

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL No. 5281



Introduced by HON. LINABELLE RUTH R. VILLARICA
4TH DISTRICT, BULACAN

EXPLANATORY NOTE

The constitutional provision which seeks to establish fundamental equality of men and women before the law must be implemented. This will effectively consider women as important partners in the achievement of national development goals. As such they must be treated equally with their male counterparts.

Presently, however, certain provisions of the Family Code are burdened with inequities that directly hamper the implementation of this constitutional provision under Section 14, Article II of the Constitution

This proposed bill seeks to correct the inequitable and unfair situation under the current law which mandates that the decision of the father should prevail on matters relating to marriage and family relations.

This initiative is in accordance with Section 12 of R.A. No. 9710, otherwise known as the "Magna Carta of Women" which mandates that the State should undertake a review, and if necessary amend and/or repeal existing laws that are discriminatory to women within 3 years from the effectivity of the law on 19 September 2009.

The enactment of this bill will protect and strengthen the institution marriage and family life.

This bill was filed during the 16th, 17th, and 18th Congresses. Due to time constraints, however, no further action was taken on it. This is re-filed for the consideration of the 19th Congress.

Support for the enactment of this measure is earnestly requested.

A handwritten signature in black ink, appearing to read 'L. Villarica'.

REP. LINABELLE RUTH R. VILLARICA

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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"

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 article, 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 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.”

SEC. 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 [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 LATE [implementing such decision]. THE COURT, IN DECIDING THE CASE, SHALL CONSIDER THE BEST INTEREST OF THE FAMILY. DAMAGES AND EXPENSES OF LITIGATION, 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 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."

SEC. 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.

SEC. 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.

SEC. 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 suppletory 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."

SEC. 6. Separability Clause. – 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.

SEC. 7. Repealing Clause – 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.

SEC. 8. Effectivity Clause – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,