Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 0111

Introduced by Representative Lawrence Lemuel H. Fortun

EXPLANATORY NOTE

The 1987 Constitution declares it the policy of the State to recognize the role of women in nation building and ensure the fundamental equality of women and men before the law (Article II Section 14).

Pursuant to this state policy, Republic Act No. 9710, otherwise known as the Magna Carta on Women, has laid emphasis on equal rights for women and men on matters pertaining to marriage and family relations. Thus, Section 12 thereof, provides that the State shall take steps to review, and when necessary, amend or repeal existing laws that are discriminatory to women.

Further, the Philippines is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women. As such signatory, the Philippines undertook the obligation to review all our domestic laws and practices that are discriminatory to women and amend or repeal the same, and provide for effective mechanisms and remedies for women to seek redress in case of violations of their rights.

Regrettably, however, the Family Code of the Philippines, still contains provisions that are inconsistent with the 1987 Constitution, the aforementioned Magna Carta and Convention. Specifically, on matters of parental consent to marriage of children between ages 18 to 21, administration and enjoyment of community and conjugal property, exercise of parental authority over children and legal guardianship over properties of minor children, the husband is given special preference by the law. These provisions run counter to the principles of fundamental equality of men and women in marriage and family relations.

This bill, thus, seeks to rectify these discriminatory provisions of the Family Code, namely, Articles 14, 96, 124, 211 and 225 which continue to propagate the unequal status of spouses and perpetuate the obsolete concept of patriarchy within the family.

This measure was introduced in the 16th and 17th Congresses and reported out by the Committee on Women and Gender Equality. It, however, failed to get approval on third and final reading.

It is earnestly hoped that in the 18th Congress, the bill finally sees the light of day.

REP. LAWRENCE LEMUEL H. FORTUN
1ST District of Agusan del Norte
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

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House Bill No. ______

Introduced by Representative Lawrence Lemuel H. Fortun

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 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 209 is hereby amended to read 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 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 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 209 is hereby amended to read as follows:

Article 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, 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 WAS ENTERED INTO BY THE PARTIES THERETO, OR UPON KNOWLEDGE
OF THE NON-CONSENTING SPOUSE, WHICHEVER COMES LATER [implementing
such decision], 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 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.

SECTION 3. Article 124 of Executive Order No. 209 is hereby amended to read as follows:

Article 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 EFFORT 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 form the date [of] the contract WAS ENTERED BY THE PARTIES THERETO, OR UPON KNOWLEDGE OF THE NON-CONSENTING SPOUSE, WHICHEVER COMES LATER [implementing such decision]. THE COURT, IN DECIDING THE CASE, SHALL CONSIDER THE BEST INTEREST OF THE FAMILY. DAMAGES AND EXPENSES OF LITIGATION WHICH DID NOT REDOUNDS 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.

SECTION 4. Article 211 of Executive Order No. 209 is hereby amended to read as follows:

Article 211. The father and mother shall jointly exercise parental authority over the persons of their common children. In case of disagreement, the 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 RECURS TO THE COURT FOR PROPER REMEDY [father’s decision shall prevail, unless there is a judicial order to the contrary].

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 5. Article 225 of Executive Order No. 209 is hereby amended to read as follows:
Article 225. The father and the mother shall jointly exercise legal guardnianship over the property of [the emancipated common] THEIR MINOR child without the necessity of a court appointment. ANY EXERCISE OF GUARDNISHP 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 RECOUSE TO THE COURT WITHIN FIVE (5) YEARS FROM THE DATE THE CONTRACT WAS ENTERED INTO 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 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 found unconstitutional or invalid, the other provisions not affected by such declaration shall remain in full force and effect.

SECTION 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.

SECTION 8. Effectivity - This Act shall take effective fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,