



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

Twentieth Congress  
Second Regular Session

HOUSE BILL NO. 10778



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Introduced by Representative Ma. Cristina Talavera Lopez

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**AN ACT EQUALIZING PARENTAL DECISION-MAKING BETWEEN THE PARENTS, ELIMINATING THE PREFERENCE ACCORDED TO THE FATHER'S DECISION IN CASES OF DISAGREEMENT, PROVIDING MECHANISMS FOR SHARED DECISION-MAKING AND THE URGENT EXERCISE OF PARENTAL AUTHORITY, AMENDING FOR THE PURPOSE ARTICLES 211 AND 225 OF THE FAMILY CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

Articles 211 and 225 of the Family Code of the Philippines provide that where the parents disagree in the exercise of parental authority over the person of their common child, or of legal guardianship over the child's property, "the father's decision shall prevail, unless there is a judicial order to the contrary." The rule has stood unchanged since the Code took effect on 3 August 1988. It resolves a disagreement between two equally situated parents by reference to sex alone, without regard to which of them is better informed, more available, or more capable in the circumstances, and without any inquiry into the best interests of the child. The mother is not heard on the merits; she is simply overruled by operation of law, and her only recourse is to litigate.

The provision is inconsistent with Article II, Section 14 of the 1987 Constitution, which requires the State to ensure the fundamental equality before the law of women and men. It is likewise inconsistent with the international commitments of the Philippines, specifically the Convention on the Elimination of All Forms of Discrimination Against Women, which the Philippines ratified in 1981, which obliges States Parties to guarantee women and men the same rights and responsibilities as parents in matters relating to their children and the same rights with respect to the guardianship of children.

The need for amendment of these provisions has been repeatedly identified. The Philippine Commission on Women, in its Policy Brief No. 6, has recommended the amendment of Articles 14, 96, 124, 211 and 225 for according greater weight to the judgment of the husband or father than to that of the wife or mother. But the repeal of the preference, however, is not by itself sufficient. Earlier measures

proposed to delete the offending sentence and to require the parents to resort to the courts in every case of disagreement. Judicial recourse is appropriate for genuine and substantial deadlocks, but it cannot govern the ordinary and time-bound decisions of family life: enrolment periods close, medical procedures cannot be deferred indefinitely, and a parent who is abroad or otherwise unreachable cannot give timely consent. Schools, hospitals, banks and other third persons are likewise left without a rule as to whose consent is sufficient, and will ordinarily require the concurrence of both parents for every act, however routine. The resulting delay is borne by the child.

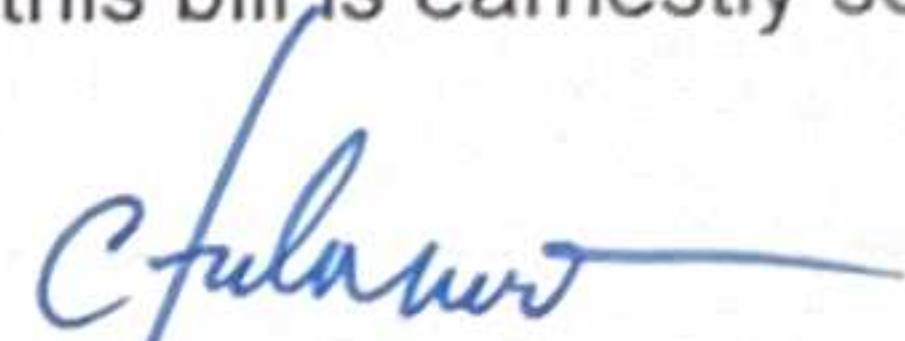
This measure therefore removes the preference and supplies in its place a clear and workable framework for the exercise of joint parental authority. In substance:

- (1) It declares that both parents have equal authority over their common children and their children's property, and that no preference shall be accorded to either parent by reason of sex or gender.
- (2) It distinguishes ordinary decisions from major decisions. Ordinary decisions, or those decisions pertaining to daily care, routine, supervision, schedule, diet, recreation, ordinary health maintenance and ordinary discipline may be taken by either parent acting alone. Where the parents differ on such a matter, the decision of the parent who has actual care of the child at the time prevails. Third persons acting in good faith may presume that an ordinary decision taken by one parent carries the consent of the other.
- (3) It enumerates, exclusively, nine major decisions requiring the consent of both parents, among them enrolment and choice of educational track; non-emergency surgery and other invasive or elective procedures; a change in habitual residence; religious affiliation; litigation on the child's behalf; the child's employment and the commercial use of the child's name, image, likeness or voice; and consent to adoption or alternative care. A major decision taken without the other parent's consent is unenforceable between the parents until ratified, while third persons who act in good faith upon a written representation of consent are protected, and the parent making a false representation is liable for damages.
- (4) It inserts a new Article 211-A governing urgent decisions. Where a decision cannot be deferred without exposing the child to imminent risk to life, health, safety or security, or to serious and irreparable prejudice, and the other parent cannot be reached or fails to act in time, the parent who is present or who has actual care of the child may decide alone, subject to the duty to inform the other parent at the earliest opportunity.
- (5) It inserts a new Article 211-B affording either parent recourse to a summary judicial proceeding in cases of non-urgent disagreement on a major decision, to be resolved in accordance with the best interests of the child.
- (6) It applies the same principles to the child's property under Article 225. Acts of preservation and of ordinary administration may be performed by either parent

alone; acts of ownership require the consent of both parents and, where required by law, the approval of the court. A parent may act alone to prevent the imminent loss or deterioration of the child's property, but may not thereby dispose of or encumber it.

The measure secures the equal standing of the mother without diminishing that of the father. The rule it substitutes turns on actual care and the best interests of the child rather than on sex, and accords equal recognition to the father who is present and involved. It gives families and the institutions that deal with them a predictable rule of decision, so that no child waits for schooling or medical care on account of a gap in the law.

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



MA. CRISTINA TALAVERA LOPEZ  
Representative, ALONA Party List



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

**SECTION 1. *Short Title.*** – This Act shall be known as the “*Equality in Parental Decision-Making Act.*”

**SECTION 2. *Declaration of Policy.*** — It is the policy of the State to ensure the fundamental equality before the law of women and men, to recognize the equal and shared responsibility of both parents for the upbringing and development of their children, and to hold the best interests of the child paramount in all matters affecting the child.

Towards this end, the State shall eliminate every preference accorded by law to the decision of one spouse or one parent by reason of sex or gender, and shall in its place provide clear, workable and accountable rules and mechanisms for the exercise of shared decision-making, including where a decision cannot be deferred.

**SECTION 3.** Article 211 of Executive Order No. 209, otherwise known as the “*Family Code of the Philippines,*” 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. **BOTH**

PARENTS SHALL HAVE EQUAL AUTHORITY IN MAKING DECISIONS CONCERNING THEIR COMMON CHILDREN, AND NEITHER PARENT SHALL HAVE SUPERIOR AUTHORITY OVER THE OTHER. NO PREFERENCE SHALL BE ACCORDED TO EITHER PARENT BY REASON OF SEX OR GENDER. [In case of disagreement, the father's decision shall prevail, unless there is a judicial order to the contrary.]

"AN ORDINARY DECISION MAY BE TAKEN BY EITHER PARENT ACTING ALONE. WHERE THE PARENTS DIFFER UPON AN ORDINARY DECISION, THE DECISION OF THE PARENT WHO HAS ACTUAL CARE OF THE CHILD AT THE TIME THE DECISION IS TAKEN SHALL BE FOLLOWED. AS TO THIRD PERSONS ACTING IN GOOD FAITH, AN ORDINARY DECISION TAKEN BY ONE PARENT IS PRESUMED TO HAVE BEEN TAKEN WITH THE CONSENT OF THE OTHER.

"FOR THIS PURPOSE, AN ORDINARY DECISION REFERS TO A DECISION PERTAINING TO THE DAILY CARE, ROUTINE, SUPERVISION, SCHEDULE, DIET, RECREATION, ORDINARY HEALTH MAINTENANCE, AND ORDINARY DISCIPLINE OF THE CHILD CONSISTENT WITH ARTICLES 220 AND 233 OF THE FAMILY CODE, AND TO ANY OTHER DECISION NOT ENUMERATED AS A MAJOR DECISION.

"A MAJOR DECISION SHALL REQUIRE THE CONSENT OF BOTH PARENTS. THE FOLLOWING, AND ONLY THE FOLLOWING, ARE MAJOR DECISIONS:

- (A) THE ENROLMENT OF THE CHILD IN, TRANSFER BETWEEN, OR WITHDRAWAL FROM A SCHOOL, AND THE CHOICE OF THE CHILD'S EDUCATIONAL TRACK OR PROGRAMME;
- (B) NON-EMERGENCY SURGERY, THE ADMINISTRATION OF GENERAL ANAESTHESIA, INVASIVE OR ELECTIVE MEDICAL OR DENTAL PROCEDURES, IMMUNISATION OUTSIDE OF ANY NATIONAL IMMUNISATION PROGRAMME, AND MENTAL HEALTH TREATMENT OR CONFINEMENT UNDER REPUBLIC ACT NO. 11036;
- (C) A CHANGE IN THE HABITUAL RESIDENCE OF THE CHILD, INCLUDING RELOCATION OUTSIDE THE CITY OR

MUNICIPALITY OF THE CHILD'S RESIDENCE FOR A CONTINUOUS PERIOD OF MORE THAN THIRTY (30) DAYS;

- (D) THE RELIGIOUS AFFILIATION OF THE CHILD AND THE CHILD'S FORMAL RELIGIOUS INSTRUCTION, WITHOUT PREJUDICE TO ARTICLE 220(3);
- (E) THE COMMENCEMENT, SETTLEMENT, COMPROMISE OR WITHDRAWAL OF ANY ACTION OR PROCEEDING IN BEHALF OF THE CHILD;
- (F) THE EMPLOYMENT OF THE CHILD AND ANY CONTRACT FOR THE CHILD'S SERVICES OR FOR THE COMMERCIAL USE OF THE CHILD'S NAME, IMAGE, LIKENESS OR VOICE;
- (G) ANY ACT OVER THE PROPERTY OF THE CHILD REQUIRING THE CONSENT OF BOTH PARENTS UNDER ARTICLE 225;
- (H) THE GIVING OF CONSENT UNDER ARTICLE 14, AND CONSENT TO ADOPTION, FOSTER PLACEMENT OR ANY OTHER ALTERNATIVE CARE ARRANGEMENT UNDER REPUBLIC ACT NO. 11642; AND
- (I) ANY OTHER MATTER WHICH THE PARENTS HAVE AGREED IN WRITING TO TREAT AS A MAJOR DECISION.

"A MAJOR DECISION TAKEN BY ONE PARENT WITHOUT THE CONSENT OF THE OTHER SHALL BE UNENFORCEABLE AS BETWEEN THE PARENTS UNTIL RATIFIED BY THE NON-CONSENTING PARENT. ANY THIRD PERSON WHO ACTS IN GOOD FAITH UPON THE WRITTEN REPRESENTATION OF ONE PARENT THAT THE OTHER HAS CONSENTED SHALL INCUR NO LIABILITY BY REASON OF THE ABSENCE OF SUCH CONSENT. THE PARENT WHO MAKES A FALSE REPRESENTATION SHALL BE LIABLE FOR DAMAGES, AND THE ACT MAY BE CONSIDERED IN ANY PROCEEDING UNDER ARTICLES 213, 231 AND 232.

"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 4.** A new Article 211-A is hereby inserted in Executive Order No. 209, otherwise known as the "*Family Code of the Philippines*," to read as follows:

"ART. 211-A. WHERE A DECISION CONCERNING THE CHILD IS URGENT, AND THE OTHER PARENT CANNOT BE REACHED THROUGH REASONABLE DILIGENCE OR, HAVING BEEN REACHED, FAILS OR REFUSES TO ACT WITHIN THE TIME THE CIRCUMSTANCES ALLOW, THE PARENT WHO IS PRESENT OR WHO HAS ACTUAL CARE OF THE CHILD MAY DECIDE ALONE, EVEN UPON A MATTER ENUMERATED AS A MAJOR DECISION; PROVIDED, THE PARENT SO DECIDING SHALL INFORM THE OTHER PARENT OF THE DECISION AT THE EARLIEST OPPORTUNITY BY ANY PRACTICABLE MEANS INCLUDING ELECTRONIC MEANS.

"FOR THIS PURPOSE, AN URGENT DECISION REFERS TO A DECISION WHICH, IF DEFERRED UNTIL THE CONCURRENCE OF BOTH PARENTS IS OBTAINED, WOULD EXPOSE THE CHILD TO IMMINENT RISK TO LIFE, HEALTH, SAFETY OR SECURITY, OR TO SERIOUS AND IRREPARABLE PREJUDICE TO THE CHILD'S EDUCATION OR OTHER SUBSTANTIAL INTEREST.

"A DECISION TAKEN UNDER THIS ARTICLE SHALL BE PROVISIONAL AND SHALL REMAIN IN EFFECT UNTIL THE PARENTS OTHERWISE AGREE OR THE COURT OTHERWISE ORDERS UNDER ARTICLE 211-B. ACTS DONE AND RIGHTS ACQUIRED BY THIRD PERSONS IN GOOD FAITH IN RELIANCE UPON SUCH DECISION SHALL NOT BE PREJUDICED BY ITS SUBSEQUENT MODIFICATION.

"THE INVOCATION OF THIS ARTICLE IN BAD FAITH, OR THE DELIBERATE FAILURE TO GIVE THE NOTICE REQUIRED HEREIN, SHALL NOT VALIDATE THE DECISION AS BETWEEN THE PARENTS, AND SHALL BE A GROUND FOR THE SUSPENSION OF PARENTAL AUTHORITY UNDER ARTICLE 231 IN A PROPER CASE. THE DELIBERATE CREATION OF THE URGENCY RELIED UPON SHALL BE PRESUMED TO BE BAD FAITH."

**SECTION 5.** A new Article 211-B is hereby inserted in Executive Order No. 209, otherwise known as the "*Family Code of the Philippines*," to read as follows:

"ART. 211-B. WHERE THE PARENTS DISAGREE UPON A MAJOR DECISION AND THE DECISION TO BE MADE IS NOT

ONE OF URGENCY, EITHER PARENT MAY SEEK JUDICIAL RELIEF FROM THE PROPER COURT. THE PROCEEDING SHALL BE SUMMARY IN NATURE, AND THE COURT SHALL RESOLVE THE MATTER IN ACCORDANCE WITH THE BEST INTERESTS OF THE CHILD.

**SECTION 6.** Article 225 of Executive Order No. 209, otherwise known as the *"Family Code of the Philippines,"* 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 child without the necessity of a court appointment. **BOTH PARENTS SHALL HAVE EQUAL AUTHORITY IN MAKING DECISIONS CONCERNING THEIR COMMON CHILDREN, AND NEITHER PARENT SHALL HAVE SUPERIOR AUTHORITY OVER THE OTHER. NO PREFERENCE SHALL BE ACCORDED TO EITHER PARENT BY REASON OF SEX OR GENDER.** [In case of disagreement, the father's decision shall prevail, unless there is a judicial order to the contrary.]

"**ACTS OF PRESERVATION AND ACTS OF ORDINARY ADMINISTRATION OVER THE PROPERTY OF THE CHILD MAY BE PERFORMED BY EITHER PARENT ACTING ALONE, AND ARE PRESUMED, AS TO THIRD PERSONS IN GOOD FAITH, TO HAVE BEEN PERFORMED WITH THE CONSENT OF THE OTHER; PROVIDED, THAT ACTS OF OWNERSHIP AND ANY ACT NOT OTHERWISE CONSIDERED AS ORDINARY ADMINISTRATION, SHALL REQUIRE THE CONSENT OF BOTH PARENTS AND, WHERE THE LAW SO REQUIRES, THE APPROVAL OF THE COURT. SHOULD EITHER PARENT PERFORM ALONE AN ACT REQUIRING THE CONSENT OF BOTH PARENTS, THE RIGHT ACQUIRED BY THE THIRD PARTY THEREUNDER SHALL NOT BE ENFORCEABLE UNTIL RATIFIED BY THE OTHER PARENT.**

"**WHERE AN ACT IS NECESSARY TO PREVENT THE IMMINENT LOSS, DESTRUCTION, OR SUBSTANTIAL DETERIORATION OF THE PROPERTY OF THE CHILD, EITHER PARENT MAY ACT ALONE; PROVIDED, THAT ACTS OF PREVENTION OF IMMINENT LOSS, DESTRUCTION, OR SUBSTANTIAL DETERIORATION SHALL NOT INCLUDE DISPOSITION OR ENCUMBRANCE OF THE PROPERTY OF THE CHILD.**

IN CASE OF DISAGREEMENT BETWEEN THE PARENTS, EITHER PARENT MAY SEEK JUDICIAL RELIEF FROM THE PROPER COURT. THE PROCEEDING SHALL BE SUMMARY IN NATURE, AND THE COURT SHALL RESOLVE THE MATTER IN ACCORDANCE WITH THE BEST INTERESTS OF THE CHILD.

"Where the market value of the property or the annual income of the 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 child resides, or, if the 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] FIFTH paragraph of this Article shall be heard and resolved.

"The ordinary rules on guardianship shall be merely suppletory except when the 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 7. *Separability Clause.*** – If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, the other sections or provisions which are not affected shall continue to be in full force and effect.

**SECTION 8. *Repealing Clause.*** – All laws, presidential decrees, executive orders, or issuances, or any part thereof which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

**SECTION 9. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or any newspaper of general circulation.

Approved,