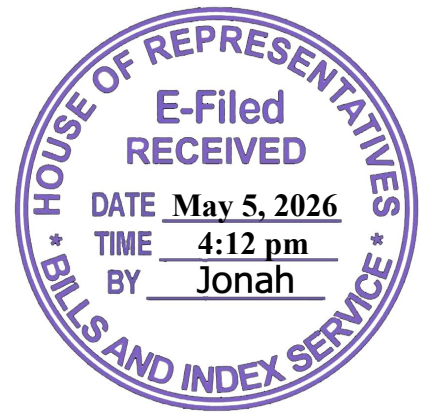


Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

TWENTIETH CONGRESS  
First Regular Session  
House Bill No. 9105



---

Introduced by: Congressman **BIENVENIDO M. ABANTE, JR.**

---

AN ACT  
EXPANDING THE GROUNDS FOR ANNULMENT OF MARRIAGE AND LEGAL  
SEPARATION, UNDER ARTICLES 45 AND 55 AND OTHER RELATED  
PROVISIONS UNDER ARTICLES 46, 48, 55, AND 57 OF EXECUTIVE ORDER NO.  
209, OR THE FAMILY CODE OF THE PHILIPPINES, AND FOR OTHER  
PURPOSES

EXPLANATORY NOTE

The Preamble is an introductory statement or introductory part of a constitution that usually states the reasons for the intent of the law. The Preamble of the Philippine Constitution for example is a statement that outlines the aspirations of the Filipinos, it aims to establish a government that embodies the ideals and aspirations of the Filipino people. Certainly, marriage in Filipino culture is deeply rooted in tradition, family ties, and community which is why no less than the 1987 Constitution under Article XV Section 1 and 2 states that

*The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development, and marriage, as an **inviolable social institution**, is the foundation of the family and shall be protected by the State.*

Moreover, the Constitution of the Philippines, the highest law of the land regards marriage as an inviolable social institution making the Philippines one of the few, if not the only, nation to do so. For instance, The Italian Constitution although it recognizes the family as a fundamental unit of society, does not explicitly state that the family or marriage is inviolable. Article 29 of the Italian Constitution which states that,

*The Republic recognises the rights of the family as a natural society founded on marriage and Marriage is based on the moral and legal equality of the spouses within the limits laid down by law to guarantee the unity of the family.*

Also, in the Spanish Constitution, although it recognizes the family as the basic social institution, it never describes marriage as inviolable. Section 39 of the Spanish Constitution, it is stated that

*The public authorities ensure social, economic and legal protection of the family.*

These are the few reasons why in contrast to our jurisdiction, they have many options or avenues to dissolve marriages solemnized under their Family and Marriage Laws.

It is noteworthy that in interpreting our 1987 Constitution, the first rule is *verba legis* (*Plain meaning rule*) meaning, the words of the Constitution must be given their ordinary meaning except where technical terms are employed. The Constitution is not a lawyer's document, its language as much as possible should be understood in the sense they have in common use. Words should mean what they mean. The marriage that is enshrined in our Philippine Constitution is unique because of its **inviolable character**.

Hence, the State as mandated by the Constitution must not introduce further means to dissolve a marriage, a key that may unlock and could open up Pandora's box of problems destroying the foundation of the family that runs counter to the fundamental law. No less than the Family Code has already established modes for the dissolution of marriage. Accordingly, this proposed legislation will still uphold the inviolability of marriage under our Philippine Constitution while also adding new grounds for the dissolution of marriage beyond what is currently available.

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



BIENVENIDO M. ABANTE, JR

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**TWENTIETH CONGRESS**  
First Regular Session  
House Bill No. **9105**

---

Introduced by: Congressman **BIENVENIDO M. ABANTE, JR.**

---

**AN ACT**  
**EXPANDING THE GROUNDS FOR ANNULMENT OF MARRIAGE AND LEGAL**  
**SEPARATION, UNDER ARTICLES 45 AND 55 AND OTHER RELATED**  
**PROVISIONS UNDER ARTICLES 46, 48, 55, AND 57 OF EXECUTIVE ORDER NO.**  
**209, OR THE FAMILY CODE OF THE PHILIPPINES, AND FOR OTHER**  
**PURPOSES**

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

**SECTION 1.** *Short Title.* – This Act shall be known as the “**Expanded Dissolution of Marriage Act**”

**SEC. 2** *Amendments.* – Articles 45, 55, and 57 of Executive No. 209, or the Family Code of the Philippines, is hereby amended to read as follows:

**Art. 45.** A marriage may be annulled for any of the following causes, existing at the time of the marriage:

- (1) That the party in whose behalf it is sought to have the marriage annulled was eighteen years of age or over but below twenty-one, and the marriage was solemnized without the consent of the parents, guardian, or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one, such party freely cohabited with the other and both lived together as husband and wife;
- (2) That either party was of unsound mind, unless such party after coming to reason, freely cohabited with the other as husband and wife;

- (3) That the consent of either party was obtained by fraud, unless such party afterward, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife;
- (4) That the consent of either party was obtained by force, intimidation, or undue influence unless the same having disappeared or ceased, such party thereafter freely cohabited with the other as husband and wife;
- (5) That either party was physically incapable of consummating the marriage with the other, and such incapacity continues and appears to be incurable;
- (6) That either party was afflicted with a sexually-transmissible disease found to be serious and appears to be incurable;

**PROVIDED, THAT GROUNDS ABOVE MENTIONED IN PARAGRAPHS 2, 5, AND 6 HEREIN EXISTED EITHER AT THE TIME OF THE MARRIAGE OR APPEARED AFTER THE MARRIAGE;**

- (7) **PSYCHOLOGICAL INCAPACITY OF EITHER SPOUSE AS PROVIDED FOR IN ARTICLE 36 OF THIS CODE, WHETHER OR NOT THE INCAPACITY EXISTED AT THE TIME OF MARRIAGE OR APPEARS AFTER THE MARRIAGE;**
- (8) **HOMOSEXUALITY AND LESBIANISM OF THE RESPONDENT OR WHEN ONE OF THE SPOUSES UNDERGOES A SEX REASSIGNMENT SURGERY OR TRANSITION FROM ONE SEX TO ANOTHER;**
- (9) **REPEATED DOMESTIC, MARITAL ABUSE OR AGGRESSIVE BEHAVIOR WITHIN THE HOME WHICH MAY BE COMMITTED THROUGH PHYSICAL VIOLENCE, PSYCHOLOGICAL AND EMOTIONAL VIOLENCE, SEXUAL VIOLENCE, OR ECONOMIC ABUSE;**
- (10) **SERIOUS PHYSICAL VIOLENCE OR GROSSLY ABUSIVE CONDUCT DIRECTED AGAINST THE PETITIONER, A COMMON CHILD, OR CHILD OF THE PETITIONER WHETHER BY NATURE OR BY ADOPTION;**
- (11) **SERIOUS PHYSICAL VIOLENCE OR MORAL PRESSURE TO COMPEL THE PETITIONER TO CHANGE RELIGIOUS OR POLITICAL AFFILIATION;**
- (12) **ATTEMPT OF RESPONDENT TO CORRUPT OR INDUCE THE PETITIONER, A COMMON CHILD, OR A CHILD OF THE**

PETITIONER, TO ENGAGE IN PROSTITUTION, GAMBLING, OR  
CONNIVANCE IN SUCH CORRUPTION OR INDUCEMENT;

- (13) FINAL JUDGMENT SENTENCING THE RESPONDENT TO  
IMPRISONMENT OF MORE THAN SIX (6) YEARS, EVEN IF  
PARDONED;
- (14) DRUG ADDICTION, HABITUAL ALCOHOLISM, OR CHRONIC  
GAMBLING OF THE RESPONDENT;
- (15) CONTRACTING BY THE RESPONDENT OF A SUBSEQUENT  
BIGAMOUS MARRIAGE, WHETHER PHILIPPINES OR ABROAD;
- (16) MARITAL INFIDELITY OR PERVERSION OR HAVING A CHILD  
WITH ANOTHER PERSON OTHER THAN ONE'S SPOUSE DURING  
THE MARRIAGE;

EXCEPT WHEN UPON THE MUTUAL AGREEMENT OF THE  
SPOUSES, A CHILD IS BORN TO THEM THROUGH IN VITRO  
FERTILIZATION OR A SIMILAR PROCEDURE OR WHEN THE WIFE  
BEARS A CHILD AFTER BEING A VICTIM OF RAPE;

- (17) ATTEMPT BY THE RESPONDENT AGAINST THE LIFE OF THE  
PETITIONER, A COMMON CHILD, CHILD AND THE PARENTS OF  
THE PETITIONER; OR
- (18) ABANDONMENT OF PETITIONER BY RESPONDENT WITHOUT  
JUSTIFIABLE CAUSE FOR MORE THAN ONE (1) YEAR.

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

- (1) XXX;
- (2) XXX;
- (3) XXX; or
- (4) Concealment of drug addiction, habitual alcoholism, **CHRONIC  
GAMBLING** or homosexuality or lesbianism existing at the time of the  
marriage No other misrepresentation or deceit as to character, health, rank,  
fortune or chastity shall constitute such fraud as will give grounds for action  
for the annulment of marriage.

**Art 48.** In all cases of annulment, declaration of absolute nullity of marriage, OR **LEGAL SEPARATION** the Court shall order the prosecuting attorney or fiscal assigned to it to appear on behalf of the State to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed.

**THE FAMILY COURT SHALL ASSIST THE INDIGENT AND UNDERPRIVILEGED PETITIONER FOR THE FREE LEGAL SERVICES OF THE PUBLIC ATTORNEY'S OFFICE.**

In the cases referred to in the preceding paragraph, no judgment shall be based upon a stipulation of facts or confession of judgment.

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

- (1) **SERIOUS** physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner **WHETHER BY NATURE OR BY ADOPTION;**
- (2) **SERIOUS** Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;
- (3) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, **GAMBLING**, or connivance in such corruption or inducement;
- (4) Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;
- (5) Drug addiction, habitual alcoholism, **OR CHRONIC GAMBLING** of the respondent;
- (6) **HOMOSEXUALITY AND LESBIANISM OF THE RESPONDENT OR WHEN ONE OF THE SPOUSES UNDERGOES A SEX REASSIGNMENT SURGERY OR TRANSITION FROM ONE SEX TO ANOTHER;**
- (7) Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;

- (8) **MARITAL INFIDELITY OR PERVERSION OR HAVING A CHILD WITH ANOTHER PERSON OTHER THAN ONE'S SPOUSE DURING THE MARRIAGE;**

**EXCEPT WHEN UPON THE MUTUAL AGREEMENT OF THE SPOUSES, A CHILD IS BORN TO THEM THROUGH IN VITRO FERTILIZATION OR A SIMILAR PROCEDURE OR WHEN THE WIFE BEARS A CHILD AFTER BEING A VICTIM OF RAPE;**

- (9) **ATTEMPT BY THE RESPONDENT AGAINST THE LIFE OF THE PETITIONER, A COMMON CHILD, CHILD AND THE PARENTS OF THE PETITIONER; OR**
- (10) **ABANDONMENT OF PETITIONER BY RESPONDENT WITHOUT JUSTIFIABLE CAUSE FOR MORE THAN ONE (1) YEAR.**

**Art. 57.** An action for legal separation shall be filed within **TEN (10) YEARS** from the time of the occurrence of the cause.

**SEC. 3. *Separability Clause.*** – If any part or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in full force and effect.

**SEC. 4. *Repealing Clause.*** – All laws, decrees, executive orders, memorandum orders, memorandum circulars, administrative orders, ordinances, or parts thereof, which are inconsistent with the right to adequate food and the provisions of this Act, are hereby deemed repealed or modified accordingly.

**SEC. 5. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

*Approved,*