

TWENTIETH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.

House Bill No. 9651

EXPLANATORY NOTE

The 1987 Philippine Constitution lays the foundational principles for marriage and family by declaring the sanctity of family life and the indissolubility of marriage, and recognizing marriage as the cornerstone of the family and the family as the bedrock of the nation. The Constitution has, thus, imposed upon the State the duty to protect and preserve marriage and family.

The Family Code of the Philippines builds on these principles, defining marriage as a special contract of permanent union between a man and a woman and providing the legal framework for its regulation.

Contemporary realities, including irreparably broken unions and domestic abuse, have prompted calls for reform to current laws. This proposed Bill seeks to address these issues, while remaining faithful and aligned to the constitutional values of permanence, inviolability, indissolubility, and sacredness of marriage.

Marriage is, at its core, a covenant based on free, mutual, and fully-informed consent. And marital consent must rest upon a full understanding of and the readiness to embrace the nature, responsibilities, and consequences of the marital bond. It is this kind of consent that breathes juridical life into the union; without it, there is no marriage to speak of.

Many failed marriages can be traced to a defect in such consent which already existed prior to or at the time of celebration of marriage (*ab initio*). Often, one party entered into the union without full knowledge or understanding of the nature and significance of the act entered into, or with incomplete or lack of vital, material and correct information necessary to make the lifelong commitment.

A defect in marital consent may arise from the unique personal makeup of one or both parties, or from influences in their physical or social environment, as well as a multitude of life circumstances and events that shape their identities and decisions—in particular, their decision to marry. When someone enters marriage under such conditions, their consent cannot truly be considered free, mutual, or fully informed. Often, the consequences of this

deficiency only become apparent later, manifesting as ongoing breakdowns in the relationship or an inability to fulfill the essential duties and responsibilities of marriage.

Under existing laws, the grounds for declaration of nullity of marriage remain restrictive, offering limited remedy for marriages that can be considered void from inception. In fact, what may appear as a mere “defect” in consent is, in substance, a total absence of such consent. This defect does not merely make the marriage voidable, but void ab initio because consent is completely absent from the start. It is precisely this kind of consent that defines the situations addressed by the proposed amendments.

This bill seeks to broaden the legal grounds for declaring certain marriages null and void from the outset, while remaining anchored on the constitutional commitment to protect the sanctity and indissolubility of marriage and the principle that family is the very cornerstone of our nation.

In view of the foregoing, immediate approval of this measure is earnestly requested.



RUFUS B. RODRIGUEZ



MAXIMO B. RODRIGUEZ, JR.

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AN ACT

EXPANDING THE GROUNDS FOR DECLARATION OF NULLITY OF MARRIAGE, WHILE PRESERVING THE SANCTITY AND INDISSOLUBILITY OF MARRIAGE, AMENDING FOR THE PURPOSE EXECUTIVE ORDER NO. 209, SERIES OF 1987, AS AMENDED, OTHERWISE KNOWN AS "THE FAMILY CODE OF THE PHILIPPINES", AND FOR OTHER PURPOSES

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

Section 1. Article 26 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. 26. FOREIGN DIVORCE. – All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they are solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35(1), (4), (5) and (6), 36, 37 and 38.

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[.], PROVIDED, THE DIVORCE DECREE IS OBTAINED ABROAD BY, AND AT THE INSTANCE OF, THE ALIEN SPOUSE, NOT THE FILIPINO SPOUSE.

EITHER OR BOTH SPOUSES MAY SEEK THE ENFORCEMENT OF THE FOREIGN DIVORCE DECREE IN ACCORDANCE WITH EXISTING LOCAL LAWS AND RULES, PROVIDED, THAT THE FILIPINO SPOUSE WHO DID NOT PARTICIPATE IN THE DIVORCE PROCEEDINGS MAY SEEK RELIEF IN THE PROPER COURT WITH RESPECT TO THE INCIDENTS OF THE DECREE PURSUANT TO APPLICABLE LOCAL LAWS AND RULES.

Section 2. Art. 35 of the same Family Code, as amended, is hereby further amended to read as follows:

Article 35. VOID AB INITIO MARRIAGES. - The following marriages shall be void from the beginning[:] BY REASON OF LEGAL INCAPACITY, ABSENCE OF CONSENT OF THE CONTRACTING PARTY OR PARTIES, OR NON-COMPLIANCE WITH THE FORMAL REQUISITES:

XXX XXX XXX

- (6) Those subsequent marriages that are void under Article 53.
- (7) THOSE CONTRACTED BY ANY PARTY WHO, AT THE TIME OF THE CELEBRATION OF MARRIAGE, HAS GRAVE, INCURABLE, AND ANTECEDENT MENTAL DISORDER, PROVIDED THAT, SUCH DISORDER RENDERS THE PARTY TOTALLY INCAPABLE OF COMPREHENDING THE NATURE OF THE ACT SHE/HE IS ENTERING INTO AS A SPECIAL CONTRACT OF PERMANENT UNION BETWEEN A MAN AND WOMAN THAT ENTAILS CONCOMITANT ESSENTIAL MARITAL RIGHTS AND OBLIGATIONS BETWEEN SPOUSES;
- (8) THOSE CONTRACTED BY ANY PARTY WHOSE CONSENT WAS OBTAINED BY FRAUD THROUGH ANY OF THE CIRCUMSTANCES UNDER ARTICLE 46 (1), (2), (3), AND (4), PROVIDED THAT, THE OTHER PARTY INTENDED TO COMMIT FRAUD THROUGH NON-DISCLOSURE OR CONCEALMENT OF THE MATERIAL FACTS REFERRED TO THEREIN FOR THE PURPOSE OF INDUCING THE OTHER PARTY INTO GIVING CONSENT TO THE MARRIAGE, AND PROVIDED FURTHER THAT, WITHOUT SUCH FRAUD, SUCH CONSENT WOULD NOT, BY ANY CHANCE, HAVE OTHERWISE BEEN GIVEN;
- (9) 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;
- (10) THOSE CONTRACTED BY ANY PARTY WHOSE CONSENT WAS OBTAINED BY FEAR, FORCE, INTIMIDATION OR UNDUE INFLUENCE WHICH POSES A GRAVE, REAL, COMPELLING, AND OVERPOWERING THREAT TO HIS/HER LIFE AND THE IMMEDIATE MEMBERS OF HIS/HER FAMILY, PROVIDED THAT, SUCH FEAR, FORCE, INTIMIDATION OR UNDUE INFLUENCE MUST BE THE SOLE REASON WHY THE MARRIAGE HAPPENED; AND
- (11) WHERE THERE IS ANTECEDENT, INCURABLE, AND PERPETUAL IMPOTENCE TO HAVE SEXUAL INTERCOURSE, WHETHER ON THE PART OF THE MAN OR THE WOMAN.

Section 3. Article 36 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. 36. [A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.] PSYCHOLOGICAL INCAPACITY. - IF ONE OR BOTH PARTIES, AT THE TIME OF THE CELEBRATION OF THEIR MARRIAGE, WERE PSYCHOLOGICALLY INCAPACITATED TO COMPLY WITH THE ESSENTIAL MARITAL OBLIGATIONS AS A SPOUSE UNDER ARTICLES 68 TO 71, AND ARTICLES 220, 221 AND 225 OF THE FAMILY CODE, SHALL BE VOID AB INITIO, EVEN IF SUCH INCAPACITY BECOMES MANIFEST ONLY AFTER THE SOLEMNIZATION OF MARRIAGE. SUCH FAILURE TO COMPLY MUST BE CAUSED BY A PERSONALITY STRUCTURE THAT IS PSYCHIC IN NATURE, AND IS GRAVE, PERSISTENT, ENDURING, AND JURIDICALLY ANTECEDENT, AND MUST NOT BE A MERE REFUSAL,

NEGLECT, OR DIFFICULTY TO DO SO, OR MUCH LESS ILL WILL;
PROVIDED THAT, PSYCHOLOGICAL INCAPACITY IS PROVED BY
CLEAR AND CONVINCING EVIDENCE.

Section 4. Article 38 of the same Family Code, as amended, is hereby further amended to read as follows:

Art. 38. VOID AB INITIO MARRIAGES. - The following marriages shall be void from the beginning for reasons of public policy[.], OR BEING AGAINST THE VERY NATURE OF MARRIAGE:

XXX XXX XXX

- 9) Between parties where one, with the intention to marry the other, killed that other person's spouse, or his or her own spouse[.];
- 10) BETWEEN PARTIES ENTERING INTO A MARRIAGE WITHOUT ANY INTENTION TO BE BOUND THEREBY, FOR PURPOSES SUCH AS, BUT NOT LIMITED TO, OBTAINING IMMIGRANT STATUS OR CITIZENSHIP, WITHOUT PREJUDICE TO LIABILITIES AND PENALTIES AS MAY BE PROVIDED UNDER APPLICABLE LAWS; AND
- 11) WHEN ONE OF THE SPOUSES UNDERGOES A SEX REASSIGNMENT SURGERY OR TRANSITIONS FROM ONE SEX TO ANOTHER PRIOR TO THE MARRIAGE.

Section 5. Subject to the preceding Section 3, the grounds for legal separation under Article 55 of the same Family Code of the Philippines, may constitute as manifestations of psychological incapacity for purposes of declaration of nullity of marriage ab initio.

Section 6. Procedure and Guidelines for Obtaining Declaration of Nullity Decree. –

- (a) The established and recognized procedures for securing legal separation, annulment of marriage, and nullification of marriage under the Family Code of the Philippines, as far as practicable and as long as not in conflict with this Act, shall govern the process of obtaining a judicial decree of declaration of nullity from the proper Family Court.
- (b) A petition for declaration of nullity of marriage may be filed separately or jointly by the spouses, provided that, no decree of nullity shall be based upon a stipulation of facts or a confession of judgment.
- (c) A joint petition filed by both spouses with common children should be accompanied by a joint plan for parenthood which provides for the support, custody, and living arrangements of the common children. If the court determines that the joint plan for parenthood is adequate to protect the rights and interests of the common children, the court shall approve the joint plan for parenthood together with the grant of a declaration of nullity decree, if warranted.
- (d) For the recognition of customs and practices of indigenous cultural community (ICC) or indigenous people (IP) in the Philippines, having the same effect as a decree of annulment, dissolution or declaration of nullity, any independently-verifiable proof of such customs or practices, and of the membership of the spouses in an ICC or IP, will be admissible in evidence.
- (e) When one or both petitioners are OFW, the petition shall be given priority by the proper Family Court and the court shall set the reception of evidence at hearings set on continuous dates. The conduct of online filing and hearings may be available to OFW, subject to issuances of the Family Court concerned.

- (f) All creditors of the absolute community or of the conjugal partnership of gains, as well as the personal creditors of the spouses, shall be listed in the petition for declaration of nullity and notified of the filing thereof.
- (g) Public prosecutors in provinces, cities and capital towns are mandated to conduct investigations to find out if there is collusion between the spouses or coercion by a spouse to file the petition, and shall report their findings to the proper Family Court within sixty (60) days from the filing of the petition.
- (h) Expert testimony shall be dispensed with unless the proper Family Court decides that such testimony is indispensable in deciding the petition.
- (i) Mandatory Sixty-Day Cooling-off Period. – Except in cases which involve acts of violence against women and their children or attempt against the life of the other spouse or a common child or a child of the petitioner, the proper Family Court shall exercise all efforts to reunite and reconcile the concerned spouses during the sixty-day cooling-off period after the filing of the petition. Upon expiration of the cooling-off period without the parties having reconciled, the court shall immediately commence trial and is mandated to decide the petition within one (1) year after the lapse of the sixty-day cooling-off period.
- (j) Expeditious Judicial Proceedings. – Every petition for declaration of nullity of marriage shall be resolved in an expeditious manner without strict regard to technical rules, and the petitioner shall be given the option whether or not to be assisted by a lawyer. The proper Family Court may allow presentation of evidence ex parte as warranted by circumstances.

Section 7. Indigent Litigants. - When the application as an indigent petitioner-spouse is approved after presentation of evidence of indigency, the proper Family Court shall waive the payment of filing fees and other costs of litigation, and shall appoint a counsel de officio for the said petitioner-spouse and assign social workers, psychologists, and psychiatrists, as may be necessary, from a pool of accredited social workers and practitioners recognized by the Department of Social Welfare and Development (DSWD), to assist the said petitioner, the court, and the children of the parties free of charge.

Section 8. Support. - The court shall provide for child support pursuant to the pertinent provisions of the Family Code. The court shall provide for spousal support; provided that, the spouse who gave cause for nullity shall not be entitled to spousal support. In considering the award of support, the court shall consider relevant circumstances of the case and of the parties. On application of either party, the court may decree an increase or decrease in the amount of support upon a showing of a substantial and material change of circumstances. In case the respondent-spouse is an OFW, a copy of the order to grant spousal support, if any, and child support shall be furnished to the Overseas Workers Welfare Administration (OWWA) and the Department of Migrant Workers (DMW).

Section 9. Custody and Support Pendente Lite. – During the pendency of the petition and in the absence of adequate provisions in a written agreement between the spouses, the court, upon application of the proper party, shall provide for spousal support, and the custody and support of their common children. The court shall give the paramount consideration to the best interest of the children, as well as their choice of the parent with whom they wish to remain, in accordance with the Family Code of the Philippines. It shall also provide the appropriate visitation rights of the other parent.

Section 10. Reconciliation During the Pendency of the Nullity Proceedings. – If the spouses agree to reconcile during the pendency of the nullity proceedings or before the finality of judgment of nullity, a corresponding joint manifestation under oath duly signed by them shall be filed with the same court where the petition for declaration of nullity was filed.

Upon hearing of the joint manifestation and the court finds it in order, the petition for declaration of nullity of marriage shall be dismissed.

Section 11. Award for Damages. – The proper Family Court may, as warranted by evidence, award actual, moral, and exemplary damages as provided for under the Civil Code of the Philippines to the offended spouse against the offending spouse.

Section 12. Penalty. –

- (a) The spouse who is found by the court to have used threats or coercion to compel the other spouse in filing the petition, and spouses who are guilty of collusion, shall be punished with imprisonment of five (5) years and a fine of Three Hundred Thousand Pesos (Php 300,000.00).
- (b) Any offending spouse in default of providing the required spousal support or child support pursuant to a court order under this Act shall be charged with contempt of court and be imposed a fine of:
 - (1) Fifty Thousand Pesos (Php 50,000.00) for the first default;
 - (2) One Hundred Thousand Pesos (Php 100,000.00) for the second default; and
 - (3) Two Hundred Thousand Pesos (Php 200,000.00) each for the third and the succeeding defaults.

Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent's employer for the same to be automatically remitted directly to the other spouse.

Section 13. Attorney's Fees. – Subject to the plenary authority of the Supreme Court to regulate the practice of law, in court-assisted petitions, the attorney's fees, inclusive of acceptance fee, appearance fees, and success fee, shall not exceed Fifty thousand pesos (Php 50,000) for the entire proceedings. However, the petitioner and counsel can mutually agree on a higher rate of attorney's fees.

Section 14. Appeals. – Appeals from the orders and judgments of the Family Courts shall be governed by the applicable provisions of the Rules of Court, as amended.

Section 15. Community-Based Pre-Nuptial and Post-Matrimonial Programs and Activities. – The National Government shall, through the DSWD, implement community-based pre-nuptial, reconciliatory phase or cooling-off counseling, and post-matrimonial programs and activities aimed at strengthening the marital and family life of Filipinos.

These social welfare interventions, which will protect the stability of Filipino families, shall be instituted by DSWD in provinces, cities and clusters of municipalities in the entire country, while observing the local cultures and customs that are prevalent in each locality.

Section 16. Community-Based Women's Desk. – The frontline desk in every barangay established under Republic Act No. 9710 shall be readily available and easily accessible to provide support and assistance to victims, especially women, of all forms of abuse and acts of violence identified under the said Act and those provided for under Republic Act No. 9262.

Section 17. Creation of More Positions of Public Attorneys and Family Courts. – The Department of Justice is authorized to create the necessary additional positions for public attorneys under the Public Attorney's Office to advocate for court-assisted petitioners.

In the discretion of the Supreme Court, more Family Courts may be created to adjudicate petitions for dissolution of marriages.

Section 18. Appropriations. – The amount necessary for the initial implementation of this Act shall be sourced from the savings of the DSWD for the current fiscal year, and the subsequent

amounts necessary for the full implementation of this Act shall be included in the subsequent annual General Appropriations Act.

Section 19. Implementing Rules and Regulations. - The Department of Justice (DOJ) as lead agency, together with the Department of Social Welfare and Development (DSWD), the Philippine Commission on Women (PCW), the Department of Foreign Affairs (DFA), the Department of Interior and Local Government (DILG), the Council for the Welfare of Children (CWC), the Office of the Solicitor General (OSG), one representative from a women's organization with proven track record in women rights advocacy identified by the PCW, one representative from a children's organization with proven track record in child rights advocacy to be identified by the CWC, two representatives from church-based organizations, and two family law experts shall promulgate the Implementing Rules and Regulations (IRR) within sixty (60) days after the effectivity of this Act.

Section 20. Separability Clause. – If any part or provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain in force and effect.

Section 21. Repealing Clause. – All laws, executive orders, issuances, decrees, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly.

Section 22. Effectivity Clause. - This Act shall take effect fifteen (15) days after publication in at least two (2) newspapers of general circulation.

Approved,