culture in relation to employment, education, family relations, and penal sanctions, among others.

In 2009, the Magna Carta of Women was also finally enacted into law. Under this law, the State, as the duty bearer, is obligated to respect, protect and fulfill women's human rights and eliminate all forms of discrimination against women, especially poor and marginalized women. This further reinforces the country's commitments under the CEDAW.

As a signatory to the CEDAW and with the Magna Carta of Women in place, the State has committed to eliminating all forms of discrimination against women in both the public and private spheres to promote equality between women and men to advance women's human rights. The State must fulfill these duties or commitments through the law, policy, regulatory instruments, administrative guidelines, and other appropriate measures.

Despite major reforms in our laws to implement the State policy, there are still several discriminatory provisions under our laws that prejudice women.

Articles 14, 96, 124, 211, and 225 of the Family Code of the Philippines are inconsistent with the concepts of equality and non-discrimination.

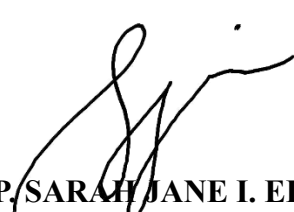
Articles 14, 211, and 225 disregard mothers' contribution and the vital role they play in the rearing of their children. Furthermore, these provisions put in question the capability of mothers to make sound decisions in matters affecting their children. It should be remembered that both parents should always decide upon matters on rearing and guidance of their children. It is their shared responsibility to ensure that the best interest of their children is upheld at all times. This, however, cannot be achieved when the father's decisions shall always prevail in cases of disagreement, setting aside the mother's opinion even if the latter seems to be better than that of the father.

On the other hand, Articles 96 and 124 giving preference to the husband's decision over that of the wife in case of disagreement on the administration and enjoyment of the conjugal or community property should be removed. Amendments are necessary to preserve the heart of these articles to ensure the fair joint administration of conjugal or community property of the wife and the husband. Not only will this encourage harmony between them, but will also help preserve and safeguard their conjugal or community properties from unilateral and reckless decisions often resorted to when conflict occurs between the wife and the husband.

This bill seeks to amend the above mentioned provisions in the Family Code of the Philippines to harmonize them with the Magna Carta of Women. The amendments will respond to our international commitments in the Fourth World Conference on Women Declaration (Beijing, 1995), CEDAW, and the United Nations Convention on the Rights of the Child.

In sum, amendments to Articles 14, 96, 124, 211, and 225 of the Family Code of the Philippines will ensure women's equal rights in marriage and family relations.

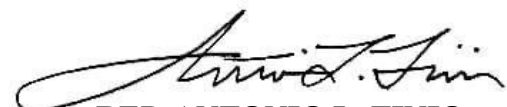
Your support for this bill is, thus, earnestly sought.



REP. SARAH JANE I. ELAGO
Gabriela Women's Party



REP. RENEE LOUISE M. CO
Kabataan Partylist



REP. ANTONIO L. TINIO
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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Article 14 of Executive Order No. 209 is hereby amended to read as follows:

“Art. 14. In case either or both of the contracting parties[, not having been emancipated by a previous marriage,] are between the ages of eighteen and twenty-one, they shall, in addition to the requirements of the preceding articles, exhibit to the local civil registrar, the consent to their marriage of [their father, mother, surviving parent], EITHER PARENT or guardian, or [persons] THE PERSON WHO HAS [having] legal charge of them, AS PROVIDED UNDER THIS CODE AND OTHER RELEVANT LAWS, in the order mentioned. Such consent shall be manifested in writing by the interested party, who personally appears before the proper local civil registrar, or in the form of an affidavit made in the presence of two witnesses and attested before any official authorized by law to administer oaths. The personal manifestation shall be recorded in both applications for marriage license, and the affidavit, if one is executed instead, shall be attached to said applications.”

SECTION 2. Article 96 of Executive Order No. 209 is hereby amended to read as follows:

“Art. 96. The administration and enjoyment of the community property shall belong to both spouses jointly. ANY ACT OF ADMINISTRATION BY EITHER SPOUSE WITHOUT THE CONSENT OF THE OTHER SHALL BE UNENFORCEABLE UNTIL IT IS SUBSEQUENTLY RATIFIED BY THE NON-CONSENTING SPOUSE. In case of disagreement, the [husband's decision shall prevail, subject to] SPOUSES SHALL MAKE EARNEST

EFFORTS TO SETTLE THEIR DIFFERENCES, PROVIDED THAT, SHOULD THE SPOUSES FAIL TO ENTER INTO A COMPROMISE, EITHER SPOUSE SHALL HAVE recourse to the court [by the wife] for proper remedy IN A SUMMARY PROCEEDING, which must be availed of within five years from the date [of] the contract WAS ENTERED THERETO, BY THE PARTIES OR UPON KNOWLEDGE OF THE NON-CONSENTING SPOUSE, WHICHEVER COMES LATER [implementing such decision]. THE COURT, IN DECIDING THE CASE, SHALL CONSIDER THE BEST INTEREST OF THE FAMILY. DAMAGES AND EXPENSES OF LITIGATION, WHICH DID NOT REDOUND TO THE BENEFIT OF THE FAMILY, SHALL BE BORNE BY THE CONTRACTING SPOUSE AND SHALL NOT BE CHARGED TO THE COMMUNITY PROPERTY.

“In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the common properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the [acceptance] RATIFICATION by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors.”

SECTION 3. Article 124 of Executive Order No. 209 is hereby amended to read as follows:

“Art. 124. The administration and enjoyment of the conjugal partnership shall belong to both spouses jointly. ANY ACT OF ADMINISTRATION BY EITHER SPOUSE WITHOUT THE CONSENT OF THE OTHER SHALL BE UNENFORCEABLE UNTIL IT IS SUBSEQUENTLY RATIFIED BY THE NON-CONSENTING SPOUSE. In case of disagreement, the [husband’s decision shall prevail, subject to] SPOUSES SHALL MAKE EARNEST EFFORTS TO SETTLE THEIR DIFFERENCES: *PROVIDED THAT*, SHOULD THE SPOUSES FAIL TO ENTER INTO A COMPROMISE, EITHER SPOUSE SHALL HAVE recourse to the court [by the wife] for proper remedy IN A SUMMARY PROCEEDING, which must be availed of within five years from the date [of] the contract [implementing such decision] WAS ENTERED THERETO, BY THE PARTIES OR UPON KNOWLEDGE OF THE NON-CONSENTING SPOUSE, WHICHEVER COMES LATER. THE COURT, IN DECIDING THE CASE, SHALL CONSIDER THE BEST INTEREST OF THE FAMILY. DAMAGES AND EXPENSES OF LITIGATION, WHICH DID NOT REDOUND TO THE BENEFIT OF THE FAMILY, SHALL BE BORNE BY THE CONTRACTING SPOUSE AND SHALL NOT BE CHARGED TO THE COMMUNITY PROPERTY.

“In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the conjugal properties, the other spouse

may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the [acceptance] RATIFICATION by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors.

SECTION 4. Article 211 of Executive Order No. 209 is hereby amended to read as follows:

“Art. 211. The father and the mother shall jointly exercise parental authority over the persons of their common children. In case of disagreement, the [father’s decision shall prevail, unless there is a judicial order to the contrary] PARENTS SHALL MAKE EARNEST EFFORTS TO SETTLE THEIR DIFFERENCES, TAKING INTO CONSIDERATION THE BEST INTEREST OF THE CHILD, PROVIDED THAT SHOULD THEY FAIL TO ENTER INTO A COMPROMISE, EITHER PARENT SHALL HAVE RECOURSE TO THE COURT FOR PROPER REMEDY.

Children shall always observe respect and reverence towards their parents and are obliged to obey them as long as the children are under parental authority.

SECTION 5. Article 225 of Executive Order No. 209 is hereby amended to read as follows:

“Art. 225. The father and the mother shall jointly exercise legal guardianship over the property of [the unemancipated common] THEIR MINOR child without the necessity of a court appointment. ANY EXERCISE OF GUARDIANSHIP BY EITHER PARENT WITHOUT THE CONSENT OF THE OTHER SHALL BE UNENFORCEABLE, UNTIL IT IS SUBSEQUENTLY RATIFIED BY THE NON-CONSENTING PARENT. In case of disagreement, [the father’s decision shall prevail, unless there is a judicial order to the contrary.] EITHER PARENT SHALL HAVE RECOURSE TO THE COURT WITHIN FIVE (5) YEARS FROM THE DATE THE CONTRACT WAS ENTERED BY THE PARTIES THERETO, OR UPON KNOWLEDGE OF THE NON-CONSENTING PARENT, WHICHEVER COMES LATER. THE COURT, IN DECIDING THE CASE, SHALL TAKE INTO CONSIDERATION THE BEST INTEREST OF THE MINOR CHILD. DAMAGES AND EXPENSES OF LITIGATION, WHICH DID NOT REDOUND TO THE BENEFIT OF THE MINOR CHILD, SHALL BE BORNE BY THE CONTRACTING PARENT AND SHALL NOT BE CHARGED TO THE PROPERTY OF THE MINOR CHILD.

“Where the market value of the property or the annual income of the MINOR child exceeds P50,000, the parent concerned shall be required to furnish a bond in such amount as the court may determine, but not less than

ten *per centum* (10%) of the value of the property or annual income, to guarantee the performance of the obligations prescribed for general guardians.

“A verified petition for approval of the bond shall be filed in the proper court of the place where the MINOR child resides, or, if the MINOR child resides in a foreign country, in the proper court of the place where the property or any part thereof is situated.

The petition shall be docketed as a summary special proceeding in which all incidents and issues regarding the performance of the obligations referred to in the second paragraph of this Article shall be heard and resolved.

“The ordinary rules on guardianship shall be merely supplementary except when the MINOR child is under substitute parental authority, or the guardian is a stranger, or a parent has remarried, in which case the ordinary rules on guardianship shall apply.”

SECTION 6. If any provision of this Act is found unconstitutional or invalid, the other provisions not affected by such declaration shall remain in full force and effect.

SECTION 7. All laws, decrees, executive orders, presidential issuances and other administrative rules and regulations or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SECTION 8. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,