

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City



EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 838

Introduced by
**REP. ARLENE D. BROSAS (Gabriela Women's Party),
REP. FRANCE L. CASTRO (ACT Teachers Partylist), REP. SARAH JANE I. ELAGO (Kabataan Partylist),
REPS. EUFEMIA C. CULLAMAT, CARLOS ISAGANI T. ZARATE and FERDINAND R. GAITE (Bayan Muna)**

EXPLANATORY NOTE

Underpinning this proposal is a commitment to the policy of the State to protect and strengthen marriage and family as basic social institutions, to value the dignity of every human person, to guarantee full respect for human rights, and to ensure the fundamental equality before the law of women and men.

In the Filipino culture, marriage is regarded as a sacred union, and the family founded on marriage is considered as a fount of love, protection and care. Philippine society generally frowns upon and discourages marital break-ups and so provides cultural and legal safeguards to preserve marital relations. Cultural prescriptions and religious norms keep many couples together despite the breakdown of the marriage. But the cultural prescriptions for women and men differ. Women are traditionally regarded as primarily responsible for making the marriage work and are expected to sacrifice everything to preserve the marriage and the solidarity of the family. While absolute fidelity is demanded of wives, men are granted sexual license to have affairs outside marriage. Yet when marriage fails, the woman is blamed for its failure.

Reality tells us that there are many failed, unhappy marriages across all Filipino classes. Many couples especially from the marginalized sectors, who have no access to the courts simply end up separating without the benefit of legal processes. The sheer number of petitions that have been filed since 1988 for the declaration of the nullity of the marriage under Article 36 of the Family Code (commonly known as 'annulment') shows that there are just too many couples who are desperate to get out of failed marriages.

Even when couples start out well in their marriage, political, economic and social realities take their toll on their relationship. Some are not prepared to handle the intricacies of the married life. For a large number of women, the inequalities and violence in marriage negate its ideals as the embodiment of love, care and safety and erode the bases upon which a marriage is founded. The marital relations facilitate the commission of violence and perpetuate their oppression. Official figures show that 14.4 % of married women experience physical violence and 23 % experience emotional violence from their husbands. According to the Philippine National Police, within the context of rising VAW incidence through 2004 to 2012, physical injuries account for 21 %.

Since the ratification of the Philippine Constitution in 1987, many things beyond the control of spouses did happen to our society that put tremendous pressure on the stability of Filipino families. Our government has intensified its labor export program, tearing hundreds of thousands of families apart and forcing couples to

make-do with long-distance relationships, aggravating their vulnerabilities to extra-marital indiscretions and resulting in rising incidences of OFWs seeking annulment of their marriages. Moreover, as a result of one economic crisis after another, with endless increases in the prices of basic commodities and attended by the government's abandonment of the state responsibility to provide essential social services, husbands and wives are both forced to hook on to multiple odd-jobs and do extra work hours for augmenting their devalued income, thereby reducing the quality time necessary to nourish family relationships. The interconnectivity brought about by advances in modern transportation and information technology has also increased the number of mixed marriages among Filipinos, exposing them to foreign family cultures that often grate against their marriages

These social forces constitute a veritable assault on the Filipino family, shoving upwards the number of couples looking for an 'escape hatch' from their troubled marriages other than those already provided by our marriage laws. Thus, according to the Department of Justice, petitions for nullity and annulment have significantly risen – more than doubled - in the last ten years, from 4,520 in 2001 to 10,528 in 2011. If the 2011 figure is to be broken down, this means 29.6 petitions a-day. Interestingly, the figure refers only to annulment and declaration of nullity cases invoking the grounds of psychological incapacity and inherent defects in the validity of the marriage. It does not include legal separation and annulment based on other grounds such as presumptive death (read: abandonment). It also does not include marital dissolution cases based on petitions for judicial recognition of divorce decrees obtained in foreign forums which constitute 47 % of the total marital dissolution cases handled by our courts, suggesting of a growing number of aggrieved parties who are using foreign judicial systems to skirt around the absence of divorce law in the country.

Given these realities, couples must have the option to avail of remedies that will pave the way for the attainment of their full human development and self-fulfillment and the protection of their human rights. Existing laws are not enough to guarantee and protect these rights. To quote the Women's Legal Bureau, Inc., a legal resource NGO for women:

'The present laws relating to separation of couples and termination of marriage are inadequate to respond to the myriad causes of failed marriages. Particularly, the remedies of declaration of nullity and annulment do not cover the problems that occur during the existence of marriage. Legal separation, on the other hand, while covering problems during marriage, does not put an end to marriage.'

'Though both divorce and a declaration of nullity of a marriage allow the spouses to remarry, the two remedies differ in concept and basis. A declaration of nullity presupposes that the marriage is void from the beginning and the court declares its non-existence... Beyond [the] grounds specified [in the law], declaration of nullity is not possible.'

'In annulment, the marriage of the parties is declared defective from the beginning, albeit it is considered valid until annulled. The defect can be used to nullify the marriage within a specified period but the same maybe ignored and the marriage becomes perfectly valid after the lapse of that period, or the defect maybe cured through some act. The defect relates to the time of the celebration of the marriage and has nothing to do with circumstances occurring after the marriage is celebrated. In annulment, the marriage is legally cancelled, and the man and woman are restored to their single status.'

'Since August 3, 1988, couples have been given a way out of failed marriages through Article 36... The remedy provided under Article 36 is declaration of nullity of the marriage. The article voids a marriage where one party is 'psychologically incapacitated' to comply with the essentials of marital obligations. Consistent with the concept of void marriages (where the remedy is declaration of nullity), the law requires that the incapacity must have existed at the time of the celebration of the marriage...In

practice, Article 36 has become a form of divorce, as valid marriages are declared void every day in the guise of 'psychological incapacity'. The innumerable Article 36 cases brought to trial courts are an indication of the elasticity of Article 36 to accommodate the needs of many couples desiring to terminate their marriages. It is proof that divorce is needed in the Philippines. Article 36 provides a remedy only for spouses who can prove 'psychological incapacity'. The concept certainly cannot accommodate all cases where divorce would be necessary. What we need is a divorce law that defines clearly and unequivocally the grounds and terms for terminating a marriage. That law will put an end to the creative efforts played daily in courtrooms across the country to accommodate a wide range of cases in order to prove 'psychological incapacity' (Women's Legal Bureau, *The Relevance of Divorce in the Philippines*, 1998).

Thus, this bill seeks to introduce divorce as another option for couples in failed and irreparable marriages.

Historically, divorce had been part of the legal system. In the beginning of the 16th century, before the Spanish colonial rule, absolute divorce was widely practiced among ancestral tribes such as the Tagbanwas of Palawan, the Gadangs of Nueva Vizcaya, the Sagadas and Igorots of the cordilleras, and the Manobos, B'lans and Moslems of the Visayas and Mindanao islands. Divorce was also available during the American period, starting from 1917 (under Act No. 2710 enacted by the Philippine Legislature), and during the Japanese occupation (under Executive Order No. 141) and after, until 1950. It was only on August 30, 1950, when the New Civil code took effect, that divorce was disallowed under Philippine law. Only legal separation was available. The same rule was adopted by the Family code of 1988, which replaced the provisions of the New Civil code on marriage and the family, although the Family Code introduced the concept of 'psychological incapacity' as a basis for declaring the marriage void.

In recognition of the history of divorce in the Philippines, the framers of the 1987 Constitution left the wisdom of legalizing divorce to Congress. Thus, the 1987 Constitution does not prohibit the legalization of divorce.

Given the country's history, the bill seeks to restore divorce as a rights-based option for majority of Filipinos, an option based on the recognition that the right to enter into a marriage contract has the corresponding spousal right to end such contract when it has reached the point of irreparability. The filing of this bill is anchored on a strong sense of confidence that it will be used responsibly by Filipino couples. This confidence stems from the experiences of Filipino families that show that separation is usually the last resort of many Filipino couples whose marriage has failed. Cases of battered women also support this. Battered women invariably seek separation only after so many years of trying to make the marriage work; separation only becomes imperative for them when they realize that it is necessary for their and their children's survival. Divorce could actually provide protection to battered women and their children from further violence and abuse. With the predominance of the Catholic faith in the Philippines, the fear that divorce will erode personal values on marriage appears unfounded. The experience of Italy, where the Vatican is located, and Spain, two predominantly Catholic countries which practice divorce supports this. Historically, those countries have a low rate of divorce. Italy has a divorce rate of 181 per 1000 married population while the divorce rate in Spain had experienced a decline since 2007.

This bill is respectful of and sensitive to differing religious beliefs in the Philippines. It recognizes that the plurality of religious beliefs and cultural sensibilities in the Philippines demand that different remedies for failed marriages should be made available. For this reason, the bill retains the existing remedies of legal separation, declaration of nullity of the marriage, and annulment and only adds divorce as one more remedy. Couples may choose from these remedies depending on their situation, religious beliefs, cultural sensibilities, needs, and emotional state. While divorce under this proposed measure severs the bond of marriage, divorce as a remedy need not be for the purpose of remarriage; it may be resorted to by individuals to achieve peace of mind and facilitate their pursuit of full human development. This bill also seeks to make Philippine law consistent with the

way it treats religious beliefs with respect to termination of marriage. Philippine law through the Code of Muslim Personal Laws of the Philippines (Presidential Decree No. 1983 [1977]) allows divorce among Filipino Muslims, in deference to the Islamic faith which recognizes divorce. Non-Muslim Filipinos should have the same option under Philippine law, in accordance with their religious beliefs.

This bill, which was first filed in 2005 under the 13th Congress, was crafted in consultation with women lawyers and inspired by the studies and inputs of various women's groups, pro-divorce advocates who have organized themselves through the social media, and the experiences of spouses gathered by GABRIELA and Gabriela Women's Party from its various chapters nationwide. It was subsequently re-filed in the 14th, 15th, 16th and 17th Congresses. In the 17th Congress, a thorough deliberation of several versions filed resulted in a consolidated version that was eventually passed in the Lower House on Third Reading but failed to advance in the Senate.

This bill reflects the consolidated version with some additions such as the recognition of a divorce decree obtained abroad, and additional grounds for annulment which can also be considered as grounds for obtaining a divorce decree.

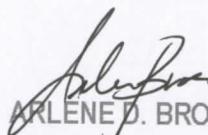
This bill proposes the following grounds for granting of a judicial decree of divorce, premised on the irreparable breakdown of the marriage and the total non-performance of marital obligations:

1. The existing grounds for legal separation under Article 55 of the Family Code of the Philippines, modified to include, among others: *serious physical or sexual violence* to highlight not just the number of times the violence was inflicted, the severity or gravity of violence committed; chronic gambling; and bisexuality;
2. When the spouses are legally separated by judicial decree for more than two (2) years;
3. Grounds for annulment of marriage under Article 45 of the Family Code of the Philippines, which are restated as follows:
 - (1) The party in whose behalf it is sought to have the marriage annulled was eighteen (18) years of age or over but below twenty-one (21), and the marriage was solemnized without the consent of the parents, guardian or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one (21), such party freely cohabited with the other and both lived together as husband and wife;
 - (2) Either party was of unsound mind, unless such party after coming to reason, freely cohabited with the other as husband and wife;
 - (3) The consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife;
 - (4) The consent of either party was obtained by force, intimidation or undue influence, unless the same having disappeared or ceased, such party thereafter freely cohabited with the other as husband and wife;
 - (5) Either party was physically incapable of consummating the marriage with the other, and such incapacity continues or appears to be incurable;
 - (6) Either party was afflicted with a sexually transmissible infection found to be serious or appears to be incurable;

Provided, That the grounds mentioned in numbers 2, 5 and 6 may either be existing at the time of the marriage or supervening after the marriage;

4. When the spouses have been separated in fact for at least five (5) years at the time the petition for absolute divorce is filed, and reconciliation is highly improbable;

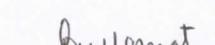
In view of the foregoing, the passage of this bill is earnestly sought.



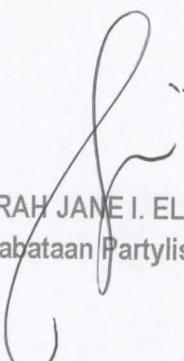
ARLENE D. BROSAS
Gabriela Women's Party



FRANCE L. CASTRO
ACT Teachers' Partylist



EUFEMIA C. CULLAMAT
Bayan Muna Partylist



SARAH JANE I. ELAGO
Kabataan Partylist



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AN ACT INTRODUCING DIVORCE IN THE PHILIPPINES

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

SECTION 1. Short Title. – This Act shall be known as the "Philippine Divorce Act of 2019."

SEC. 2. Declaration of Policy. – While the State continues to protect and preserve marriage as a social institution and as the foundation of the family, it gives the opportunity to spouses in irredeemably failed marriages to secure an absolute divorce decree under limited grounds and well-defined judicial procedures to terminate a continuing dysfunction of a long broken marriage; save the children from the pain, stress, and agony consequent to their parents' constant marital clashes; and grant the divorced spouses the right to marry again for another chance to achieve marital bliss.

SEC. 3. Guiding Principles. – The following shall be the guiding principles of this Act:

1. Absolute divorce shall be judicially decreed after the fact of an irredeemably broken marital union or a marriage vitiated from the start.

2. The State shall assure that the court proceedings for the grant of absolute divorce shall be affordable and inexpensive, particularly for court assisted litigants or petitioners.

3. Concerned spouses have the option to file for absolute divorce under this Act or seek legal separation, annulment of marriage or nullification of marriage under the pertinent provisions of Executive Order No. 209 otherwise known as the Family Code of the Philippines.

4. The option of absolute divorce is a pro-woman legislation because in most cases, it is the wife who is entitled to a divorce as a liberation from an abusive relationship and to help her regain dignity and self-esteem.

5. A six-month cooling-off period is instituted after the filing of a petition for absolute divorce as a final attempt of reconciling the concerned spouses.

6. A divorce decree shall include provisions for the care and custody of children, protection of their legitimate, termination and liquidation of the conjugal partnership of gains or the absolute community, and alimony for the petitioner.

7. Even as absolute divorce is instituted, the State has the role of strengthening marriage and family life by undertaking relevant pre-nuptial and post-matrimonial programs and activities.

SEC. 4. Definition of Terms. – As used in this Act:

- a) *Abandonment* refers to the departure of a husband or wife from the conjugal home without justifiable cause and with a deliberate intention of creating a perpetual separation. The desertion amounts to an absolute cessation of marital relations, rights and duties;
- b) *Absolute divorce* refers to the separation between married couples that is total and final where the husband and wife return to their status of being single with the right to contract marriage again;
- c) *Alcoholism* refers to an abuse or a disease characterized by addiction to intoxicating alcohol drinks, often resulting in impaired social functioning and in damage to the liver, heart and nervous system;
- d) *Alimony* refers to an allowance for support made under court order to a divorced person by the former spouse, usually the main financial provider during the marriage;
- e) *Bigamous marriage* refers to the second marriage contracted with a willful knowledge by the offender that the first marriage is still subsisting and the marital ties undissolved;
- f) *Child* refers to a descendant of the first degree by birth, and shall include an offspring by legal adoption or one whose custody and care is judicially decreed to be given to a guardian;
- g) *Child custody* refers to the parental authority and care of a child as decreed by the competent court when the parents of the child are divorced;
- h) *Child support* refers to a method of compensating a parent needing monies for raising and sheltering a child by the other parent who has the means to manage the expenses associated with child support. A court of law usually determines the payments, based on the income level of the other parent and the needs of the child. Stiff fines and even contempt of court shall be imposed against a defaulting parent;
- i) *Chronic gambling* refers to a disorder of impulse control in which a person makes wagers of various types which compromise, disrupt or damage family, work and social relations, and vocational pursuits;
- j) *Competent court* refers to the proper family court established under Republic Act 8369 which shall exercise jurisdiction both over the absolute divorce proceeding and the persons of the petitioner and respondent spouses;
- k) *Court assisted petitioner or petitioners* refer to those who have personal or real properties not exceeding a total of Five million pesos (PhP5,000,000.00);
- l) *Domestic or marital abuse* refers to violence or aggressive behavior within the home, typically involving the violent abuse of a spouse by the other. It may be committed in the form of:
 - (1) physical violence;
 - (2) psychological and emotional violence;
 - (3) sexual violence; or
 - (4) economic abuse;
- m) *Drug addiction* refers to habitual dependence on a prohibited drug or drugs;
- n) *Homosexual* refers to a person who is attracted to persons of the same sex;
- o) *Insanity* refers to a condition or "a manifestation in language or in conduct of a disease or defect of the brain, a more or less permanent disease or disorder condition of the mentality, functional or organic, and characterized by perversion, inhibition, or disordered function of the sensory or of the intellectual faculties, or by impaired or disordered volition";
- p) *Irreconcilable differences* refer to the existence of overriding conflicts between a married couple that are so pronounced and beyond repair as to make the marriage unworkable, and for which the law permits a divorce;
- q) *Joint petition* refers to the legal action filed by both spouses, before the Family Court for the dissolution of their marriage based on any of the grounds for absolute divorce provided for in this Act.
- r) *Legitime* refers to the portion of a parent's estate of, which they cannot disinherit the children, without a legal cause;
- s) *Marital infidelity* refers to the unfaithfulness of a spouse during the marriage;
- t) *Overseas Filipino Worker* or OFW refers to a citizen of the Philippines who is living and working in a foreign country, typically on a temporary basis with a work contract;
- u) *Psychological incapacity* refers to the condition provided for in Article 36 of the Family Code of

the Philippines which warrants the nullification of a marriage;

v) *Sex reassignment surgery* refers to the procedure by which a person's physical appearance and function of primary sex characteristics are altered to resemble that of the identified or preferred gender;

w) *Summary judicial proceedings* refer to an expeditious manner of resolving a petition for divorce without regard to technical rules and the petitioner is given the option to be assisted or not by a lawyer. The proper court may allow presentation of evidence *ex parte* as warranted by circumstances. The decision shall be immediately final and executory;

x) *Transgender* refers to those whose gender identity or expression differs from what is typically associated with the sex assigned at birth;

y) *Transsexual* refers to a person who emotionally and psychologically feels that one belongs to the opposite sex, and who opt for a transition from one sex to another through the use of hormones or surgical procedure.

SEC. 5. *Grounds for Absolute Divorce.* – The following are the grounds for a judicial decree of absolute divorce:

a) The grounds for legal separation under Article 55 of the Family Code of the Philippines, modified or amended, as follows:

- i. Serious physical or sexual violence, repeated physical or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;
- ii. Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;
- iii. Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement;
- iv. Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;
- v. Drug addiction or habitual alcoholism or chronic gambling of the respondent;
- vi. Homosexuality or bisexuality of the respondent;
- vii. Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;
- viii. Marital infidelity or perversion or having a child with another person other than one's spouse during the marriage, except when upon the mutual agreement of the spouses, a child is born to them by *in vitro* or a similar procedure or when the wife bears a child after being a victim of rape;
- ix. Attempt by the respondent against the life of the petitioner, a common child or a child of the petitioner;
- x. Abandonment of petitioner by respondent without justifiable cause for more than one year;

When the spouses are legally separated by judicial decree for more than two (2) years, either or both spouses can petition the proper court for an absolute divorce based on said judicial decree of legal separation.

b) Grounds for annulment of marriage under Article 45 of the Family Code of the Philippines, which are restated as follows:

- (7) The party in whose behalf it is sought to have the marriage annulled was eighteen (18) years of age or over but below twenty-one (21), and the marriage was solemnized without the consent of the parents, guardian or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one (21), such party freely cohabited with the other and both lived together as husband and wife;
- (8) Either party was of unsound mind, unless such party after coming to reason, freely cohabited

- with the other as 'husband and wife';
- (9) The consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife;
- (10) The consent of either party was obtained by force, intimidation or undue influence, unless the same having disappeared or ceased, such party thereafter freely cohabited with the other as husband and wife;
- (11) Either party was physically incapable of consummating the marriage with the other, and such incapacity continues or appears to be incurable;
- (12) Either party was afflicted with a sexually transmissible infection found to be serious or appears to be incurable:

Provided, That the grounds mentioned in numbers 2, 5 and 6 may either be existing at the time of the marriage or supervening after the marriage.

- c) When the spouses have been separated in fact for at least five (5) years at the time the petition for absolute divorce is filed, and reconciliation is highly improbable.
- d) Psychological incapacity of either spouse as provided for in Article 36 of the Family Code of the Philippines, whether or not the incapacity was present at the time of the celebration of the marriage or later.
- e) When one of the spouses undergoes a gender reassignment surgery or transitions from one sex to another, the other spouse is entitled to petition for absolute divorce with the transgender or transsexual as respondent, or vice versa.
- f) Irreconcilable marital differences and conflicts which have resulted in the total breakdown of the marriage beyond repair, despite earnest and repeated efforts at reconciliation, shall entitle either spouse or both spouses to petition for absolute divorce.
- g) When a decree of divorce has been validly obtained abroad, the same shall be recognized in this country after a determination by a Philippine court that the divorce was based on a ground falling under Section 5 (a to f) of this Act.

SEC. 6. Procedure for Obtaining Absolute Divorce. – (a) The established and recognized procedures for securing legal separation, annulment of marriage and voiding of a marriage under the Family Code of the Philippines, as far as practicable, shall govern the process of obtaining a judicial decree of absolute divorce from the proper family court which shall be commenced by the petitioner or joint petitioner filing a verified petition for absolute divorce.

(b) The factors and grounds which militate against the grant of legal separation and the annulment and nullification of marriages as provided for in the Family Code of the Philippines shall likewise be assessed, based on competent and credible proof, against the grant of absolute divorce.

(c) Upon application of a court-assisted petitioner or petitioners, the proper court shall waive the payment of filing fees and other costs of litigation, and shall appoint a *counsel de oficio* for the court assisted petitioner or petitioners and assign social workers, psychologists, and psychiatrists, preferably from appropriate government agencies, to assist the said petitioner and the court.

(d) A petition for absolute divorce may be filed jointly by the spouses on the grounds of *de facto* separation for five (5) years, legally separated by judicial declaration for at least two (2) years, or irreconcilable differences or other grounds for absolute divorce provided for in this Act.

A joint petition filed by both spouses with common children should be accompanied by a joint plan for parenthood which provides for the support, parental authority, custody, and living arrangements of the common children.

If the court determines that the joint plan for parenthood is adequate to protect the rights and interests of the common children, the court shall approve the joint plan for parenthood together with the grant of a divorce decree if warranted.

The court shall ensure the enforcement of the joint plan for parenthood and may require the spouses to submit periodic reports on its implementation subject to the validation of court's social worker or by the local social welfare officer.

(e) All creditors of the absolute community or of the conjugal partnership of gains, as well as the personal creditors of the spouses, shall be listed in the petition for absolute divorce and notified of the filing thereof. The court shall take measures to protect the creditors and other persons with pecuniary interest.

(f) No decree of absolute divorce shall be based upon a stipulation of facts or a confession of judgment.

(g) The Office of the Public Prosecutor in provinces, cities and capital towns is authorized and obliged to conduct investigations to find out whether or not there is collusion between the spouses in a petition for absolute divorce and shall report its findings to the proper court within six (6) months from the filing of the petition.

SEC. 7. Overseas Filipino Workers (OFWs). – Petitioners who are OFWs shall be given preference by the proper court with respect to the hearing of their petitions and the court shall set the reception of evidence, upon the availability of the petitioners, for not more than two (2) consecutive days.

SEC. 8. Summary Judicial Proceedings. – The following grounds for absolute divorce may be subject to summary judicial proceeding as defined above:

- (a) When the spouses have been separated *de facto* for at least five (5) years;
- (b) When one of the spouses has contracted a bigamous marriage;
- (c) When the spouses have been legally separated by judicial decree for two (2) years or more;
- (d) When one of the spouses has been sentenced to imprisonment for six (6) years, even if subsequently pardoned;
- (e) When one of the spouses has undergone a sex reassignment surgery or has transitioned into another sex; and
- (f) When both spouses have filed a joint petition for the dissolution of their marriage before the proper family court based on any of the grounds provided for in this Act.
- (g) When a decree of divorce has been validly obtained abroad on a ground falling under Section 5 (a to f) of this Act.

SEC. 9. Mandatory six-month cooling-off period. – Except for grounds under summary judicial proceedings, the proper court shall not start the trial of a petition for absolute divorce before the expiration of a six-month cooling-off period after the filing of the petition during which the court shall exercise all efforts to reunite and reconcile the parties.

The requirement of a cooling off period shall not apply in cases which involve acts of violence against women and their children under Republic Act No. 9262 or attempt against the life of the other spouse or a common child or a child of the petitioner.

SEC. 10. Effects of Absolute Divorce. – The decree of absolute divorce shall have the following effects.

- a) The marriage bonds shall be severed and the divorced spouses shall have the right to contract marriage again, either by civil or religious ceremony.
- b) The custody of the minor children shall be decided by the proper court in accordance with the best interests of the children, subject to the provisions of Article 213 of the Family Code of the Philippines taking

into primary consideration that no child under seven (7) years of age shall be separated from the mother, unless the proper court finds compelling reasons to order otherwise.

c) The conjugal partnership of gains or the absolute community shall be dissolved and liquidated and the assets shall be equally divided between the spouses. The recognition and delivery of the presumptive legitime of the common children shall be at the option of both spouses. The presumptive legitime shall be computed as of the date of the finality of the decree of absolute divorce. The partition and distribution of the properties of the spouses and the delivery of the children's presumptive legitime upon the option of the spouses shall be recorded in the appropriate civil registry and registries of property, otherwise the same shall not affect third persons.

d) In addition to the equal share in the assets of the absolute community or conjugal partnership, the petitioner who is not gainfully employed shall be entitled to support from the respondent until the petitioner finds adequate employment: *Provided*, That the support shall only be for one (1) year from the finality of the decree of absolute divorce; *Provided, Further*, That the right to support shall be subject to the provisions of Article 201 of the Family Code of the Philippines where the amount of support shall be in proportion to the resources or means of the giver and to the necessities of the recipient.

e) Actual, moral and exemplary damages shall be awarded to the aggrieved spouse in accordance with the provisions of the Civil Code on damages.

f) The proper court shall have the discretion to grant alimony, child support and child custody pursuant to the pertinent provisions of the Family Code of the Philippines, and impose contempt of court against the defaulting parties. The petitioner may opt for a one-time or periodic alimony. The necessity of alimony and the amount shall be determined by the court taking into consideration all relevant factors.

g) The petitioner may revoke the donations made in favor of the respondent, as well as the designation of the latter as a beneficiary in any insurance policy, even if such designation be stipulated as irrevocable. The revocation of the donations shall be recorded in the registries of properties in the places where the properties are located. Alienations, liens and encumbrances registered in good faith before the recording of the complaint for revocation in the registry of property shall be respected. The revocation of or a change in the designation of the insurance beneficiary shall take effect upon written notification thereof to the insured.

The action to revoke the donation under this provision must be brought within five (5) years from the time the decree of absolute divorce has become final.

h) The effects on the divorced spouses with respect to intestate succession, testamentary dispositions, donations and insurance provisions on beneficiaries in accordance with the Family Code of the Philippines and jurisprudence will be observed.

i) The legitimate and adopted children of divorced parents shall retain their legal status and legitimacy; a child conceived or born within 300 days after the filing of a petition for absolute divorce shall be considered legitimate, unless the ground for divorce is the marital infidelity of the wife.

SEC. 11. Recognition of Reconciliation - (a) If the petitioners have agreed to reconcile, a corresponding joint manifestation under oath duly signed by them shall be filed with the same court where the petition for absolute divorce was filed with the interests of the children duly protected.

(b) The plan to reconcile shall have the following consequences:

- (1) The absolute divorce proceedings, if still pending, shall be terminated at whatever stage, and
- (2) The final decree of absolute divorce shall be set aside, but the separation of property and any forfeiture of the share of the respondent already effected shall subsist, unless the spouses agree to revive their former property regime.

The court order containing the foregoing shall be recorded in the proper civil registries.

(c) The agreement to revive the former property regime referred to in this Act shall be executed under oath and shall specify:

- (1) the properties to be contributed anew to the restored regime;
- (2) those to be retained as separate properties of each spouse; and
- (3) the names of all their known creditors, their addresses and the amounts owing to each.

The agreement of revival and the motion for its approval shall be filed with the court in the same proceeding for absolute divorce, with copies of both furnished to the creditors named therein. After due hearing, the court shall issue an order to protect the interest of creditors and such order shall be recorded in the proper registries of properties.

The recording of the order in the registries of properties shall not prejudice any creditor not listed or not notified.

SEC. 12. Penalty. – A spouse who is a party to a petition for absolute divorce who is found by the court to have used threats or coercion to compel the other spouse in filing the petition, and spouses who are guilty of collusion, shall be punished with imprisonment of five (5) years and a fine of Two hundred thousand pesos (PhP200,000.00).

SEC. 13. Options and remedies. – The concerned spouse or spouses shall have the option to file a petition for absolute divorce under this Act or avail of legal separation, annulment or nullification of marriage as provided for in the Family Code of the Philippines, the pertinent provisions of which have not been repealed.

SEC. 14. Implementing Rules and Regulations (IRR). – The Department of Justice (DOJ) as lead agency, together with the Department of Social Welfare and Development (DSWD), the Philippine Commission on Women (PCW), the National Youth Commission (NYC), and at least two (2) representatives from women's organizations to be appointed by the PCW in consultation with civil society and women's organizations, shall promulgate the Implementing Rules and Regulations (IRR) within sixty (60) days after the effectivity of this Act.

SEC. 15. Separability Clause. – If any part or provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain in force and effect.

SEC. 16. Repealing Clause. – All laws, executive orders, issuances, decrees, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly.

SEC. 17. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in any newspaper of general circulation.

Approved,