

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City**

**Twentieth Congress
Second Regular Session**

House Bill No. 10100



**Introduced by Honorable Representatives
DADAH KIRAM ISMULA (Akbayan Partylist)
JOSE MANUEL TADEO "CHEL" I. DIOKNO (Akbayan Partylist)
PERCIVAL V. CENDAÑA (Akbayan Partylist)
KAKA BAG-AO (Dinagat Islands)**

**AN ACT AMENDING ARTICLES 333 AND 344, AND REPEALING ARTICLE
334 OF THE REVISED PENAL CODE, TO REMOVE THE DISTINCTION
BETWEEN ADULTERY AND CONCUBINAGE AND ESTABLISH A
GENDER-FAIR DEFINITION OF MARITAL INFIDELITY**

EXPLANATORY NOTE

The Revised Penal Code provides for a comprehensive legal framework that penalizes unfaithfulness and infidelity to the sanctity of marriage. It classifies adultery and concubinage as crimes against chastity, while the Family Code refers to them as sexual infidelity, or more generally, marital infidelity. Albeit both defined as marital infidelity, the existing legal frameworks penalizes them differently, effectively placing a greater burden on women or wives, than on men or husbands.

Without a doubt, marital infidelity of varying degrees knows no gender or sex. A marriage in which a wife sows doubt, infidelity, and deceit is no different from a marriage in which a husband commits the same acts. The harm inflicted upon the marital union, the erosion of trust, and the betrayal of the obligations of marriage remain the same regardless of whether the offending party is the husband or the wife.

The 1987 Philippine Constitution expressly provides that all Filipinos are afforded the same and equal protection under the law, regardless of gender or sex. Maintaining different standards for adultery and concubinage is inconsistent with the Constitution's guarantee of equal protection under the law. It therefore seeks to ensure that the law treats marital infidelity with the same measure of accountability, regardless of the gender of the offending spouse. The law must protect the institution of marriage without compromising the constitutional guarantee of equality before the law.

This measure likewise gives effect to Section 12 of Republic Act No. 9710, otherwise known as the Magna Carta of Women, which guarantees women equal

treatment before the law and mandates the review and amendment of laws that discriminate against women. The existing provisions under the Revised Penal Code that codify concubinage and adultery continue to prescribe different elements, standards of proof, and penalties for the same act of marital infidelity. The promise of equality before the law cannot be fulfilled if marital infidelity continues to be penalized differently based solely on the sex of the offending spouse. This bill therefore seeks to remove these distinctions and establish a single, gender-fair standard of marital infidelity consistent with the Constitution and existing law.

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



DADAH KIRAM ISMULA
Akbayan Representative



JOSE MANUEL TADEO
"CHEL" I. DIOKNO
Akbayan Representative



PERCIVAL V. CENDAÑA
Akbayan Representative



KAKA BAG-AO
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PERCIVAL V. CENDAÑA (Akbayan Partylist)
KAKA BAG-AO (Dinagat Islands)

AN ACT AMENDING ARTICLES 333 AND 344, AND REPEALING ARTICLE 334 OF ACT NO. 3815, OTHERWISE KNOWN AS THE "REVISED PENAL CODE", TO REMOVE THE DISTINCTION BETWEEN ADULTERY AND CONCUBINAGE AND ESTABLISH A GENDER-FAIR DEFINITION OF MARITAL INFIDELITY

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

1 **SECTION 1. Short Title.** This Act shall be known as the "**Marital Infidelity Act**".

2
3 **SEC. 2.** Article 333 of Act No. 3815 is hereby amended to read as follows:

4
5 **"ARTICLE 333. MARITAL INFIDELITY** [~~Who are guilty of adultery.~~] – **MARITAL**
6 **INFIDELITY** [~~Adultery~~] is committed by any married **PERSON** [~~woman~~] who shall
7 have **sexual RELATIONS** [~~intercourse~~] with a **PERSON** [~~man~~] **OTHER THAN HIS**
8 **OR her SPOUSE** [~~husband~~], and by the **SEXUAL PARTNER** [~~man~~] of the **MARRIED**
9 **PERSON**, knowing the **OTHER** [~~her~~] to be married.

10
11 **MARITAL INFIDELITY** [~~adultery~~] shall be punished by **DESTIERRO IN ITS**
12 **MAXIMUM PERIOD.**

13
14 **ANY PERSON ACCUSED OF MARITAL INFIDELITY SHALL BE EXEMPT FROM**
15 **CRIMINAL LIABILITY, IF THE MARRIAGE BE SUBSEQUENTLY DECLARED**
16 **VOID, OR, IF THE OFFENSE WAS COMMITTED AFTER THE ISSUANCE OF A**
17 **FINAL DECREE OF LEGAL SEPARATION BY A COMPETENT COURT.**
18 **HOWEVER, IF THE OFFENSE WAS COMMITTED AFTER THE ACCUSED**
19 **SPOUSE HAD BEEN ABANDONED FOR FOUR (4) CONSECUTIVE YEARS, OR**
20 **THE OFFENDED PARTY HAD PREVIOUSLY BEEN DECLARED**

1 **PRESUMPTIVELY DEAD BY THE COURTS** ~~[(If the person guilty of adultery~~
2 ~~committed this offense while): abandoned without justification]~~ **OR SUBJECTED TO**
3 **PHYSICAL VIOLENCE OR ABUSIVE CONDUCT** by the offended spouse, the
4 penalty next lower in degree provided in the ~~[next]~~ preceding paragraph shall be
5 imposed, **AND THE SAME PENALTY SHALL BE IMPOSED ON THE CO-ACCUSED**
6 **IN THE MARITAL INFIDELITY CASE."**

7
8 **SEC. 3.** Article 334 of Act No. 3815 is hereby repealed.

9
10 **SEC. 4.** Article 344 of Act No. 3815 is hereby amended to read as follows:

11
12 "ARTICLE 344. Prosecution of the Crimes of **MARITAL INFIDELITY** ~~[Adultery,~~
13 ~~Concubinage,]~~ Seduction, Abduction, Rape and Acts of Lasciviousness. — The crimes
14 of **MARITAL INFIDELITY** ~~[adultery and concubinage]~~ shall not be prosecuted
15 except upon a complaint filed by the offended spouse.

16
17 **HOWEVER, IF, IN THE COURSE OF THE PRELIMINARY INVESTIGATION, THE**
18 **FILING OF A MARITAL INFIDELITY CASE IS FOUND TO HAVE BEEN**
19 **INITIATED TO HARASS OR THREATEN THE OTHER SPOUSE, OR IF THE**
20 **OFFENDED SPOUSE IS LIKEWISE FOUND TO HAVE SEXUAL RELATIONS**
21 **WITH A PERSON OTHER THAN HIS OR HER SPOUSE, THE CASE SHALL BE**
22 **DISMISSED.**

23
24 **THE DISMISSAL SHALL OPERATE AS A BAR TO THE FILING OF ANY**
25 **SUBSEQUENT MARITAL INFIDELITY CASES AGAINST THE ACCUSED**
26 **SPOUSE.**

27
28 The offended party cannot institute criminal prosecution without including both the
29 guilty parties, if they are both alive, nor, in any case, if he shall have consented or
30 pardoned the offenders.

31
32 The offenses of seduction, abduction, rape or acts of lasciviousness, shall not be
33 prosecuted except upon a complaint filed by the offended party or her parents,
34 grandparents, or guardian, nor, in any case, if the offender has been expressly
35 pardoned by the above-named persons, as the case may be.

36
37 ~~[In cases of seduction, abduction, acts of lasciviousness and rape, the marriage of the~~
38 ~~offender with the offended party shall extinguish the criminal action or remit the~~
39 ~~penalty already imposed upon him.]~~ The provisions of this paragraph shall also be
40 applicable to the co-principals, accomplices and accessories after the fact of the
41 abovementioned crimes."

1 **SEC. 5.** If, for any reason, any part or provision of this Act is held unconstitutional or
2 invalid, the remaining parts or provisions not affected will continue in full force and
3 effect.

4
5 **SEC. 6.** All laws, decrees, executive orders, proclamations, rules and regulations, and
6 other issuances, or parts thereof, inconsistent with the provisions of this Act, are
7 hereby repealed, amended, or modified accordingly.

8
9 **SEC. 7.** This Act takes effect fifteen (15) days after its publication in at least two (2)
10 newspapers of general circulation.

Approved,