

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

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1159



Introduced by REPRESENTATIVE MARIA LOURDES ACOSTA-ALBA

EXPLANATORY NOTE

The Constitution guarantees the principle of equality between women and men (“Article II, Section 14: The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men”).

Executive Order No. 209 (“Family Code”) was signed into law by former President Corazon C. Aquino on 06 July 1987. It took effect on 03 August 1988, one year after its publication.

By its enactment, the Family Code expressly repealed several articles in Republic Act No. 386 (“New Civil Code”), namely: on marriage (Arts. 52 to 96), legal separation (Arts. 97 to 108), rights and obligations between husband and wife (Arts. 109 to 117), property relations between husband and wife (Arts. 118 to 215), on the family (Arts. 216 to 254), on paternity and filiation (Arts. 255 to 289), on support (Arts. 290 to 304), on parental authority (Arts. 311 to 355), and on emancipation and age of majority (Arts. 397 to 406). Some portions of Presidential Decree No. 603 (“Child and Youth Welfare Code”) were likewise repealed.

The Family Code, however, remains flawed because it continues to operate under the outmoded presumption of the superiority of men’s decisions over those of women’s. On matters pertaining to the management and administration of family affairs, the decision of the male spouse continues to prevail. This is true in matters of giving consent to the marriage of parties between the ages eighteen and twenty-one (Article 14), the administration and enjoyment of the community property (Article 96), the administration and enjoyment of the conjugal partnership (Article 124), the exercise of parental authority over the persons of

common children (Article 211), and the exercise of legal guardianship over the property of the unemancipated common child (Article 225).

The proposed measure seeks to amend the aforementioned provisions of the Family Code that has already amended the New Civil Code. The bill does not intend to amend and/or repeal any of the existing provision of the Civil Code, nor is the bill proposing the amendment and/or repeal of any existing provision of the Family Code itself that are outside the contemplation of the said articles.

Further, the bill seeks to provide flesh to the imperative set forth in Republic Act No. 9710 ("Magna Carta of Women"): "Section 12. The State shall take steps to review and, when necessary, amend and/or repeal existing laws that are discriminatory to women within three (3) years from the effectivity of this Act."

This measure was filed in the 16th Congress as House Bill No. 5502 by this Representation as one of the principal authors. House Bill No. 5502 consolidates House Bill Nos. 85, 1652, and 4613. This has been subsequently reported out by the Committee on Women and Gender Equality as Report Number 577.

In view of the measure's approval at the Committee level in the immediately preceding Congress, and considering its primacy as one of the principal women's legislative agenda, approval of this bill is earnestly sought.



MARIA LOURDES ACOSTA-ALBA

First District, Bukidnon

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

SEVENTEENTH CONGRESS
First Regular Session

1159

HOUSE BILL NO. _____

Introduced by REPRESENTATIVE MARIA LOURDES ACOSTA-ALBA

AN ACT
ENSURING THE FUNDAMENTAL EQUALITY OF MEN AND WOMEN,
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, series of 1987, as amended, is further amended as follows:

"Article 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 articles, exhibit to the local registrar, the consent to their marriage of their father or mother, surviving parent or guardian, or persons having legal charge of them, in the order mentioned. Such consent shall be manifested in 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."

SECTION 2. Article 96 of Executive order No. 209, series of 1987, as amended, is further amended as follows:

"Article 96. The administration and enjoyment of the community property shall belong to both spouses jointly, any exercise of acts of administration by either spouse without the consent of the other shall be without effect, until it is subsequently approved by the non-consenting spouse. In case of disagreement, either spouse may elevate the matter before the court within five (5) years from the date the contract was entered by the parties thereto, or upon knowledge of the non-consenting spouse, whichever comes later. The court, in deciding the case, shall take into consideration 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 common properties, the other spouse may assume sole powers of administration. These powers do not include the powers of disposition or encumbrance without the 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 by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors."

SECTION 3. Article 124 of Executive order No. 209, series of 1987, as amended, is further amended as follows:

"Article 124. The administration and enjoyment of the conjugal partnership shall belong to both spouses jointly, any exercise of acts of administration by either spouse without the consent of the other shall be without effect, until it is subsequently approved by the non-consenting spouse. In case of disagreement, either spouse may elevate the matter before the court within five (5) years from the date the contract was entered by the parties thereto, or upon knowledge of the non-consenting spouse, whichever comes later. The court, in deciding the case, shall take into consideration 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 shall not be charged to the conjugal partnership.

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 by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors."

SECTION 4. Article 211 of Executive order No. 209, series of 1987, as amended, is further amended as follows:

"Article 211. The father and the mother shall jointly exercise parental authority over the persons of their common children. In case of disagreement, either spouse may elevate the matter before the court, which shall decide, taking into consideration the best interest of the children.

XXX XXX"

SECTION 5. Article 225 of Executive order No. 209, series of 1987, as amended, is further amended as follows:

"Article 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. In case of disagreement, either spouse may elevate the matter before the court, which shall decide taking into consideration the best interest of the child.

Where the market value of the property or the annual income of the child exceeds ₱50,000, 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 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 6. Separability Clause. If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions not affected thereby.

SECTION 7. Repealing Clause. All laws, decrees, rules and regulations, and other issuances inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 8. Effectivity. This Act shall take effect fifteen (15) days after its complete publication in either the Official Gazette, or in two (2) newspapers of general circulation.

Approved,